UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

AMAZON.COM SERVICES LLC,
Employer,

and

AMAZON LABOR UNION,
Petitioner.

Case No. 29-RC-288020

EMERGENCY REQUEST FOR REVIEW OF REGIONAL DIRECTOR’S DENIAL
OF AMAZON.COM SERVICES LLC’S MOTION TO EXCLUDE REGION 29’S
PARTICIPATION IN THE POST-ELECTION OBJECTIONS HEARING THROUGH
APPOINTMENT OF A “REPRESENTATIVE”

Pursuant to Section 102.67(c) of the Rules and Regulations of the National Labor Relations Board, Amazon.com Services LLC (“Amazon”) hereby requests the Board to review the Regional Director’s denial of Amazon.com Services LLC’s Motion to Exclude Region 29’s Participation in the Post-Election Objections Hearing Through Appointment of a Representative (“Motion to Exclude Region 29”). Pursuant to Section 102.67(d), Region 28’s appointment of a so-called “representative” for Region 29 in this proceeding raises a substantial question of law or policy and/or is based on a departure from Board Rules and Regulations. Amazon further requests, pursuant to Section 102.67(j)(1)(ii), that the Board immediately stay any further proceedings in the above captioned matter pending its decision on the instant Emergency Request for Review. The grounds for this Emergency Request for Review are further set forth in the accompanying brief.
Respectfully submitted,
AMAZON.COM SERVICES LLC

By:/s/ Amber M. Rogers

Kurt Larkin
Amber Rogers
Counsel for Respondent Amazon.com Services LLC
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Pursuant to Section 102.67(c) of the Rules and Regulations of the National Labor Relations Board, Amazon.com Services LLC ("Amazon") hereby requests the Board to review the Regional Director’s denial of Amazon.com Services LLC’s Motion to Exclude Region 29’s Participation in the Post-Election Objections Hearing Through Appointment of a Representative (the “Motion”). Amazon further requests, pursuant to Section 102.67(j)(1)(ii), that the Board immediately stay any further proceedings pending its decision on this Request. Pursuant to Section 102.67(d), Region 28’s appointment of a so-called “representative” for Region 29 in this proceeding raises a substantial question of law or policy and/or is based on a departure from Board Rules and Regulations. The grounds for this Emergency Request are further set forth below.

I. INTRODUCTION

The General Counsel of the Board transferred these objections to Region 28, removing any role for Region 29 in connection with the twenty-five objections alleging improper interference in the election by Region 29 and the ALU. Without any foundation, Region 28 has now appointed
legal “representatives” to defend and protect the interests of Region 29 in an investigatory proceeding – all while Region 29 refuses to appear to provide testimony, documents and other relevant evidence to permit Region 28 to consider a thorough factual record. Region 29 has already prevented a free and fair election from occurring in this case. There is no basis in the Board’s rules, Agency’s guidance or general notions of fairness to now permit Region 29 to interfere with the investigation of the resulting objections during this hearing. Accordingly, Amazon filed a motion seeking to have Region 28 correct course and reverse the so-called appointment of a representative.

The express text of the Agency’s guidance permits the Regional Director of the Region presiding may appoint a representative to help the Regional Director develop the record, but that representative “must exercise…self-restraint and display impartiality as well as the appearance of impartiality.” Casehandling Manual § 11424.4(b) (emphasis added). In his denial of Amazon’s Motion, however, Regional Director Overstreet concedes that rather he has appointed a representative for Region 29 to allow it the opportunity “to defend and explain [its] conduct.” RD Order at p.2. This type of advocacy is in direct contravention of Sec. 11424.4(b) and the appearance of impartiality is the exact reason that this case was transferred from Region 29 to Region 28 to begin with.

Regional Director Overstreet also contends that Region 29 is entitled to a representative because Region 29 has the “right to face his or her accuser and respond” which is a “bedrock principle of judicial and the administrative process.” RD Order at p. 2-3 (emphasis added). Yet, Region 29 has been evading direct participation throughout the post-election proceedings. Region 29 does not appear to be interested in participating in the hearing in a manner consistent with “basic principles of fair play and justice.” See RD Order at p. 2-3 (emphasis added). Amazon served a subpoena duces tecum on Region 29 seeking documents relevant to its objections but
Region 21 Field Attorney Elvira Pereda – one of Region 29’s representatives – filed a petition to revoke the subpoena. Amazon also sought testimony from crucial Region 29 fact witnesses, including Regional Director Drew-King and Ioulia Federova (the Board Agent who processed the petition and was in charge of the election), but General Counsel Abruzzo has denied Amazon’s request to allow these Region 29 witnesses to testify, and has denied each of Amazon’s requests for Region 29 to produce documents. Simply put, Region 29 wants attorney “representatives” in the room to “defend and explain” its interference with the election, but does not want to take the stand or provide relevant evidence to allow Region 28 to perform its role in investigating and adjudicating these objections.

But regardless of the underlying reasons, Regional Director Kathy Drew-King simply has no legal right to a representative in the post-election objections hearing, to special status in the pending proceeding, or to access Amazon’s offer of proof. Regional Director Drew-King is a material witness and nowhere do the Board’s Rules and Regulations and/or Casehandling Manual afford her or her staff a status greater than that of any other fact witness. The Rules clearly contemplate that the Regional Director handling the objections proceeding may appoint a representative for him or herself, not for the Regional Director of some other Region, particularly one that is no longer handling the matter per order of the General Counsel.

Regardless of who Region 28 chooses to designate, the fact remains that Region 29, a non-party, is not entitled to a representative (let alone two) under the Board’s Rules and Regulations and policies. Thus, Ms. Friedheim-Weis and Ms. Pereda should be removed from this matter as

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1 Amazon’s Motion directed to Regional Director Overstreet also noted the impropriety of Region 28’s designation of Field Attorney Kerstin Meyers—who presided over the post-election objections hearing in Case 10-RC-269250 less than a year ago—as Regional Director Drew-King’s “representative.” Amazon assumes Region 28 intentionally attempted to remedy that decision by removing Ms. Meyers from the case and replacing her with Region 13 Field Attorney Lisa Friedheim-Weis and Region 21 Field Attorney Elvira Pereda. It is unclear when this decision
the so-called representatives of Region 29 and no other representatives should be appointed for Region 29. While the Order notes in a footnote that Regional Director Overstreet could simply remove Ms. Friedheim-Weis and Ms. Pereda as representatives of Region 29 and reappoint them as representatives of Region 28, which would result in “essentially the same outcome,” see RD Order at p. 5, fn 3, this statement misses the mark. Ms. Friedheim-Weis and Ms. Pereda have already been serving as Region 29’s representatives, including Ms. Pereda filing motions on behalf of Region 29 and Regional Director Drew-King, and therefore they can no longer appear impartial.²

Therefore, Amazon requests that the Board overrule Regional Director Overstreet’s denial of its Motion and exclude Region 29’s participation in the post-election objections hearing through any so-called “representative.” Amazon further requests that the Board immediately stay any further proceedings pending a decision on this request for review. If the hearing begins as scheduled on Monday, June 13, 2022, and Region 29 is permitted to participate, Region 28 will be committing irremediable error.

II. BACKGROUND FACTS

On December 22, 2021, the Amazon Labor Union (the “Union”) filed its petition in case 29-RC-288020. The Union sought an election in a bargaining unit of all full-time and regular part-time fulfillment center employees working at Amazon’s JFK8 Fulfillment Center in Staten Island, NY.

² To the extent Ms. Pereda and Ms. Friedheim-Weis have not acted on behalf of Region 29, they would not be inappropriately designated as representatives of Region 28; however, the actions these two individuals have taken and on behalf of which Region is unclear. What is clear is that they cannot act on behalf of both Regions, as Region 29 is not entitled to any representative.
The election was held pursuant to a Stipulated Election Agreement and took place on March 25, 26, 28, 29, and 30, 2022. See Stipulated Election Agreement, attached as Exhibit A. Ballots were tallied on March 31 and April 1, 2022 at Region 29’s Brooklyn field office. The April 1, 2022 Tally of Ballots recorded 2,654 ballots cast for the Union and 2,131 ballots cast for the Employer.

Amazon timely filed its Objections to the Results of the Election on April 8, 2022. See Objections, attached as Exhibit B. Many of those objections allege that Regional Director Drew-King and other Region 29 personnel engaged in a variety of actions that interfered with laboratory conditions and warrant overturning the results of the election.

On April 8, 2022, Amazon moved to transfer this proceeding to another Region, specifically because many of its objections implicate both the Regional Director and various Board Agents of Region 29. See Motion to Transfer Proceedings, at 1, attached as Exhibit C.

On April 14, 2022, General Counsel Jennifer A. Abruzzo granted Amazon’s Motion and entered an Order transferring the case to Region 28. See Order Transferring Case from Region 29 to Region 28, attached as Exhibit D.

On April 22, 2022, Amazon timely served its offer of proof on Regional Director Overstreet, Barbara Baynes (Assistant Regional Director for Region 28), and Christopher Doyle (Supervisory Field Attorney for Region 28).

On April 29, 2022, Region 28 issued an Order Directing Hearing and Notice of Hearing on Amazon’s objections.

On May 6, 2022, Nicholas Gordon (Field Attorney for Region 28) emailed undersigned counsel for Amazon, counsel for the Union (Eric Milner and Retu Singla), and Nancy Reibstein (then-Acting Regional Director for Region 29). Mr. Gordon’s email stated: “You are included on
this email because the Region has a Notice of Appearance on file for you.” See E-mail Chain (dated May 6-17, 2022) between Region 28 and Counsel for Amazon, attached as Exhibit E.

Later that day, counsel for Amazon emailed Mr. Gordon, Mr. Doyle, Regional Director Overstreet, and the Union’s counsel to inquire why Acting Regional Director Reibstein from Region 29 was included on the email and respectfully asserted that Acting Regional Director Reibstein and all employees of Region 29 (and any other Region that participated in conducting the election) are fact witnesses who should not be included in correspondence between counsel for the parties. Id.

Within a few hours, Mr. Gordon responded, citing Casehandling Manual §11424:

Here, Regional Director King has, for the time being, assigned Acting RD Reibstein to be the RD Representative in this matter. Moreover, there is nothing that says that the RD Representative cannot also be a witness in the proceeding and that the RD could not assign another agent to act as RD Representative while that person is testifying. The [Casehandling Manual] is clear that the RD Representative must be familiar with the case, which includes being aware of any pre-hearing matters needed to be addressed by the parties.

Id. (emphasis added).

Later that day, Mr. Gordon sent a follow-up email clarifying his earlier comments. He noted that “a Regional Office Representative will be assigned shortly and that R-29 will not be included in communications going forward. Once I have the permanent RD Representative we can discuss any preliminary hearing matters.” Id. (emphasis added).

Because of Mr. Gordon’s troubling reference to “pre-hearing matters” (highlighted above), counsel for Amazon emailed Regional Director Overstreet, Mr. Doyle, and Mr. Gordon on May 9, 2022, asserting:

Per the Rules, Region 29 (and the union) should not have access to Amazon’s offer of proof. However, based on Mr. Gordon’s inclusion of Region 29 on correspondence, and initial emails related to Region 29 being the designated representative in this matter, Amazon has concerns that the document has been
shared with or accessed by Region 29 personnel. Can you please confirm whether Region 29 has received or accessed Amazon’s offer of proof.

Id.

Counsel for Amazon sent a follow-up email to Mr. Gordon on May 10 after he did not respond. Id. Mr. Gordon then responded that he was “looking into this and . . . will respond substantively soon.” Id.

After hearing nothing further for a week, on May 17, 2022, counsel for Amazon emailed Mr. Gordon again about the status of his substantive response. Id. The following day, Mr. Gordon responded that “[m]y colleague Chris Doyle will be calling you tomorrow to discuss the offer of proof.” Id.

On the afternoon of May 18, 2022, Mr. Doyle and undersigned counsel Amber Rogers spoke by telephone. During that call, Mr. Doyle made the following representations to Ms. Rogers:

- Region 28 had consulted with the Division of Operations Management, which oversees all Regional offices, regarding Amazon’s inquiry.
- The Division of Operations Management and Region 28 contend that the Board’s Rules and policies do not prohibit Region 29 from accessing Amazon’s offer of proof or the case file (contained in NxGen). Mr. Doyle stated that there is nothing in the Casehandling Manual or the Board’s Rules that addresses this issue, and that this is probably because it has never been raised to the Board by any party until now.
- The Division of Operations Management and Region 28 do not consider Region 29 to be a “party” to the proceeding as defined by the Board’s Rules.
- Notwithstanding, the Division of Operations Management has decided, on a non-precedent basis, that Region 29 will not have access to Amazon’s offer of proof and that only the following individuals and offices will have access to Amazon’s offer of proof: Region 28; the Division of Operations Management; and Region 10 (Atlanta) Field Attorney Kerstin Meyers, who has been appointed to serve as the “representative” for Regional Director Kathy Drew-King.3

3 Amazon believes that the same representations made about Ms. Meyers are applicable to Ms. Pereda and Ms. Friedheim-Weis.
Mr. Doyle indicated that Ms. Meyers, as Regional Director Drew-King’s representative, would have access to Amazon’s offer of proof as well as the ability to call witnesses, cross-examine witnesses, and introduce documents at the hearing.

The Division of Operations Management and Region 28 contend that Regional Director Drew-King is permitted to have a representative under Board Rule 102.69 and Casehandling Manual §11424.4(b).

Ms. Meyers does not represent Mr. Overstreet or Region 28.

Ms. Meyers has been directed not to share Amazon’s offer of proof with Region 29.

Mr. Doyle never dispositively confirmed that Amazon’s offer of proof was not previously shared with anyone at Region 29.

On May 20, 2022, Amazon sent a letter to General Counsel Abruzzo requesting that Region 29 produce documents related to certain of its objections, and attached the subpoena. See May 20, 2022 letter to General Counsel Abruzzo Requesting Production of Document, attached as Exhibit F. Amazon served a subpoena duces tecum on Region 29 on May 20, 2022. See Subpoena Duces Tecum B-1-1FXCHY9 served on the National Labor Relations Board, Region 29, attached as Exhibit G.

On May 27, 2022, General Counsel Abruzzo by Joan A. Sullivan, Associate General Counsel, denied Amazon’s request for Region 29 to produce documents, citing a number of frivolous reasons, such as claiming that conversations between the union and the Region are somehow subject to an unspecified privilege. See May 27, 2022 Response to Request for Production of Document, attached as Exhibit H.

Later on May 27, 2022, Ms. Pereda filed a petition to revoke the subpoena duces tecum. Ms. Pereda signed the opposition as “counsel of record for Region 29.” See Petition to Revoke Employer’s Subpoena Duces Tecum B-1-1FXCHY9 served on the National Labor Relations Board, Region 29, attached as Exhibit I.

On June 1, 2022, Amazon filed its Motion to Exclude Region 29’s Participation in the Post-Election Objections Hearing Through Appointment of a “Representative.” See Motion to Exclude,
attached as Exhibit J. In that motion, Amazon argued that Regional Director Kathy Drew-King has no legal right to a representative in the post-election objections hearing, to special status in the pending proceeding or to access Amazon’s offer of proof. Amazon also argued that the appointment of Ms. Meyers created the irremediable appearance of impropriety given that just less than a year earlier Ms. Meyers had ruled against Amazon in the high-profile objections hearing in case 10-RC-269250.

On June 3, 2022, undersigned counsel sent an email to Mr. Doyle asking that Region 28 clarify the roles of the various NLRB personnel filing documents in the case. Ms. Friedheim-Weis responded that she had been assigned as the “RD rep. in this matter to represent the Region’s interests.” When undersigned counsel asked Ms. Friedheim-Weis to clarify which Region she was representing, she responded that she “will be serving as the RD rep. for Region 29 due to the objections that were made in this matter.” Undersigned counsel asked whether Ms. Friedheim-Weis was serving in addition to Ms. Meyers, to which Ms. Friedheim-Weis responded that she was unaware Ms. Meyers was involved and that “[a]ll I know is that I am the RD rep.” See E-mail Chain between Region 28 and Counsel for Amazon, attached as Exhibit K.

On June 3, 2022, Mr. Doyle sent an email to representatives for Amazon and the ALU, Hearing Officer Lisa Dunn, Region 13 Field Attorney Lisa Friedheim-Weis, and Region 21 Field Attorney Elvira Pereda informing the recipients that Ms. Meyers would no longer serve as the representative for Region 29 Regional Director and instead, that Ms. Friedheim-Weis and Ms. Pereda would be serving as co-representatives for Region 29’s Regional Director. Id. In this email, Mr. Doyle also acknowledged Amazon’s outstanding motion and said a decision would be made prior to opening the hearing on June 13, 2022. Id.
In addition to the subpoena duces tecum that Amazon had served on Region 29, Amazon also submitted a request to General Counsel Abruzzo that Regional Director Drew-King and several other Region 29 personnel be permitted to appear as witnesses at the hearing. See June 7, 2022 Request for Witness Testimony, attached as Exhibit L. On June 10, 2022, General Counsel Abruzzo by Joan A. Sullivan, Associate General Counsel, denied the request. See June 10, 2022 Response to Request for Witness Testimony, attached as Exhibit M.

Later that same day, on Friday, June 10, 2022, after 7:30 p.m. EST on the last business hour before the opening of the post-election objection hearing, Regional Director Overstreet denied Amazon’s June 1, 2022 Motion to Exclude Region 29’s Participation in the Post-Election Objections Hearing Through Appointment of a “Representative (“RD Order”). See RD Order, attached as Exhibit N.

To date, despite being asked multiple times, Region 28 has still failed to confirm whether Amazon’s offer of proof has been previously shared with anyone at Region 29.

III. STANDARD OF REVIEW

Under Section 102.67(c) of the NLRB’s Rules and Regulations, the Board may grant a request for review only upon one or more of the following grounds:

(1) That a substantial question of law or policy is raised because of:

   (i) The absence of; or

   (ii) A departure from, officially reported Board precedent.

(2) That the Regional Director’s decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of a party.

(3) That the conduct of any hearing or any ruling made in connection with the proceeding has resulted in prejudicial error.

(4) That there are compelling reasons for reconsideration of an important Board rule or policy.
Several of the above grounds are present in this request for review. Although set forth more fully below, in short: (1) no Board precedent exists that allows a representative to be appointed for a Region that is neither a party to the proceeding nor has a role in investigating and adjudicating the underlying objections; (2) such a decision would be a departure from Board precedent that only addresses appointing a representative for the Region that is investigating and adjudicating the underlying objections; (3) such a decision would prejudice Amazon in that it would allow the very Region from whom the General Counsel transferred this proceeding to reinsert itself into the proceeding as an active participant, and essentially give them party status despite the fact that they have no standing in the case—Region 29 is no longer handling this matter; and (4) which Region is entitled to have a representative appointed during the proceedings under Rule 102.69 and/or Casehandling Manual §11424.4(b) implicates an important Board rule and/or policy.

Furthermore, Section 102.67(j) of the Board’s Rules and Regulations governs a party’s request for a stay pending the request for review. A stay “will be granted only upon a clear showing that it is necessary under the particular circumstances of the case.” Section 102.67(j). Allowing the hearing to go forward with a representative of Region 29 being present and actively participating in the proceedings under Board Rule 102.69 and/or Casehandling Manual §11424.4(b) is not only a prejudicial error but one that cannot be undone or remedied.

IV. ARGUMENT

Regional Director Overstreet denied Amazon’s Motion and in doing so ignored the plain text of the Board’s Rules and Casehandling Manual, and used logic that stands in stark contrast to both the Agency’s guidance and Region 29’s actions during the pendency of this proceeding. Neither the Board’s Rules and Regulations nor its Casehandling Manual permit the Region’s decision to appoint a “representative” to the Regional Director of a Board Region that is (i) not a
party to this matter; or (ii) no longer handling this matter. Regional Director Overstreet’s decision must be reversed to avoid irreparable harm before the hearing in this matter may commence.

A. No Board Rule or Policy Permits Regional Director Drew-King to Have a Representative at the Objections Hearing.

There are only two ways in which a Regional Director is afforded a representative during a post-election objections hearing: (1) as a “party” under Rule 102.69 or (2) as the Regional Director of the Region investigating and adjudicating the underlying objections hearing per Casehandling Manual §11424.4(b). If a Region does not fall into one of these two categories, no special process, Board rule, or Board precedent exists to appoint a representative to a Region simply because it has been accused of the very conduct that gave rise to the underlying objections.

1. Board Rule 102.69 Does Not Authorize the Appointment of a Representative for Region 29.

First, it is clear that the Board’s Rules do not authorize the appointment of a representative for Region 29. Board Rule 102.69 is explicit that only a “party” may appear at a post-election objections hearing, whether “by counsel, or by other representative.” 29 C.F.R. § 102.69(c)(1)(iii). Rule Section 102.1(h) defines “party” as “the Regional Director in whose Region the proceeding is pending and any person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any Board proceeding.” 29 C.F.R. § 102.69(h). Region 29 is not a “party” to this matter, a fact that Region 28 by Mr. Doyle even expressly acknowledged in his conversation with Ms. Rogers. Despite quoting the language of the rule that confirms Mr. Doyle’s acknowledgment, Regional Director Overstreet’s Order ignores it entirely and simply presumes Regional Director Drew-King should be considered a party.
i. **Regional Director Drew-King is Not a Party Because She is No Longer the Regional Director in Whose Region the Proceeding is Pending.**

The Board gives plain meaning to the words “Region the proceeding is pending [in.]” See, e.g. *Guardsmark, LLC*, 349 NLRB 1003, 1003 (2007) (“a charge presenting these unfair labor practice issues is pending before Region 7 (Case 7-CB-15318)[.]”); General Counsel’s Memorandum 16-02 (“provide a list of the pending cases involving *D.R. Horton/Murphy Oil* issues, the status of such cases, and the Regions in which they are pending” and “charges pending in multiple Regional offices” and “average time a case is pending in Appeals”); *Jurys Boston Hotel*, 356 NLRB 927, 931 n. 2 (2011) (“At the time of the hearing in this representation case proceeding, those charges remained pending in the Region.”). The petition in Case No. 29-RC-288020 was pending in Region 29 until the General Counsel transferred it to Region 28, and, since that time, the petition has been pending in Region 28. The underlying proceeding is no longer pending in Region 29. Amazon acknowledges that had the General Counsel not transferred the case to Region 28, then Region 29 would still be the “party” under Rule 102.69 because the proceeding would have been “pending in” Region 29. But that is not the current posture of the proceedings. Indeed, Amazon filed a Motion to Transfer, which General Counsel Abruzzo could have denied. Rather, General Counsel Abruzzo granted the motion and transferred the case across the country to Region 28. Upon transferring the case to Region 28, the title of “party” transferred with it to Region 28. Regional Director Overstreet points to no case in which the Board has held otherwise, or which refutes the contention that a proceeding is “pending” in the Region that has responsibility for its adjudication.

ii. **Regional Director Drew-King is Not Any Person Named or Admitted as a Party, or Properly Seeking and Entitled as of Right to Be Admitted as a Party.**

There is very little caselaw governing what is meant by any person “properly seeking and entitled as of right to be admitted as a party.” The closest the Board has come to addressing the
issue of when a person can be admitted as a party, let alone a Regional Director from some Region other than the Region in which the proceeding is pending, is *Meat Cutters & Butcher Workmen, Loc. 158*, 208 NLRB 58 (1974). *Meat Cutters* involved a local union violating Section 8(b)(3) of the Act by refusing to sign a collective bargaining agreement and refusing to bargain with the employer of the employees it represented. *Id.* at 58-59. After the hearing closed, the International of the charged-party local sought to intervene and reopen the record. *Id.* at 61. The ALJ allowed the International to intervene for the purpose of filing a brief but refused to reopen the record. *Id.* In its brief, the International asserted that it was “the real party in interest” in the proceeding. *Id.*

In the decision, the ALJ analyzed an almost identical version of Rule 102.1(h). See *id.* at 61. The ALJ began his analysis by quoting the language of the rule that defined “party.” *Id.* In concluding the International was not a party, the ALJ noted:

> [T]he International is not an indispensable or necessary party to this proceeding, since an appropriate order remedying the violations alleged can be issued against Respondent without joining the International. Nor is there a sufficient showing that the issuance of such an order will unlawfully prejudice the International and, therefore, that it is entitled to the opportunity to defend itself. The latter asserts that it would be subject to penalties under the AFL-CIO constitution if a remedial order were issued against Respondent. This argument assumes that the International will in fact be penalized, and is thus purely speculative. But even if it were assumed that the International will be penalized, whatever injury might occur would not constitute the type of direct prejudice flowing from a Board order which would require that the International be permitted to intervene as a party in interest.

As far as Amazon is aware, Region 29 has never sought to be admitted as a party, indeed the Agency has acted as if Region 29 never ceased being a party to the proceeding once the case was transferred. It is unclear what role the Agency feels Region 29 has to play in the hearing at this point other than, as Regional Director Overstreet’s Order stated, “to defend and explain the conduct that the Employer alleges to be objectionable.” As is set forth fully in Section 2 of this brief, such advocacy is far beyond the scope of what the Casehandling Manual contemplates as
the role of the Regional Director’s representative in an objections hearing, which is to ensure the
evidence from the administrative investigation of the objections enters the record.

Region 29 has no legitimate interest in the proceedings at this point. The purpose of the
objections hearing is to ascertain whether the employees at Amazon’s JFK8 facility were able to
freely exercise their Section 7 rights, or whether the exercise of those rights was interfered with
by actions from the ALU and/or Region 29. Region 29 will not be prejudiced in any way regardless
of whether the election is set aside or the ALU is certified as the 9(a) representative. Amazon finds
curious the suggestion by Regional Director Overstreet that Region 29 is playing a role in the same
vein the ALU is playing – not just because of the nature of the objections, but especially because
the Casehandling Manual makes clear that a representative of the Regional Director “must exercise
self-restraint and display impartiality as well as the appearance of impartiality.” Casehandling
Manual § 11424.4(b). Regional Director Overstreet’s Order declaring that the appointment herein
is to allow Region 29 “to defend and explain [its] conduct” runs squarely against the express text
of the Agency’s guidance. Id.

iii. The Board’s Actions With Respect to the Offer of Proof are Inconsistent with
Regional Director Drew-King Being a Party Within the Meaning of the Act.

Furthermore, Region 28’s actions with respect to the offer of proof undermine its adamance
that Regional Director Drew-King is a “party” under the Board Rules. If Regional Director Drew-
King were a party, then neither she nor her representative should have access to Amazon’s offer
of proof. Such access directly contravenes Rule 102.69(a)(8): “The Regional Director will transmit
a copy of the objections to be served on each of the other parties to the proceeding, but shall not
transmit the offer of proof.” 29 CFR § 102.69(a)(8) (emphasis added). As discussed in the
paragraph above, if Regional Director Drew-King were a “party,” it is not because she is the
“Regional Director” referred to in Rule 102.69, so necessarily she would have to be an “other
party” under Rule 102.69. If she were the “Regional Director” who transmits the Offer of Proof, then she would have been served with Amazon’s Offer of Proof, which she was not. As an “other party,” the offer of proof would not, and should not, have been transferred to either Regional Director Drew-King or her representative. If Region 28 provided Amazon’s offer of proof to Region 29, Region 29’s representatives, or Region 29 accessed it—which based on Region 28’s repeated refusal to answer this direct question has occurred—it has violated the Board’s rules in such a way that it is difficult to understand how it can be remedied.

Regional Director Overstreet erroneously relies on Rules 101.30(b) and (d) for the contention that Regional Director Drew-King is a “party.” The Order contends that these Rules support the preceding quote which defines the term “party.” However, nowhere do either of these Rules define or even clarify who is a “party.” They simply set forth what rights parties may have, a concept with which Amazon does not disagree: if Region 29 were a party to the proceedings, then, as a party, it would be entitled to certain rights. But it is not a party and Regional Overstreet’s citations grossly mischaracterize Amazon’s argument. Amazon is not arguing that Regional Director Drew-King should be denied rights despite her being a party to the proceeding. To the contrary, Amazon’s argument is that Regional Director Drew-King is not a party in the first place so whatever rights and responsibilities a party may have is wholly irrelevant to the issues to be resolved in this Request.

2. The Board Casehandling Manual does not authorize the appointment of a representative for Region 29.

The second authority which allows a representative to be appointed to a Regional Director is found in the Board’s Casehandling Manual. See Casehandling Manual § 11424.4. The Board’s Casehandling Manual makes clear that if Regional Director Overstreet requires a representative to assist Region 28 in assuring a complete objections record, he may appoint one to represent him.
However, nothing in the Casehandling Manual even implies that he may appoint one for Regional Director Drew-King any more than he may appoint one for the Director of any other Region not involved in investigating and adjudicating the underlying objections.

With respect to participating agency personnel, Section 11424 of the Casehandling Manual provides that an objections hearing “is ordinarily conducted by a Hearing Officer or an Administrative Law Judge (Sec. 11424.1) (Secs. 11424.2–11424.3). When no unfair labor practices are involved, the Regional Director may also assign a Board agent designated as representative of the Regional Director (Sec. 11424.4) to appear at the hearing to see that evidence adduced during the region’s investigation becomes part of the record.” Casehandling Manual § 11424.4 (emphasis added); see also Casehandling Manual § 11424.4(b).

This language was the source of Region 28’s and/or the Division of Operations Management’s decision to appoint a representative to represent Regional Director Drew-King during the hearing. But the “Regional Director” referenced in Section 11424.4 of the Casehandling Manual—and throughout the entirety of Section 11424 for that matter—is the Regional Director of the Region presiding over the objections hearing—which is, in this case, Region 28, not Region 29. This conclusion is plainly evident in the language of Section 11424.4(b), which provides that “the primary function of a representative of the Regional Director is to see that the relevant evidence adduced during the region’s administrative review becomes part of the record.” Casehandling Manual § 11424.4(b).

The “representative” of “the Regional Director” referenced in Sections 11424 and 11424.4(b) can only be a reference to the representative of the Regional Director responsible for investigating and adjudicating Amazon’s objections, including presiding over the hearing. That is Regional Director Overstreet, not Regional Director Drew-King.
and Region 29 do not have, and have never had, responsibility for investigating Amazon’s post-election objections or conducting an “administrative review,” and they certainly do not have any obligation to ensure a full and complete evidentiary record. That is Region 28’s—and only Region 28’s—job.

Moreover, the Casehandling Manual cautions that the representative of the Regional Director appointed pursuant to Casehandling Manual §§11424 and 11424.4(b) “must exercise self-restraint and display impartiality as well as the appearance of impartiality.” Casehandling Manual § 11424.4(b). No representative for Regional Director Drew-King can satisfy this mandate—indeed Regional Director Overstreet’s Order declares in direct contradiction of the Manual that they should not act impartially. See RD Order at pp. 2-3.

The Order explains that Field Attorneys Ms. Friedheim-Weis and Ms. Pereda will be “representing” the same Board Region and Regional Director whose alleged conduct gave rise to Amazon’s objections—and describes their role “at the hearing to defend and explain [Region 29’s] conduct.” RD Order at p.2. The Order expressly contemplates their presence at the hearing to be adversarial, not neutral, as Regional Director Overstreet repeatedly uses the term “defend” to characterize their anticipated role in the hearing. See RD Order at pp. 2-3. In other words, they will not be at the hearing to ensure a full and complete record on behalf of Regional Director Overstreet, as envisioned by the Casehandling Manual; instead, the only reason for their presence would be to advocate (in what is purportedly a non-adversarial proceeding) on behalf of Regional Director Drew-King.

In sum, Regional Director Overstreet is authorized to appoint a representative to appear at the hearing on behalf of Region 28 to ensure the effective development of a full and complete record. But neither the Rules nor the Casehandling Manual support the designation of a
representative for Regional Director Drew-King, and interpreting them in such a fashion is arbitrary and capricious.

3. **There is no other rule or precedent that authorizes the appointment of a representative to a Region simply because its actions are at issue.**

   Regional Director Overstreet appears to argue that Region 29 also has an implicit right to a representative simply because its actions support Amazon’s contentions in the underlying proceeding. See RD Order at p. 2 (“In this case alleging misconduct by both Regional Director Drew-King and the Regional Office staff, Regional Director Drew-King is entitled to have a representative appear at the hearing to defend and explain the conduct that the Employer alleges to be objectionable.”) Tellingly, the Order cites no authority for this proposition.

   Instead, Regional Director Overstreet mischaracterizes Amazon’s argument stating that Amazon has objected to the participation of Region 29 in any capacity because it is the subject of the underlying conduct. The Order then extrapolates absurd and extreme “examples” and cites several cases to refute this “argument.” However, this entire line of discussion in the Order is nothing more than a strawman. To be clear, Amazon is not arguing that Regional Director Drew-King is not entitled to a representative because her Region has been accused of certain misconduct. Instead, Amazon contends that Regional Director Drew-King is not entitled to a representative because she is not a party under Rule 102.69, nor is she the “Regional Director” under the Casehandling Manual §11424.4, and that there is no other mechanism – including the simple fact that her Region is implicated in the underlying conduct – that affords her the right to a representative.

   Furthermore, Regional Director Overstreet’s allusions to ensuring Region 29 due process are ironic in light of Region 29’s efforts to avoid answering for its actions during these proceedings. Following a parade of strawmen, the Order declares with a flourish:

   The accused has a right to face his or her accuser and respond. This is a bedrock principle of judicial and the administrative process. Otherwise put, the Employer’s request to exclude the Regional Director stands in stark contrast to basic principles of fair play and justice.
Regional Director Overstreet appears to have misunderstood Amazon’s request. Amazon is not seeking to exclude Regional Director Drew-King from the hearing, nor to deny her or the Regional Office staff the opportunity to provide evidence to explain the Region’s objectionable conduct. Amazon simply objects to Region 28’s unauthorized appointment of a “representative” for them because it is contrary to the Board’s rules, its guidance, and the very rationale for the transfer of this case away from Region 29 to begin with. Amazon could not agree more with the first two sentences quoted above – it is a bedrock principle of the judicial and administrative process for Regional Director Drew-King and Region 29 to face these objections and respond.

However, Region 29 does not appear to be interested in allowing evidence to explain the Region’s objectionable conduct in a manner consistent with “basic principles of fair play and justice.” It wants attorney “representatives” in the room to “defend and explain,” but does not want to take the stand or provide relevant evidence to allow Region 28 to perform its role in investigating and adjudicating the instant post-election objections. Amazon served a subpoena duces tecum on Region 29 seeking documents relevant to its objections but Ms. Pareda – one of Region 29’s representatives – filed a petition to revoke the subpoena. Amazon also sought testimony from crucial Region 29 fact witnesses, including Regional Director Drew-King and Ioulia Federova (the Board Agent who processed the petition and was in charge of the election) but for some reason General Counsel Abruzzo has denied Amazon’s request to allow these Region 29 witnesses to testify, and has denied each of Amazon’s requests for Region 29 to produce documents. Such stonewalling begs the question: if no one from Region 29 with factual knowledge of the underlying issues will testify at the hearing and Region 29 will not produce any relevant documents, then how will Ms. Friedheim-Weis and Ms. Pereda “explain” Region 29’s position? Moreover, how are “basic principles of fair play and justice” advanced if Regional Director Overstreet allows Region 29’s representatives to
talk with Region 29 witnesses and then “explain” their position on the record but not allow Amazon (or the ALU) to cross-examine these same individuals or even review their relevant documents?

4. The Regional Director Cites Several Cases that Do Not Apply to the Present Proceeding.

Regional Director Overstreet cites several cases in support of his statement that “the Agency’s experience with processing representation petitions and holding post-election objections hearings shows that the long-standing procedure is to permit the Regional Director of the Regional Office accused of misconduct to designate a representative for the hearing.” Yet these cases are wholly inapposite.

First, Fox Television Stations, LLC, Case 28-RD-274741 should be afforded no weight. In fact, it is well-established that Regional Director decisions do not establish Board precedent and are not final unless adopted by the Board. See 29 U.S.C. §153(b); UC Health v. N.L.R.B., 803 F.3d 669, 671 (D.C. Cir. 2015) (“[N]o Regional Director’s actions are ever final on their own; they only become final if the parties decide not to seek Board review or if the Board leaves those actions undisturbed”). Whether adopted or not—in this case, the Fox decision was never adopted—it is well settled that Regional Director decisions are not precedential. See, e.g., Rental Unif. Serv., Inc. & Teamsters Loc. 430, a/w Int’l Bhd. of Teamsters, Afl-Cio, Petitioner, 330 NLRB 334, 336, n.10 (1999) (“[W]e have long held that Regional Director’s Decisions do not have precedential value”).

Second, Patient Care of Pennsylvania, Inc., Case 4-RC-101021 is factually distinct. In Patient Care, the ALJ (acting as a Hearing Officer) and Board did not consider whether a representative from the region where the misconduct occurred can be appointed when the matter is transferred out of said region. Indeed, the ALJ’s decision is silent on that issue. Based on the docket, Patient Care was never transferred out of Region 4, where the misconduct occurred, and instead remained pending in Region 4. Accordingly, Region 4 was still a party at the time because
it was the region in which the proceeding was pending. See 29 C.F.R. §102.1(h) (“The term party means the Regional Director in whose Region the proceeding is pending”) (emphasis added). As a result, Patient Care offers zero guidance on whether the Region from which a matter is transferred is entitled to a representative.

In contrast to the present case, the designation of a Regional Director representative in Patient Care is consistent with the Agency’s Casehandling manual. Region 4’s Regional Director representative, Emily DeSa, was present to ensure that facts gathered during the investigation into the objections came into the record. Patient Care of Pennsylvania, Inc., Case 4-RC-101021 (“Emily DeSa, Esq., for the Regional Office.”)⁴; see Casehandling Manual § 11424.4(b) (“primary function of a representative of the Regional Director is to see that the relevant evidence adduced during the region’s administrative review becomes part of the record”). Because Region 4 investigated the objections, they were entitled to have a representative present at the hearing. See supra Section A.2 discussing Casehandling Manual §11424.4 In the present case, Amazon submitted the offer of proof to Region 28, and Region 28 is completing the investigation. Region 29 played no role in the investigation of objections. In fact, by Regional Director Overstreet’s own admission, Region 29’s representative is not appearing to ensure that the investigation’s facts come into the record, but instead appearing “to defend and explain the conduct that the Employer alleges to be objectionable.” RD Order at p. 2 (emphasis added). Therefore, in contrast to Patient Care, Region 29 is not entitled to a representative because it cannot appropriately fulfil the functions laid out in the Casehandling Manual.

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Third, *Polymers, Inc.*, 174 NLRB No. 42 (1969) is also distinguishable. In *Polymers*, the Board upheld the Regional Director’s decision on objections addressing his own Regional Office misconduct related to improperly sealing the ballot box and not maintaining custody of the sealed box and ballots at all times. *Polymer* did not deal with a case that had been transferred to another Region, and the Regional Director of that new Region appointing a representative for the former Region. The case has no applicability to the facts before Regional Director Overstreet. Therefore, *Polymers* is distinguishable and inapplicable here.

**B. The Board’s Rules and Policies Prohibit the Transmission of the Offer of Proof to Anyone at Region 29.**

Board Rule 102.69 specifically states: “The Regional Director will transmit a copy of the objections to be served on each of the other parties to the proceeding, *but shall not transmit the offer of proof.*” 29 C.F.R. § 102.69(a)(8) (emphasis added). The Casehandling Manual likewise provides: “As a courtesy, the Regional Director will also serve a copy of the objections on each of the other parties to the proceeding, *but shall not transmit the offer of proof.*” Casehandling Manual § 11392.8 (emphasis added). Thus, the Board’s Rules and policies mandate that a party’s offer of proof *shall not* be transmitted to the other parties, much less non-parties.

Permitting a “representative” for Regional Director Drew-King to have access to Amazon’s offer of proof improperly provides Regional Director Drew-King, by her representative, with information related to Amazon’s evidence and the identity of its witnesses and risks perpetuating the appearance of bias. There is no legitimate purpose for providing such information to fact witnesses who have no adjudicatory or investigatory role in this proceeding, let alone far in advance of the hearing. In addition, allowing Region 29 personnel to access Amazon’s evidence in advance would be inconsistent with any witness sequestration order Hearing Officer Dunn may
issue with respect to these proceedings. Most troubling, to the extent Regional Director Overstreet views the role of the representatives to “defend” Region 29, the offer of proof provides a road map and ability to prepare that defense well in advance, it is pre-hearing discovery – an overwhelming tactical advantage no one is entitled to under the Board’s rules.

It is unclear based on Regional Director Overstreet’s Order and Ms. Rogers’ conversation with Mr. Doyle whether Region 28 has already shared the offer of proof with anyone at Region 29. In fact, to date, no one from Region 28 has responded to Amazon’s repeated inquiries into whether the offer of proof has been disclosed to anyone at Region 29. The silence is deafening.

No plausible reading of the Board’s Rules and Casehandling Manual evidences a right to share an offer of proof with a non-participating Region, much less one accused of the conduct upon which the election objections are based. It would be inappropriate if Region 28 has provided anyone at Region 29 with the offer of proof, but worse, such a disclosure will be difficult, or perhaps impossible, to remedy.

C. No Field Attorney, Whose Presence Displays Partiality, Should Be a Designated Representative In This Proceeding.

While a portion of the Motion to Regional Director Overstreet focused on Region 28’s and the Division of Operations Management’s decision to appoint Kerstin Meyers as the “representative,” Region 28 and the Division of Operations Management subsequently removed Ms. Meyers from the case. However, Region 28 has still yet to confirm whether or not Ms. Meyers accessed Amazon’s offer of proof, or shared it with anyone at Region 29, including whether she

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5 Assuming arguendo that Regional Director Drew-King was entitled to her own representative, it is illogical to expect Ms. Friedheim-Weis and Ms. Pereda not to discuss the case and the proceedings with her, whether before or during the hearing. Otherwise, there is little point in their presence at the hearing.

6 Removing Ms. Friedheim-Weis and Ms. Pereda as Regional Director representatives and compelling the return to Region 28 of all copies of the offer of proof is the minimum that should be done, although even these actions may not fully mitigate such a highly prejudicial error. But before the prejudicial effects can be evaluated, Amazon is entitled to know whether its offer of proof was shared, when, and with whom.
had conversations with anyone at Region 29 regarding Amazon’s evidence and the identity of its witnesses.

Regardless of who may be designated as a representative in this proceeding going forward, the fact remains that Region 29, a non-party, is not entitled to a representative (let alone two current representatives) under the Board’s Rules and Regulations and policies. Thus, Ms. Friedheim-Weis and Ms. Pereda should be removed from this matter as the so-called representatives of Region 29 and no other representatives should be appointed for Region 29. Furthermore, because Ms. Friedheim-Weis and Ms. Pereda have already been serving as Region 29’s representatives pursuant to improper appointment, including Ms. Pereda filing motions on behalf of the Region and Regional Director, they should not be permitted to serve as the representative for Region 28 either, as their appearance of impartiality has been compromised.

D. A Stay of the Proceedings is Appropriate Given the Circumstances of this Case.

The Board will grant extraordinary relief like the requested stay “upon a clear showing that it is necessary under the particular circumstances of the case.” 29 C.F.R. § 102.67(j)(2). The Board has not provided any guidance regarding what is needed in order to satisfy the standard set forth in the rules. See, e.g., BASF Corp., 2020 WL 2306516 (2020) (granting employer’s request for a stay pending the Board’s ruling on request for review without explaining reasons underpinning the decision to grant the stay).

The Federal Circuits generally apply the same standard, set forth by the Supreme Court, where a party requests a stay of a district court order pending appeal:

1. whether the stay applicant has made a strong showing that he is likely to succeed on the merits; 2. whether the applicant will be irreparably injured absent a stay; 3. whether issuance of the stay will substantially injure the other parties interested in the proceedings; and 4. where the public interest lies.
The first two factors of this standard are the most critical. *Id.* Particularly relevant to Amazon’s request for an emergency stay is that “simply showing some possibility of irreparable injury fails to satisfy the second factor.” *Id.* at 434-435. Amazon has demonstrated in the foregoing brief that it is certain to suffer irreparable harm if Region 29, a fact witness, is able to participate as a party in the objections hearing. There is no basis in law for allowing Region 29 to do so, while also barring Amazon from prosecuting its case by refusing to allow Amazon to call Region 29 witnesses and cross-examine them, and refusing to permit Region 29 to produce documents that are relevant to whether Region 29: (1) aided the ALU in the petition up through the election and (2) acted in an arbitrary and capricious manner with regards to the conduct alleged in Amazon’s Objections. If the proceeding is allowed to go forward with Region 29 improperly participating via its two representatives, it will be impossible to remedy that harm to Amazon.

The first factor is more difficult to assess because, as this brief has set forth, there is simply no caselaw to support allowing a Region, other than the Region in which the proceeding is pending, to participate in a hearing with attorney representatives in order to defend itself. Accordingly this is a matter of first impression for the Board and this factor should not weigh for or against Amazon’s request.

Amazon submits that a relatively short stay of the proceeding while the Board rules on its Request for Review will not substantially injure the ALU, especially not to the degree of irreparable harm that Amazon will suffer if the hearing is allowed to begin with Region 29’s participation through representatives.

The final factor weighs in favor of granting Amazon’s request for a stay. The public has a strong interest in the Board conducting itself in a manner consistent with its statutory mandate.
Allowing a non-party Region to act in a partisan manner at a hearing in order to “defend” itself is not consistent with that mandate.

**CONCLUSION**

In conclusion, Amazon respectfully urges the Board to reverse Regional Director Overstreet’s decision to grant Regional Director Drew-King *any* representative in the upcoming objections hearing. The Board’s Rules and Casehandling Manual do not permit such a procedure or designation. The only Regional Director permitted a “representative” at the hearing is Regional Director Overstreet, not Regional Director Drew-King. Allowing Ms. Friedheim-Weis and Ms. Pereda to “represent” Regional Director Drew-King at the hearing will impede, not facilitate, the creation of the record, will cause significant prejudice to Amazon, and will constitute an abuse of the Board’s discretion. Amazon further requests that the Board immediately stay any further proceedings pending the Board’s decision on this review and implementation of any remedial measures necessary.

Dated: June 12, 2022

Respectfully submitted,

/s/ Amber M. Rogers
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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document was electronically filed with the NLRB and was served by electronic mail this 12th day of June, 2022 to:

Cornele A. Overstreet, Regional Director
Region 28, National Labor Relations Board
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Phoenix, AZ 85004-3099
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Eric Milner
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/s/ Amber M. Rogers
Amber M. Rogers
EXHIBIT A
UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

Amazon.com Services LLC

Case 29-RC-288020

The parties AGREE AS FOLLOWS:

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. Amazon.com Services LLC, herein called the Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, a Delaware limited liability company with a Fulfillment Center located at 546 Gulf Avenue, Staten Island, New York, herein called the JFK8 Facility, has been engaged in the retail sale of consumer products throughout the United States. During the past 12-month period, the Employer, in conducting its business operations, derived gross revenues in excess of $500,000 and purchased and received at its JFK8 Facility goods and supplies valued in excess of $5,000 directly from enterprises located outside the State of New York.

3. LABOR ORGANIZATION. Amazon Labor Union, herein called the Petitioner, is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

DATE:  Friday, March 25, 2022;
        Saturday, March 26, 2022;
        Monday, March 28, 2022;
        Tuesday, March 29, 2022; and
        Wednesday, March 30, 2022

HOURS:  8:00AM to 1:00PM and 8:00PM to 1:00AM

PLACE:  In a tent located in the parking area of the Employer's facility at 546 Gulf Avenue, Staten Island, NY

In addition, the election will be conducted consistent with the following safety protocols:

(i) Provide a spacious polling area, sufficient to accommodate six (6) foot distancing, which will be marked on the floor with tape to insure separation for observers, Board Agents and voters;

Initials: ____________

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(ii) Have separate tables spaced six (6) feet apart so Board Agent, observers, ballot booth and ballot box are at least six (6) feet apart;

(iii) Place markings on the floor to remind/enforce social distancing;

(iv) Provide sufficient disposable pencils without erasers for each voter to mark their ballot;

(v) Provide tape to seal challenge ballot envelopes;

(vi) Provide plexiglass barriers of sufficient size to protect the observers and Board Agent and to separate observers and the Board Agent from voters and each other, pre-election conference and ballot count attendees, as well as masks, hand sanitizer, gloves and wipes for observers.

(vii) Allow for an inspection of the polling area by video conference or in person, on March 22, 2022, at 11:00AM, or at least 24 hours prior to the election, so that the Board Agent and parties can view the polling area. A representative of Amazon Labor Union will be present during the walkthrough;

(viii) Ensure that, in accordance with CDC guidance, all voters, observers, party representatives, and other participants will wear CDC conforming masks in all phases of the election. The Employer will post signs in or immediately adjacent to the Notice of Election to notify voters, observers, party representatives and other participants of this requirement;

(ix) Provide the Region with required certification pre and post-vote regarding positive COVID-19 tests, if any.

(x) Prior to the date of the manual ballot election, the Regional Director may reassess the COVID-19 infection rates in Richmond County, NY. The Regional Director may, in accordance with guidance set forth in Apsirus Keweenaw, 370 NLRB No. 45 (2020), determine that the scheduled, manual ballot election cannot be safely conducted and the Regional Director may cancel, postpone, or order a mail ballot election. If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, place of the election, or method of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All hourly full-time and regular-part time fulfillment center associates employed at the Employer’s JFK8 building located at 546 Gulf Avenue, Staten Island, New York.

Excluded: Truck drivers, seasonal employees, temporary employees, clerical employees, professional employees, managerial employees, engineering employees, maintenance employees, robotics employees, information technology employees, delivery associates, loss prevention employees, on-site medical employees, guards and supervisors as defined by the Act.

Employees will be called to vote according to a Release Schedule to be approved by the Regional Director. The Employer will post the Release Schedule alongside the Notice of Election. The parties understand that the Board agent conducting the election will not police the release schedule. The Board agent will allow any voter who is in line during the polling period to vote, regardless of whether they are voting according to the release schedule.

Initials: ____________

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Those eligible to vote in the election are employees in the above unit who were employed during the payroll period ending February 12, 2022, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Also eligible to vote are all employees in the unit who have worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee’s last name and the list must be alphabetized (overall or by department) by last name. 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. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The ballots will be in English and Spanish and the Regional Director, in her discretion, will decide any other additional language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be “Do you wish to be represented for purposes of collective bargaining by Amazon Labor Union?” The choices on the ballot will be “Yes” or “No”.

8. NOTICE OF ELECTION. The Notice of Election will be in English and Spanish, and the Regional Director, in her discretion, will decide any additional language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, including, but not limited to, on the Employer’s bulletin boards, the Employer’s Notification tab of AtoZ (to be re-posted at the beginning of March 22, 23, and 24, 2022) and on no fewer than five (5) of the Employer’s electronic video displays, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required may be grounds for setting aside the election whenever proper and timely objections are filed.
9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative: Felipe Santos, General Manager; P: 347-215-3436; 546 Gulf Avenue, Staten Island, NY.

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who 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 the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station three (3) authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. SHOWING OF IDENTIFICATION. The parties have agreed that voters will be required to show identification, employer or government issued (i.e. driver's license) or any identification showing a picture and the full name of the individual, upon voting. If a voter fails to present identification, they will vote subject to challenge.

13. TALLY OF BALLOTS. The ballot count will be conducted on Thursday, March 31, 2022, at 10:00AM, and on consecutive days until the count is completed, at a Region 29 hearing room located at 2 MetroTech Center, Brooklyn, New York. All ballots cast will be comingled and counted, and a tally of ballots prepared and immediately made available to the parties.

14. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

Amazon.com Services LLC
(employer)

By: /s/ Amber M. Rogers 2/16/2022
(Signature) (Date)

Amazon Labor Union
(Petitioner)

By: /s/ Eric M. Milner 02/16/2022
(Signature) (Date)

Print Name: ________________________________
Recommended: /s/ Ioulia Fedorova 2/17/2022

Ioulia Fedorova, Field Examiner (Date)

Date approved: 2/17/2022

Regional Director, Region 29
National Labor Relations Board
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC, )
) Employer,
) ) Case No. 29-RC-288020
and )
AMAZON LABOR UNION, )
Petitioner.
)

AMAZON.COM SERVICES LLC’S OBJECTIONS
TO THE RESULTS OF THE ELECTION

Of the 8,325 Amazon employees eligible to vote in this election, only 2,654—less than
32% of the eligible JFK8 workforce—voted for the Amazon Labor Union ("ALU" or "Union").
The Union began and ended this campaign with far less than majority support. Region 29 of the
National Labor Relations Board ("Region 29") has known this from the beginning but has acted
throughout this proceeding in a manner that unfairly and inappropriately facilitated the ALU’s
victory. Region 29’s interference and mismanagement of the election process, coupled with the
ALU’s own objectionable, coercive, and misleading behavior throughout the campaign, destroyed
the laboratory conditions necessary for a free and fair election.

Most glaringly, the Region abandoned the appearance of neutrality when it publicly
initiated a 10(j) injunction lawsuit against Amazon in federal court seeking the reinstatement of
former employee Gerald Bryson a mere week before the election—but more than twenty-three
months after Bryson’s discharge and more than fourteen months after Region 29 initiated
litigation in the underlying case in December 2020. Region 29’s filings and public commentary—
which questioned the possibility of a fair election absent the immediate reinstatement of an
employee terminated years ago for a sexist verbal assault against a female co-worker—painted
Amazon in a misleading and negative light to voters and suggested the Board’s preference for the ALU.

The Region’s mishandling of this proceeding began months ago when it accepted the ALU’s petition without the support required by the NLRB’s decades-old rules and standards. After it failed to generate enough support for its original petition, the ALU publicly complained that it was “impossible” to obtain the required 30% showing of interest and called on the Region to help the ALU. The Region acquiesced, arbitrarily removing over 1,500 employees from the list of employees in the petitioned-for unit. It then used that artificially reduced number to calculate whether the ALU’s submission met the 30% showing of interest threshold. The Region’s willingness to bend its rules lent a false air of legitimacy to the Union and constituted obvious and improper assistance to the ALU.

After fostering this impression throughout the critical period, during the election itself the Region demonstrated the appearance of support for the ALU in front of voters in the polling place while they were voting. The Region required employees wearing “Vote No” shirts to cover up their shirts before entering the polling place, but permitted employees wearing ALU paraphernalia to display it in the polling place. The Region also hindered voter turnout by mismanaging the beginning stages of the election and bringing insufficient resources to support the size of the election. The Region’s unpreparedness produced chaos and hours-long lines to vote on the first polling day, discouraging other employees from voting. The Region also allowed camera crews, including the ALU President’s personal videographer, to photograph, video, and interview employees standing in line to vote. This scared away those who understandably did not desire to have a microphone or news camera in their face or a reporter publicly interrogating them about how they planned to vote.
The ALU’s own misconduct during the critical period likewise chilled voters, suppressed turnout, and destroyed laboratory conditions. Among other things, the ALU unlawfully intimidated employees to support the ALU, stating among other things “if you vote no, I will know”; threatened violence against its detractors; perpetuated lies about Amazon’s conduct in the NYPD’s arrest of ALU President Christian Smalls for trespassing; recorded voters in the polling place; engaged in electioneering in the polling area; distributed marijuana to employees in exchange for their support; and surveilled employees as they exited the voting tent. All of these actions had a tendency to suppress voter turnout and interfere with laboratory conditions.

The actions of both the Region and the ALU are substantially more egregious than the installation of a mailbox by the United States Postal Service that the Board concluded destroyed and interfered with laboratory conditions in Amazon’s landslide election victory in Case 10-CA-269250. The Region and ALU’s improper actions here warrant at least the same result.

“The Board in conducting representation elections must maintain and protect the integrity and neutrality of its procedures.” Ensign Sonoma LLC, 342 NLRB 933, 933 (2004) (emphasis in original) (quoting Athbro Precision Eng’g Corp., 166 NLRB 966, 966 (1967)). Because that patently did not happen here, the Board must order a rerun election.

**OBJECTIONS**

**OBJECTION 1** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it sought a 10(j) injunction in *Drew-King v. Amazon.com Services LLC*, E.D.N.Y., No. 22-01479, on March 17, 2022. The Region sought this injunction 23 months after the alleged discriminatee (Gerald Bryson) was discharged, 18 months after the charge was filed, and 14 months after the complaint was issued in Case 29-CA-261755. Delaying the filing of this lawsuit until the eve of the election improperly
influenced employees’ perception of Amazon mere days before they were to vote. The Regional Director admitted as much in a statement to multiple press outlets, specifically referencing the imminent election in Case 29-RC-288020, stating the Board’s support for the ALU and alleging Amazon was a lawbreaker. Specifically, the Regional Director said:

We are seeking an injunction in District Court to immediately reinstate a worker that Amazon illegally fired for exercising his Section 7 rights. We are also asking the Court to order a mandatory meeting at JFK8 with all employees at which Amazon will read a notice of employees’ rights under the National Labor Relations Act. No matter how large the employer, it is important for workers to know their rights—particularly during a union election—and that the NLRB will vociferously defend them.

(emphasis added). Mr. Bryson was discharged in May of 2020 for verbally berating a female co-worker. This video of the incident, which the Region attempted to conceal from Amazon throughout the investigation and trial, revealed that Mr. Bryson called his female co-worker, amongst other names, “gutter bitch,” “crack ho,” “queen of the slums,” and “crack-head” over a bullhorn in front of their workplace because she exercised her Section 7 rights to disagree with him. Yet, on the eve of the election, the Region pursued this injunction suggesting that only ALU supporters’ Section 7 rights matter, and that Amazon’s actions were worthy of an extraordinary remedy.

**Objection 2** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it delayed investigating numerous unmeritorious and frivolous unfair labor practice charges that were pending during the critical period rather than properly dismissing them or soliciting withdrawals.

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The Region’s inaction enabled the ALU to perpetuate its false campaign narrative\(^3\) that Amazon was a recidivist violator of the National Labor Relations Act ("Act"), when in fact there has not been a single NLRB order finding that Amazon has violated the Act. The ALU exploited the Region’s inaction by continuing to file numerous baseless unfair labor practice charges throughout the critical period. Many of these charges challenge conduct that is lawful under extant Board precedent (e.g., charges about Weingarten rights and captive audience meetings). Some were later withdrawn by the ALU while others were withdrawn and then refiled to create the appearance of a greater volume of charges.

**Objection 3** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it allowed the ALU’s petition in Case 29-RC-288020 to proceed to election knowing that the Union did not have the required 30% showing of interest in the petitioned-for unit. It did so after public threats by the ALU to expose "concerning issues" about the Region, including public comments from ALU officials that urged the Board to "work with" and help the ALU through the process, and to relax its rules. The Board’s validation of the ALU’s insufficient petition in response to and after these public threats and comments reasonably suggested to employees that the ALU had more support in the petitioned-for unit than it did and/or that the Region favored the ALU in its case processing.

**Objection 4** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it impermissibly allowed the ALU for more than a month (from December 22, 2021 to January 25, 2022) to continue gathering and submitting late signatures to bolster its insufficient showing of interest. This is contrary to Board procedure for verifying a petitioner’s showing of interest. See NLRB,

\(^3\) The ALU has repeatedly, and falsely, claimed that it has filed "over 40" unfair labor practice charges against Amazon.
**CASEHANDLING MANUAL-PART TWO, REPRESENTATION PROCEEDINGS § 1103.1(a) (Sept. 2020)**

(CASEHANDLING MANUAL) (requiring a petitioner to file evidence in support of the showing of interest at the time the petition is filed or, when the petition is e-filed or faxed, within two days of filing).

**OBJECTION 5** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it unilaterally altered the scope and size of the petitioned-for unit for the purpose of investigating the ALU’s showing of interest. These unilateral modifications to the scope of the petitioned-for unit, which neither party endorsed, were used by the Region solely to support its flawed conclusion that the ALU purportedly met the minimum requirement of a 30% showing of interest. The petition and Stipulated Election Agreement reflect identical unit descriptions. However, in completing the public record NLRB FORM-4069, Region 29 altered the description, changing it from “All hourly full-time and regular-part time fulfillment center employees employed at the JFK8 Building located at 546 Gulf Avenue, Staten Island, NY 10314,” as requested by the ALU, to “FC Employee 1, working at JFK8 building,” thereby reducing the size of the unit and excluding other petitioned-for classifications of employees. Region 29 also concluded that only 6,038 employees worked in that unit, while Amazon provided the Region with extensive payroll documentation and additional evidence that the petitioned-for unit was comprised of approximately 7,500 employees at the time of the filing of the petition. Soon after recording these manipulated and inaccurate facts, and approving the further processing of the petition, Region 29 reverted to the broader unit definition included in the ALU’s petition and did not question Amazon’s submission of a voter list containing 8,325 employees. The Region’s manipulated and inaccurate conclusion regarding the contested
showing of interest perpetuated the false impression that the ALU had sufficient support to proceed forward with an election when it clearly did not have sufficient support.

**Objection 6** - The Region failed to protect the integrity of its procedures when it deviated from the Casehandling Manual on Representation Proceedings by failing to staff the election adequately. Among other things, the Region provided an insufficient number of Board Agents for check-in and failed to provide adequate equipment for the election, supplying only three voting booths for an election with more than 8,000 potential voters. CaseHandling Manual § 11316. The Region was well aware of the size of the petitioned-for unit and potential number of voters. See Voter List, filed on February 22, 2022 (including 8,325 employees in the petitioned-for unit). These inactions caused extraordinarily long lines during the first voting session, widely publicized in the news media, and discouraged many employees from voting in subsequent polling sessions, particularly as the temperatures dropped to 20 degrees during two nights of polling. The Board’s actions had a reasonable tendency to disenfranchise voters (as evidenced by extremely low voter turnout), and contributed to the Board’s ineffective policing of the polling area, as further described in objections below.

**Objection 7** - The Region failed to protect the integrity of its procedures when it turned away voters when they attempted to vote during open polling sessions, and told voters they were only being allowed to vote in alphabetical order. The parties’ Stipulated Election Agreement provided that “the Board Agent will allow any voter who is in line during the polling period to vote.” These actions disenfranchised those voters who were turned away, but also other voters who learned that voters were turned away from the polls and chose not to participate in the election.

**Objection 8** - The Region failed to protect the integrity of its procedures when it failed to control media presence in and around the voting area. Amazon specifically raised concerns to
the Region about media interference in the voting process prior to the start of the election. Yet during the first polling session, numerous media members—including a documentary film crew retained by Mr. Smalls—entered Amazon’s private property, filmed and recorded employees who were in line to vote, and even asked voters how they planned to vote, within feet of Board Agents. Photographs and quotes of these employees were then publicly broadcast across the nation. All of this media filming, recording, and broadcasting took place within the same zone around the polling place where the Region required Amazon to disable its security cameras during voting. The Board’s failure to stop the media from surveilling and interrogating voters standing in line to vote had a reasonable tendency to discourage other employees from voting in subsequent polling sessions (as evidenced by extremely low voter turnout).

**OBJECTION 9** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it allowed non-employee ALU President Smalls to loiter around the polling location and within the “no-electioneering zone” established by the Region on multiple occasions during polling times, where he was able to observe who participated in the election. Mr. Smalls’ presence in and around the “no-electioneering zone” during polling times reasonably tended to intimidate, coerce, and create the impression of surveillance among voters and prospective voters.

**OBJECTION 10** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it directed voters to cover up “Vote NO” shirts, but allowed other voters to wear ALU shirts and other ALU paraphernalia in the polling area. There was no basis for this direction as the Board has consistently held that wearing stickers, buttons, and similar campaign insignia by participants and observers at an election is, without more, not prejudicial. *R. H. Osbrink Mfg. Co.*, 114 NLRB 940, 941-43
(1955); see also Furniture City Upholstery Co., 115 NLRB 1433, 1434–1435 (1956). The Board has held that the impact on voters is not materially different “whether the observers wear prounion or antiunion insignia of this kind.” Larkwood Farms, 178 NLRB 226, 226 (1969) (observer wearing “Vote No” hat not objectionable). The Region’s discriminatory directions toward ALU opponents created the impression for all voters present, as well as all potential voters who learned of these incidents, that the Board appeared to favor the ALU over Amazon in the outcome of the election. “No participant in a Board election should be permitted to suggest to the voters that this Government agency, or any of its officials, endorses a particular choice.” Am-O-Krome Co., 92 NLRB 893, 894 (1950).

**OBJECTION 11** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it repeatedly allowed an ALU observer to audio/video record the check-in tables and voting area on his mobile phone while serving as an observer during multiple voting sessions. CASEHANDLING MANUAL §§ 11318.2(b) and 11326.2. The Region permitted this individual to continue serving as an ALU election observer following his conspicuous recording of the voting area while the polls were open. These actions further constitute objectionable list keeping of voters, objectionable surveillance of voters, and also created the impression for voters and potential voters that the ALU was surveilling them.

**OBJECTION 12** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it solicited unfair labor practice charges against Amazon in the presence of voters in the polling area while the polls were open. During the election, an employee entered the polling area and complained about Amazon’s actions during the campaign. Rather than tell the employee that they could discuss
the matter privately, the Board Agent, within earshot of voters, stated to the employee that the employee could file unfair labor practice charges against Amazon with the NLRB.

**OBJECTION 13** - During the critical period and while the polls were open, the ALU’s members and agents harassed and threatened physical violence and other reprisals against employees who were not supportive of the ALU’s cause. “Threats by union agents warrant the setting aside of an election where they ‘reasonably tend[] to interfere with the employees’ free and uncoerced choice in the election.’” *Robert Orr-Sysco Food Servs. LLC*, 338 NLRB 614, 615 (2002) (quoting *Baja’s Place*, 268 NLRB 868 (1984)).

**OBJECTION 14** - The ALU improperly promised employees in the final days of the campaign that it would not charge them dues unless and until the ALU secured a raise for employees during collective bargaining. Prior to and during the critical period, the ALU was clear that it would charge employees dues immediately following a successful vote. After employees expressed reluctance to pay dues, the ALU directly contradicted its earlier statements and asserted for the first time, late in the campaign, that it would not charge dues unless and until it secured higher wages in contract negotiations with Amazon. The ALU made these promises to employees during employee meetings, on social media, and in a letter from the ALU’s President to all eligible voters two days before the polls opened. The ALU’s failure to file any foundational documents and LM filings with the Department of Labor, as required by the Labor Management Reporting and Disclosure Act of 1959 (“LMRDA”), coupled with its late-hour promise of free union representation, allowed it to make promises regarding its dues structure in a way that deprived Amazon of the ability to effectively respond, and denied employees the opportunity to assess the credibility of the promise. Additionally, the ALU’s promises of free union representation is an objectionable grant of a benefit because this benefit is within the ALU’s power to effectuate. *See,*
e.g., *Alyeska Pipeline Serv. Co.*, 261 NLRB 125, 126-27 (1982) (union controlled all access to construction jobs in Alaska for employees participating in election, and thus union’s suggesting only way to get union card was by voting for union in upcoming election was objectionable as union was clearly promising to grant members advantage over nonmembers and had power to do that); see also *Go Ahead N. Am., LLC*, 357 NLRB 77, 78 (2011) (finding objectionable union’s offer to waive back dues).

**OBSESSION 15** - The ALU engaged in repeated and deliberate attempts to interfere with and “shut down” Amazon’s small group meetings, solicited employees during Amazon’s educational meetings in violation of Amazon’s policies, and destroyed Amazon’s campaign materials. The ALU’s actions intentionally created hostile confrontations in front of eligible voters and hindered Amazon’s lawful right to communicate its views to employees during the campaign. *See, e.g., Livingston Shirt Corp.*, 107 NLRB 400, 406-07, 409 (1953) (union has no right to campaign or solicit during employer’s lawful small group meetings); *United Steelworkers of Am. v. NLRB*, 646 F.2d 616, 627 (D.C. Cir. 1981) (same, unless an employer has a broad rule prohibiting solicitation during nonworking time [Amazon has no such policy]).

**OBSESSION 16** - Non-employee ALU organizers repeatedly trespassed on Amazon’s property. Over the course of many months, Amazon informed non-employee ALU organizers on several occasions that they had no right to solicit on Amazon’s property and that their presence on Amazon’s property constituted unlawful trespass. Nevertheless, Mr. Smalls and other non-employee ALU organizers continued to trespass on Amazon’s property for the purpose of soliciting employee support during the critical period. On February 23, 2022, during the critical period, Mr. Smalls and two ALU organizers initiated a confrontation with the New York Police Department after Mr. Smalls repeatedly refused to leave Amazon’s property, which resulted in
their arrests. After his arrest, Mr. Smalls and the ALU consistently misrepresented what had occurred, claiming that he merely dropping off food for employees and was akin to an Uber Eats driver, and that Amazon “called the cops on employees.” Mr. Smalls consistently failed, however, to mention in his social media posts and interviews on the subject that on the date of his arrest, he brought a film crew\(^4\) onto Amazon’s property without authorization, conducted an interview (that can be seen on social media), and then proceeded to trespass and loiter for over one hour. The ALU also filed ULP charges—which the Region has yet to investigate—and falsely alleged that Amazon had “violated its national settlement” with the NLRB. The ALU then amplified these misrepresentations and the pendency of the charge in the media. All of these actions had a reasonable tendency to interfere with laboratory conditions. *See Phillips Chrysler Plymouth*, 304 NLRB 16, 16 (1991) (Board set aside election when union agents invaded the employer’s premises without permission and refused to leave when asked, engaging in a confrontation with company management).

**Objection 17** - The ALU unlawfully polled employee support, engaged in unlawful interrogation, and created the impression of surveillance during the critical period. During the critical period, the ALU distributed a pledge form that asked employees to fill out their name, state what day they planned to vote, what time they planned to vote, their phone number, their address, and to sign a commitment that they would vote “Yes.” This constitutes objectionable polling and interrogation. The ALU’s request that employees identify what time and date they would vote reasonably gave the impression that the ALU would surveil when and if they chose to vote, and the commitment to vote “Yes” gave the impression that they could not change their mind if they signed one of these commitment forms. *See, e.g., Kusan Mfg. Co. v. NLRB*, 749 F.2d 362, 365

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(1984) (citing NLRB v. Claxton Mfg. Co., 613 F.2d 1364 (5th Cir.1980)) (recognizing that an employer may successfully challenge a representation election by showing that pre-election polling by the union was coercive).

**OBJECTION 18** - After disparaging—and celebrating its independence from—established, institutional unions for months leading up to the vote, the ALU’s President and attorney asserted in 11th hour communications to voters that the ALU was backed by established unions with millions of union members, that those more-established unions were actively involved in the ALU’s campaign, were providing funding and other services to the ALU, and would also be involved in contract negotiations if the ALU was elected. The ALU’s failure to file any foundational documents and LM filings with the Department of Labor as required by the LMRDA, coupled with its late-hour promise of operational support from and affiliation with other unions, deprived Amazon of the ability to effectively respond and employees the opportunity to assess the ALU’s credibility. These misrepresentations are objectionable conduct because, under the circumstances, employees were unable to discern the truth of these statements regarding which labor organization would be representing them.

**OBJECTION 19** - ALU supporters misled employees by telling them that they would lose their benefits if they did not support the ALU. Relying on language barriers and misrepresentations of the election processes, during the critical period, ALU organizers specifically targeted Amazon employees who recently immigrated from Africa and threatened that their continued benefits were contingent on their support of the ALU. While the ALU’s conduct in this regard is a deplorable scare tactic targeted at an immigrant population, these false threats also constitute objectionable
conduct because they reasonably tended to coerce employees into supporting the ALU solely out of fear that they would lose their benefits.

**OBJECTION 20.** The ALU deployed a light projector outside the JFK8 facility that projected mass messaging on the façade of the JFK8 building immediately prior to the election. Late at night on March 23, 2022, and through the early morning hours, after the voting tent was in place, the ALU projected messaging on the front of JFK8 immediately over the polling area which read: “Amazon Labor Union”; “VOTE YES”; “VOTE YES! TO KEEP YOUR PHONES”; “BE THE FIRST IN HISTORY”; “THEY FIRED SOMEONE YOU KNOW”; “THEY ARRESTED YOUR COWORKERS”; and “ALU FOR THE WIN”. See, e.g., Rachel Gumpert (@rlgumpert), Twitter (Mar. 27, 2022), https://twitter.com/rlgumpert/status/1508089747289219082 (last visited Apr. 8, 2022). The ALU’s light projections are also objectionable misrepresentations inasmuch as they caused confusion about the identity of the messenger, suggested that Amazon supported the messaging, and misrepresented the purpose and consequences of the vote. The ALU’s light projections also reiterated the ALU’s false campaign narrative that Amazon sought the arrest of employees. “[E]mployers and unions alike will be prohibited from making election speeches on company time to massed assemblies of employees within 24 hours before the scheduled time for conducting an election.” Peerless Plywood Co., 107 NLRB 427, 429 (1953). Because “the Board’s goal is to keep voters as free of uninvited mass messages as possible during the period just prior to the conduct of the election,” the ALU’s mass projection of its campaign messaging falls squarely within the prohibitions of Peerless Plywood. See Bro-Tech Corp., 330
NLRB 37, 39 (1999) (holding union’s use of sound truck broadcasting pro-union music constituted objectionable conduct).

**Objection 21** - The ALU failed to file forms required by the LMRDA. The LMRDA requires all unions purporting to represent private sector employees to file, among other things, detailed financial reports. 29 U.S.C.A. §§ 431-432. As acknowledged by the LMRDA, these disclosures are necessary to eliminate or prevent improper practices on the part of labor organization, their officers, and their representatives and to protect employees from the activities of labor organizations. *Id.* § 401(b)-(c). To date, the ALU has not filed any financial or other reports required by the LMRDA despite being under a legal obligation to do so. The ALU’s failure to comply with the LMRDA deprived employees from access to critical financial information about the ALU’s operations during a critical time period (*i.e.*, whether to vote for them as their bargaining representative). ALU President Smalls brazenly told CNN the week before the election that he would not file these disclosures until after the election, if at all.⁵

**Objection 22** - The ALU distributed marijuana to employees in return for their support in the election. Amazon made the Region aware of such conduct several times. The Board, as a federal agency and regulator, cannot condone such a practice as a legitimate method of obtaining support for a labor organization. *See e.g.*, *Stand Up for California v. U.S. Dep’t of the Interior*, 959 F.3d 1154, 1165 (9th Cir. 2020) (citing *Epic Sys. Corp. v. Lewis*, 138 S. Ct. 1612, 1624 (2018) ("We will not presume that Congress would enact a statute that requires a federal agency to violate federal law.")); *see also Epic Sys. Corp.*, 138 S. Ct. at 1624 (courts should strive to give effect to both laws when two are in conflict). The ALU’s distribution of marijuana was an impermissible

grant of benefit and interfered with employees’ free choice in the election. See Go Ahead N. Am., LLC, 357 NLRB at 77-78 (setting aside election where union granted benefits with a value in excess of “minimal”).

**OBJECTION 23** - On March 25, 2022, Mr. Smalls posted to his social media accounts a video of himself standing outside the voting area over 20 minutes after voting began and after he had told certain employees that the ALU would know how they voted. Employees viewing a video of the ALU’s President appearing to stand outside the polling area while the polls were open reasonably tended to coerce and intimidate voters and potential voters and lead them to believe that the ALU and Mr. Smalls was or would surveil them. Mr. Smalls’ social media post also reasonably tended to create the impression with voters that the Board supported ALU in the election, as it failed to properly police and/or took no actions to remove him from the “no-electioneering zone” established by the Board.

**OBJECTION 24** - The ALU engaged a camera/documentary crew that maintained a consistent presence in the polling place. Despite being directed to leave the area by Amazon in front of the Board Agent and ALU President Smalls, the crew returned several times and filmed employees in line waiting to vote, and employees entering and exiting the voting tent. These actions reasonably tended to coerce and intimidate voters and potential voters and lead them to believe that Mr. Smalls and the ALU would know if or how they voted, and created the impression of surveillance.

**OBJECTION 25** - ALU officials, agents, and supporters, including but not limited to non-employee ALU President Smalls and non-employee Gerald Bryson, engaged in objectionable conduct, including loitering in the “no-electioneering zone” established by the Board and/or within view of the polling area while polls were open, creating the impression among employees that the
ALU was surveilling the polling area, and otherwise engaging in electioneering. This conduct reasonably tended to coerce and intimidate voters and potential voters.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document was electronically filed with the NLRB and was served by electronic mail this 8th day of April, 2022 to:

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Confirmation

You have E-Filed your document(s) successfully. You will receive an E-Mail acknowledgement noting the official date and time we received your submission. Please save the E-Mail for future reference. You may wish to print this page for your records.

Note: This confirms only that the document was filed. It does not constitute acceptance by the NLRA.

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- Confirmation Number: 1060944815
- Date Submitted: Friday, April 8, 2022 4:31 PM Eastern Standard Time
- Submitted E-File To Office: Region 29, Brooklyn, New York

- Case Number: 29-RC-288020
- Case Name: Amazon.com Services LLC
- Filing Party: Employer

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Attached Documents:
- Objections to an Election: 29-RC-288020 Amazon’s Objections.pdf

Start Another E-Filing
AMAZON.COM SERVICES LLC, Employer, and AMAZON LABOR UNION, Petitioner.

Case No. 29-RC-288020

AMAZON.COM SERVICES LLC'S MOTION TO TRANSFER PROCEEDINGS

Pursuant to Section 102.72(a)(3) of the National Labor Relations Board's Rules & Regulations, 29 C.F.R. §102.72(a)(3), Amazon.com Services LLC, (“Amazon” or the “Company”), respectfully requests this matter be transferred out of Region 29 for a hearing on Amazon’s timely objections to conduct affecting the results of the election in the above-captioned matter. In support of its request, Amazon states the following:

1. Amazon is timely filing objections in the above-captioned matter.

2. A number of Amazon’s objections assert objectionable conduct by both the Regional Director of Region 29 and various Board Agents who, upon information and belief, work out of the Region 29 office.¹

3. It is appropriate to transfer a representation case proceeding for purposes of a post-election objections hearing where the subject matter of those objections involves Regional or Board Agent action. Such a transfer enables a Hearing Officer outside the Regional Office to hear

¹ The Board Agents did not identify where they work, thus Amazon is unable to discern if the various Board Agents present during the 10 voting sessions all work in Region 29's office. Upon information and belief, some of the Board Agents work in Region 2's office. Accordingly, if any Board Agents present for any voting session were from Region 2, or another Region, Amazon contends this matter should not be transferred to that Region, as the objections related to objectionable conduct of Board Agents extends to them.
the objections relating to the Region at issue and an out-of-Region Director to review the Hearing Officer's report. Specifically, General Counsel Memorandum 15-06 states: "If the subject matter of the objections involves regional or Board Agent misconduct that would require that a Hearing Officer outside the Regional office be assigned to hear the matter, the case should be transferred to another Region before an order directing a hearing issues so that exceptions to the Hearing Officer's report will be reviewed by the out-of-region director."

4. Moreover, Section 11424.2(a) of the Board's Representation Casehandling Manual requires that a case be transferred to a different Region where an employer, as Amazon does here, alleges individualized objectionable conduct by Board personnel in the originating Region.

5. Because Amazon objects to actions taken by Regional Director Drew-King and various Board Agents, including, but not limited to, the improper docketing of the petition; inappropriately seeking a 10(j) injunction a week before the election and specifically tying that unrelated 10(j) injunction to the election; making public statements that call into question the Region's "neutral" stance during the election; taking steps—whether intended or not—to disenfranchise voters, and making statements—whether intended or not—purporting to support ALU's cause in front of voters, it would be inappropriate for those same individuals to serve as judges of their own alleged objectionable conduct. Indeed, the Hearing Officer in a postelection objections hearing "makes (1) credibility resolutions and (2) findings, conclusions, and recommendations, whereas the preelection Hearing Officer does neither." CASEHANDLING MANUAL § 11424.3(b).
6. In the interest of fairness, and pursuant to the Board’s Rules and Regulations, General Counsel Memorandum, and Casehandling Manual the processing of objections related to this petition should be transferred to another Region.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document was electronically filed with the NLRB and was served by electronic mail this 8th day of April, 2022 to:

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Tel No. – (718) 330-7713
Fax No. – (718) 330-7579
E-mail – KathyDrew.King@nlrb.gov
E-mail – kate.anderson@nlrb.gov
E-mail – ioulia.fedorova@nlrb.gov

Eric Milner
Simon & Milner
99 W. Hawthorne Ave. Suite 308
Valley Stream, NY 11580
Tel No. – (516) 561-6622
Fax No. – (516) 561-6828
E-mail - emilner@simonandmilner.com

/s/ Amber M. Rogers
Amber M. Rogers
Confirmation

You have EFiled your document(s) successfully. You will receive an EMail acknowledgement noting the official date and time we received your submission. Please save the EMail for future reference. You may wish to print this page for your records.

Note: This confirms only that the document was filed. It does not constitute acceptance by the NLRB.

My Account Portal: Now that you have logged in you may also navigate directly to My Account Portal.

Please be sure to make a note of this confirmation number.

<table>
<thead>
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<th>Confirmation Number: 1080944659</th>
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<tr>
<td>Date Submitted: Friday, April 8, 2022 4:33 PM Eastern Standard Time</td>
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<tr>
<td>Submitted E-File To Office: Region 29, Brooklyn, New York</td>
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<th>Case Number: 29-RC-288020</th>
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<td>Case Name: Amazon.com Services LLC</td>
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<td>Filing Party: Employer</td>
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<tr>
<th>Contact Information:</th>
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<tr>
<td>Amber Rogers</td>
</tr>
<tr>
<td>HUNT&amp;N CURTH LLP, 1445 Ross Avenue, Suite 3700, Dallas, TX 75202</td>
</tr>
<tr>
<td>Ph: (214) 468-3308</td>
</tr>
<tr>
<td>E-mail: <a href="mailto:arogers@hunton.com">arogers@hunton.com</a></td>
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<tr>
<th>Attached Documents:</th>
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<tr>
<td>29-RC-288020 Amazon's Motion to Transfer Proceedings.pdf</td>
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Start Another E-Filing
UNIVERS STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

In the Matter of

AMAZON.COM SERVICES LLC

Employer

and

AMAZON LABOR UNION

Petitioner

CASE 29-RC-288020

ORDER TRANSFERRING CASE
FROM REGION 29 TO REGION 28

Case 29-RC-288020, having been filed with the Regional Director for Region 29, and transferred to Region 28, and the General Counsel of the Board having duly considered the matter, and deeming it necessary in order to effectuate the purposes of the National Labor Relations Act, and to avoid unnecessary costs and delay

IT IS HEREBY ORDERED, in accordance with the Rules and Regulations of the National Labor Relations Board, that Case 29-RC-288020 be, and hereby is, transferred back to and continued in Region 28.

/s/ Joan A. Sullivan
FOR:

Jennifer A. Abruzzo
General Counsel

Dated: April 14, 2022
at Washington, DC

cc: Region 29, Region 28
From: Gordon, Nicholas <Nicholas.Gordon@nlrb.gov>
Sent: Tuesday, May 17, 2022 1:05 PM
To: Rogers, Amber <arogers@hunton.com>; Overstreet, Cornele <Cornele.Overstreet@nlrb.gov>; Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>
Subject: RE: Pre-Hearing Matters: Amazon, Case 29-RC-288020

Caution: This email originated from outside of the firm.

Hello Amber,

My colleague Chris Doyle will be calling you tomorrow to discuss the offer of proof.

Best,

Nick
CAUTION: The sender of this message is external to the NLRB network. Please use care when clicking on links and responding with sensitive information. Forward suspicious emails to nlrbirc@nlrb.gov.

Mr. Gordon,

Checking on status regarding our below inquiry.

Thanks,

Amber

Amber Rogers
Partner
arothers@HuntonAK.com
p 214.468.3308
bio | vCard

Hunton Andrews Kurth LLP
Fountain Place
1445 Ross Avenue, Suite 3700
Dallas, TX 75202

HuntonAK.com

This communication is confidential. If you are not an intended recipient, please advise by return email immediately and then delete this message, including all copies and backups.

From: Gordon, Nicholas <Nicholas.Gordon@nlr.gov>
Sent: Tuesday, May 10, 2022 7:08 PM
To: Rogers, Amber <arothers@hunton.com>; Overstreet, Cornele <Cornele.Overstreet@nlr.gov>; Doyle, Christopher J. <Christopher.Doyle@nlr.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>
Subject: RE: Pre-Hearing Matters: Amazon, Case 29-RC-288020

Caution: This email originated from outside of the firm.

Hi Amber,

I am looking into this and I will respond substantively soon.

Thanks,

Nick

From: Rogers, Amber <arothers@hunton.com>
Sent: Tuesday, May 10, 2022 4:58 PM
To: Gordon, Nicholas <Nicholas.Gordon@nlrb.gov>; Overstreet, Cornele <Cornele.Overstreet@nlrb.gov>; Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>
Subject: RE: Pre-Hearing Matters: Amazon, Case 29-RC-288020

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We are following-up on the below email. We look forward to your response.

Amber Rogers
Partner
arogers@HuntonAK.com
p 214.468.3308
bio | vCard
Hunton Andrews Kurth LLP
Fountain Place
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
HuntonAK.com

This communication is confidential. If you are not an intended recipient, please advise by return email immediately and then delete this message, including all copies and backups.

From: Rogers, Amber
Sent: Monday, May 9, 2022 9:08 AM
To: Gordon, Nicholas <Nicholas.Gordon@nlrb.gov>
Cc: Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>; Overstreet, Cornele <Cornele.Overstreet@nlrb.gov>; Larkin, Kurt G. <klarkin@hunton.com>
Subject: Re: Pre-Hearing Matters: Amazon, Case 29-RC-288020

Regional Director Overstreet and Mr. Gordon,

We are removing the union and Region 29 from this email. Per the Rules, Region 29 (and the union) should not have access to Amazon’s offer of proof. However, based on Mr. Gordon’s inclusion of Region 29 on correspondence, and initial emails related to Region 29 being the designated representative in this matter, Amazon has concerns that the document has been shared with or accessed by Region 29 personnel. Can you please confirm whether Region 29 has received or accessed Amazon’s offer of proof. We greatly appreciate your attention to this matter.

Best regards,

Amber

Amber Rogers
Partner
arothers@huntonak.com
On May 6, 2022, at 4:57 PM, Gordon, Nicholas <Nicholas.Gordon@nltb.gov> wrote:

Caution: This email originated from outside of the firm.
Hello Everyone,

My apologies. I am informed that a Regional Office Representative will be assigned shortly and that R-29 will not be included in communications going forward. Once I have the permanent RD Representative we can discuss any preliminary hearing matters.

I hope you all have a nice weekend.

Best,

Nick

From: Gordon, Nicholas
Sent: Friday, May 6, 2022 2:21 PM
To: Rogers, Amber <aroget@hunton.com>; Doyle, Christopher J. <Christopher.Doyle@nltb.gov>; Overstreet, Cornele <Cornele.Overstreet@nltb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; Retu Singla <rsingla@workingpeopleslaw.com>; Eric Milner <emilner@simonandmilner.com>
Subject: RE: Pre-Hearing Matters: Amazon, Case 29-RC-288020

Hello Amber,

I appreciate the Employer’s position regarding Acting RD Reibstein. However, the Casehandling manual addresses this issue.

11424 Participating Agency Personnel
... When no unfair labor practices are involved, the Regional Director may also assign a Board agent designated as representative of the Regional Director (Sec. 11424.4) to appear at the hearing to see that evidence adduced during the region’s investigation becomes part of the record.

11424.4 Functions and Duties of Representative of Regional Director
11424.4(a) Prehearing
The representative of the Regional Director, if one is utilized (Sec. 11424), should be thoroughly familiar with the contents of the regional office case file. ... 
11424.4(b) Hearing
As indicated in Sec. 11424, the primary function of a representative of the Regional Director is to see that the relevant evidence adduced during the region’s administrative review becomes part of the record. During the hearing, the file should be in his/her possession. The representative may voice objections; cross-examine, call and
question witnesses; and call for and introduce appropriate documents. If the information in the representative’s possession warrants it, he/she should seek to impeach the testimony of witnesses called by others or contradict evidence that has been presented. However, the representative of the Regional Director should not offer new material unless he/she is certain it will not be offered by one of the parties.

Here, Regional Director King has, for the time being, assigned Acting RD Reibstein to be the RD Representative in this matter. Moreover, there is nothing that says that the RD Representative cannot also be a witness in the proceeding and that the RD could not assign another agent to act as RD Representative while that person is testifying. The CHM is clear that the RD Representative must be familiar with the case, which includes being aware of any pre-hearing matters needed to be addressed by the parties.

Please continue to include Acting RD Reibstein on communications regarding any pre-hearing matters until such time as a different RD Representative is assigned.

Best,

Nick

From: Rogers, Amber <arogers@hunton.com>
Sent: Friday, May 6, 2022 12:44 PM
To: Gordon, Nicholas <Nicholas.Gordon@nlrb.gov>; Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>; Overstreet, Cornele <Cornele.Overstreet@nlrb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; Retu Singla <rsingla@workingpeopleslaw.com>; Eric Milner <emilner@simonandmilner.com>
Subject: RE: Pre-Hearing Matters: Amazon, Case 29-RC-288020

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Mr. Gordon,

We are removing Acting Regional Director Reibstein from this email and writing to inquire whether she or anyone else from Region 29 has entered an appearance in this matter (which we gleaned based on your including her in the “to” line of your email). As you know, Amazon filed a Motion To Transfer case 29-RC-288020 from Region 29 because of alleged misconduct related to Region 29 personnel’s handling of the petition and the election, among other matters. Amazon’s Motion was granted by General Counsel Jennifer Abruzzo on April 14, 2022.

Our position is that Acting Regional Director Reibstein and all employees of Region 29 (and any other Region that participated in conducting the election) are fact witnesses who should not be included in correspondence between counsel for the parties. We don’t understand Region 29 to be a “party” in this matter and initially thought her inclusion may have just been an oversight. We do, however, think it is prudent to clarify the extent of Region 29’s role in this proceeding. Candidly, our view is that they should have no role, unless one or more of their personnel are called as witnesses. We thought it best to raise this with you now so that we can identify any areas of disagreement between the parties (and Region 28) and address them in a timely fashion and well in advance of the Objections Hearing.

If necessary, we are available for a call to discuss. Thank you very much for your attention to this inquiry.

Amber
This communication is confidential. If you are not an intended recipient, please advise by return email immediately and then delete this message, including all copies and backups.

---

From: Gordon, Nicholas <Nicholas.Gordon@nlrb.gov>
Sent: Friday, May 6, 2022 10:28 AM
To: Rogers, Amber <arogers@hunton.com>; Larkin, Kurt G. <klarkin@hunton.com>; Retu Singla <rsingla@workingpeopleslaw.com>; Eric Milner <emilner@simonandmilner.com>; Reibstein, Nancy K. <Nancy.Reibstein@nlrb.gov>
Cc: Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>
Subject: RE: Pre-Hearing Matters: Amazon, Case 29-RC-288020

Caution: This email originated from outside of the firm.

Hello Amber,

I will be speaking with the Region about the postponement request today and will get back to you shortly.

-Nick

---

From: Rogers, Amber <arogers@hunton.com>
Sent: Friday, May 6, 2022 8:23 AM
To: Gordon, Nicholas <Nicholas.Gordon@nlrb.gov>; Larkin, Kurt G. <klarkin@hunton.com>; Retu Singla <rsingla@workingpeopleslaw.com>; Eric Milner <emilner@simonandmilner.com>; Reibstein, Nancy K. <Nancy.Reibstein@nlrb.gov>
Cc: Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>
Subject: RE: Pre-Hearing Matters: Amazon, Case 29-RC-288020

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Mr. Gordon,

Acknowledging receipt of your email. Additionally, the parties wanted to follow-up on the extension request Mr. Milner filed earlier this week.
From: Gordon, Nicholas <Nicholas.Gordon@nlrb.gov>
Sent: Friday, May 6, 2022 10:15 AM
To: Rogers, Amber <arogers@hunton.com>; Larkin, Kurt G. <klarkin@hunton.com>; Retu Singla <rsingla@workingpeopleslaw.com>; Eric Milner <emilner@simonandmilner.com>; Reibstein, Nancy K. <Nancy.Reibstein@nlrb.gov>
Cc: Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>
Subject: Pre-Hearing Matters: Amazon, Case 29-RC-288020

Caution: This email originated from outside of the firm.

Good morning everyone,

My name is Nick Gordon and I am the Board attorney from Region 28 handling the pre-hearing matters for the upcoming Amazon Objections Hearing. You are included on this email because the Region has a Notice of Appearance on file for you. If there is anyone else who needs to be included please have them file the attached Notice of Appearance form as soon as possible. Please also let me know if you will no longer be representing a party in this matter.

Additionally, please let me know if any party will need interpreters for witnesses, and if so, which languages will be required. Also, if any party is requesting subpoenas in this case you must e-file the request to the Regional Director for Region 28 and identify the type and number of subpoenas you are requesting. The Region cannot approve subpoenas based on an email request.

Finally, if you are subpoenaing Board Agents to testify about the Objections pertaining to the Board Agent’s conduct you will need to e-file a request for authorization to do so, otherwise the Board’s rules Section 102.118 preclude Board Agent’s from testifying at Board proceedings. Requests and supporting documents should be addressed to Regional Director Cornele Overstreet. Here is the relevant portion of the Casehandling manual. Section 11824.1 (a):

(a) Regional Director Authority: Regional Directors may consider and decide whether or not to approve requests for authorization under Sec. 102.118 in the following circumstances, in the name of the General Counsel: ...
   a. When a party to a representation case alleges that Board agent conduct has interfered with the conduct of an election and Board agent testimony regarding the issues is necessary to develop a complete record.

Please let me know if you have any other questions.

Best,
Nicholas Gordon
Field Attorney
United States Government
National Labor Relations Board, Region 28-Phoenix
602-416-4756
2600 N Central Ave #1400
Phoenix, AZ 85004

The NLRB requires all parties to file documents electronically through our online E-file system:

Documents:  https://apps.nlrb.gov/eservice/efileterm.aspx
EXHIBIT F
General Counsel Abruzzo:

Pursuant to Rule 102.118, attached is Amazon’s request for production of documents from Region 29 related to the objections hearing in case 29-RC-288020. The request is also being sent to you via overnight delivery.

Please let us know if you have any questions, or want to discuss Amazon’s letter. We appreciate your prompt attention to this matter.

Best regards,

Amber Rogers
May 20, 2022

Via Email and Overnight Delivery

Jennifer A. Abruzzo
General Counsel
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Re: Request for document production in 29-RC-288020 – Amazon.com Services LLC and Amazon Labor Union

General Counsel Abruzzo:

Pursuant to 29 C.F.R. § 102.118, counsel for Amazon.com Services LLC ("Amazon") hereby requests production of various Board documents, communications, photographs, audio recordings, and video recordings in order to present evidence of Amazon’s objections to the election at the upcoming hearing in Case 29-RC-288020 - Amazon.com Services LLC and Amazon Labor Union, currently scheduled to begin via video conference on Monday, June 13, 2022 before a Hearing Officer from the NLRB’s Region 28 Offices in Phoenix, AZ 2600 North Central Avenue, Suite 1400, Phoenix, AZ 85004-3099.

On April 14, 2022 you transferred this case from Region 29 because a number of Amazon’s objections assert that both the Regional Director of Region 29 and various Board Agents engaged in objectional conduct including, but not limited to, improper docketing of the petition, inappropriately seeking 10(j) injunction a week before the election and specifically tying the unrelated 10(j) injunction to the election, making public statements that call into question the Region’s “neutral” stance during the election, taking steps - whether intended or not - to disenfranchise voters, and making statements - whether intended or not – purporting to support the Union’s cause in front of voters. For the Hearing Officer to make a comprehensive
and accurate report, as required by the Board’s rules and policies, as to the merit of Amazon’s election objections, it is necessary that the Office of the General Counsel permit the production of the certain Board documents essential to developing a factually accurate record.

Amazon seeks permission to obtain the non-privileged documents, communications, photographs, audio recordings, and video recordings identified in the attached Subpoena Duces Tecum (along with the appropriate custodian of records to testify as to the document’s authenticity) in order to assist the presentation of evidence that Region 29 significantly deviated from its standard procedures in pursuing unfair labor practice charges against Amazon and in its process for holding a union election. The requested documents and communications fall into two categories:

(I) Documents and communications relating to the lawsuit filed in the case of Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479 and related unfair labor practice charges including communications with the ALU and its affiliates and documents related to Region 29’s public statements.

This category of documents is necessary in order to present evidence that Region 29 significantly delayed filing of its 10(j) injunction petition in Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479 and delayed investigation of other unfair labor practice charges through the critical election period. Region 29’s public comments about Amazon and its decision to delay filing the injunction or to investigate unfair labor practice charges reasonably tended to suggest that Region 29 may have failed to protect the integrity and neutrality of its procedures and decision making in the election process. The production of the requested documents is essential to this hearing in order for the Hearing Officer to adequately determine the process and reasoning behind Region 29’s decision to deviate from published Board guidance and whether Region 29’s failure to follow standard Board procedures for unfair labor practice charges was due to the Region’s failure to remain adequately neutral and impartial in the election process.

(II) Documents and communications relating to the election in case 29-RC-288020 including documents and communications related to preparation of the showing of interest, as well as election preparation, logistics, monitoring, issues, and Region 29’s communications with Amazon and the ALU.

This category of documents is necessary to present evidence that Region 29 significantly deviated from its standard Board election procedures by allowing the Union’s petition to proceed to election despite knowing that the Union did not have the required 30% showing of interest in the petitioned-for unit, by allowing the Union to continue gathering and submitting late signatures to bolster its insufficient showing on interest, by unilaterally altering the scope
May 20, 2022
Page 3

and size of the petitioned-for unit which enabled the Region to validate the Union’s showing of interest, and by the Region’s failure to adequately plan for, staff, and monitor the election. Region 29’s actions, which followed public threats and comments made by the Union about the Board, reasonably tend to suggest that Region 29 may have failed to protect the integrity and neutrality of its procedures and decision making in the election process. The production of the requested documents, communications, photographs, audio recordings, and video recordings is essential to this hearing in order for the Hearing Officer to adequately determine the process and reasoning behind Region 29’s decision deviate from published Board guidance and whether Region 29’s failure to follow standard Board election procedure was due to the Region’s failure to remain adequately neutral and impartial in the election process.

The requested documents do not fall under any category of privileged material as Amazon does not seek communications with counsel made in confidence for the purpose of providing legal advice. Insofar as Amazon has identified documents that the Region has prepared in anticipation of filing unfair labor practice charges, Amazon argues that it has a substantial need for the requested materials and they cannot reasonably obtain this critical evidence by other means and they are essential in order to develop a factually accurate and comprehensive record.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
I. INSTRUCTIONS

1. All documents are to be produced as they are kept in the usual course of business with any identifying labels, file markings, or similar identifying features, or shall be organized and labeled to correspond to the categories requested herein.

2. If there are no documents in response to a particular request, or if you withhold any responsive documents or categories of documents, in whole or in part, based on any objections, you shall state this in writing in response to the specific document request.

3. Electronically stored information (ESI), including but not limited to social media content, must be produced and continue to be preserved in its original native format including its accompanying metadata. For example:

   (a) documents created using Microsoft Word must be produced as .DOC or .DOCX files; and

   (b) emails must be produced in a form that readily supports import into standard email client programs, or the form of production should adhere to the conventions set out in the internet email standard.

4. These requests call for the production of all responsive documents in your possession, custody, or control, or in the possession, custody, or control of your employees, representatives and agents, or other persons acting on your behalf, without regard to the physical location of such documents.

5. In responding to these requests, include documents obtained on your behalf by your counsel, employees, agents, or any other persons acting on your behalf. If your response is that the documents are not within your possession or custody, describe in detail the unsuccessful efforts you made to locate each such document. If your response is that documents are not under your control, identify who has control and the location of the documents.

6. If any document was, but no longer is, in your possession, subject to your control, or in existence, include a statement:

   (a) identifying the document;

   (b) describing where the document is now;

   (c) identifying who has control of the document;

   (d) describing how the document became lost or destroyed or was transferred; and

   (e) identifying each of those persons responsible for or having knowledge of the loss, destruction, or transfer of the document from your possession, custody, or control.
7. Each request contemplates production of all documents in their entirety. If only a portion of a document is responsive to one or more requests, produce the document in its entirety.

8. If any document is withheld in whole or in part for any reason including, without limitation, a claim of privilege or other protection from disclosure such as the work product doctrine or other business confidentiality or trade secret protection, set forth separately with respect to each withheld document:

   (a) the ground of privilege or protection claimed;
   (b) each basis under which the document is withheld;
   (c) the type of document;
   (d) its general subject matter;
   (e) the document's date; and
   (f) other information sufficient to enable a full assessment of the applicability of the privilege or protection claims.

9. If you object to any request on any ground other than privilege, you must specify:

   (a) the part of the request that is objectionable, and respond and allow inspection of materials responsive to the remainder of the request; and
   (b) whether any responsive materials are being withheld on the basis of an objection.

10. If you assert that a document contains information that should be protected from disclosure (based on the attorney-client privilege, work product doctrine, or another protection) and also contains non-privileged information, the non-privileged portions of the document must be produced. For each such document, indicate the portion of the document withheld by stamping the words "MATERIAL REDACTED AS [BASIS FOR PROTECTION]" on the document in an appropriate location that does not obscure the remaining text.

11. Unless otherwise specified, this Subpoena covers the time period from January 1, 2021, through the present.

12. This Subpoena continuing, and your responses must be promptly supplemented when appropriate or necessary.

13. This Subpoena should be read so as to encompass any and all items responsive to the request. Examples of responsive items set out in any request should not be construed to limit the scope of the request.
II. DEFINITIONS

1. “ALU” means the Amazon Labor Union, its agents, officers, representatives, attorneys, or any other persons under its control or acting or purporting to act on its behalf.

2. “Amazon” means Amazon.com Services LLC, its agents, officers, representatives, attorneys, or any other persons under its control or acting or purporting to act on its behalf.

3. “Communication” means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons.

4. “Computer data” means any document, information, or data ever placed into or stored on any of your computers, including, but not limited to, the hard drive, laptops, disks, storage systems, retrieval systems, back-up systems, email, internet transmissions, electronic bulletin boards, websites, diary systems, calendar systems, tickler systems, and any other computer program.

5. “Concerning” means, in whole or in part, directly or indirectly, referring to, relating to, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, or constituting.

6. “Documents” is used in the broadest sense of that term and includes, but is not limited to, the original and all non-identical copies, whether different from the original by reason of notations made on such copies or otherwise, and all drafts of: letters, telegrams, memoranda, reports of telephone conversations, ledgers, personal or business journals, invoices, bills, sales orders, call reports, financial and business records, receipts, contracts, reports, studies, calendar entries, personal or business diary entries, maps, pamphlets, notes, charts, forms, tabulations, analyses, statistical or informational accumulations, summaries or abstracts, any kind of records of meetings or conversations, firm impressions, sound or mechanical reproductions, rules, regulations, opinions, orders, interpretations, exceptions, position papers, guidelines, publications, instructions, transparencies, handbooks, manuals, operating procedures, appointment calendars, call slips, file jackets, course materials, training materials, minutes, testimony, photographs, videotapes, films, press releases, speeches, surveys, graphs, statistics, tables, printed or typewritten forms, indices, agreements, canceled checks, correspondence, memos, data on computer storage, data on computer disks, data stored on computer backup, telephone message slips, sketches, notes of conversations, and all other written, printed, typed or other reported matter (including electronic, audio, or digital recordings), or other data compilations in which information can be obtained, that are in the possession, custody, or control of you, your attorneys, agents, physicians, directors, officers, partners, affiliates, subsidiaries, servants, employees, insurers, or representatives.

7. “Person” or “persons” means not only natural persons, but also corporations, partnerships, organizations, associations, industry groups, entities, joint ventures, or any government or governmental entity, commission, or agency and any divisions or departments or other units of any of the entities defined herein.
8. "Photographs," "photos," "videos," and "videotapes" mean all films, negatives, slides, photos, digital images, visual images stored on cameras, computers, telephones, movie pictures, videotapes, DVDs, compact discs, portable electronic memory devices, movies, or pictures, whether developed or not.

9. "Region 29," "you," "your," "yours," "yourself," or any variant thereof, means Region 29 of the National Labor Relations Board, to whom these requests are directed, and its former or current agents, assigns, employees, representatives, attorneys, and other persons acting or purporting to act on its behalf, as applicable.

10. "Relating to," "related to," and "relates to" mean embodying, mentioning, or concerning, directly or indirectly, the subject matter identified in the interrogatory or request for production.

11. The singular includes the plural and vice versa.

III. DOCUMENTS TO BE PRODUCED

1. Documents submitted to or received from, and all communications with, the ALU, Gerald Bryson, Derrick Palmer, Christian Smalls, and/or Tristan Martinez from December 22, 2020 to the present related to the lawsuit in the case of Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479.


3. Documents submitted to or received from, and all communications with, the ALU related to the timing of when Region 29 would initiate a lawsuit related to the allegations now contained in the lawsuit in the case of Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479.


5. Documents submitted to or received from, and all communications with, the ALU related to the following unfair labor practice charges: 29-CA-276926, 29-CA-277598, 29-CA-278982, 29-CA-280153, 29-CA-280386, 29-CA-281358, 29-CA-284417, 29-CA-285832, 29-CA-285445, 29-CA-285900, 29-CA-286682, 29-CA-286895, 29-CA-286898, 29-CA-287614, 29-CA-287940, 29-CA-289893, 29-CA-290046, 29-CA-290059, 29-CA-290880, 29-CA-291182, 29-CA-
6. Documents and communications related to the showing of interest in Case No. 29-RC-288020, including, but not limited to, the description or size of the bargaining unit in Case No. 29-RC-288020, a request to depart from a 30% showing of interest requirement in Case No. 29-RC-288020, and a request to alter the petitioned-for unit purposes of the showing of interest in Case No. 29-RC-288020.

7. Documents and communications related to Region 29’s preparation for the election in Case No. 29-RC-288020, including, but not limited to, documents and communications reflecting Region 29’s staffing decisions, equipment Region 29 utilized in the election, checklists or to-do lists, voting logistics, and any other obligations or guidance set forth in the Board’s Casehandling Manual.

8. Documents and communications related to the voting line, issues with the voting line, or the time required for eligible employees to vote in the election in Case No. 29-RC-288020.

9. Documents submitted to or received from, and all communications with, Amazon and/or the ALU related to voting logistics for the election in Case No. 29-RC-288020.

10. From March 25, 2022, to March 30, 2022, documents submitted to or received from, and all communications with, Amazon and/or the ALU related to the election in Case No. 29-RC-288020.

11. Documents reflecting the identity of all Board Agents who were present in or around the voting area at the election in Case No. 29-RC-288020.

12. Documents and communications related to Region 29’s pre-election inspection of the voting area for the election in Case No. 29-RC-288020.

13. A complete list of Board agents present during Region 29’s pre-election inspection of the voting area for the election in Case No. 29-RC-288020.

14. The checklist utilized by Region 29 during the pre-election inspection of the voting area for the election in Case No. 29-RC-288020.

15. Documents submitted to or received from, and all communications with, the ALU and/or Amazon during Region 29’s pre-election inspection of the voting area for the election in Case No. 29-RC-288020.

16. Documents and communications related to instructions or guidance given to the Board Agents who staffed the election in Case No. 29-RC-288020, including, but not limited to, instructions on when to arrive at the voting location, how to interact with the ALU and/or Amazon, how to interact with voters, monitoring or preventing electioneering in and around the voting area, and monitoring or preventing media presence in and around the voting area.
17. Copies of the contents of the Election Kit (as described in Section 11304.1 of the NLRB’s Casehandling Manual for Representation cases) utilized in the election in Case No. 29-RC-288020.

18. Documents submitted to or received from, and all communications with, Amazon and/or the ALU related to media presence in and around the voting area and/or on Amazon’s property in Case No. 29-RC-288020.

19. Documents and communications related to Region 29’s efforts to monitor or prevent media presence in and around the voting area and/or Amazon’s property for the election in Case No. 29-RC-288020.

20. Documents and communications related to press and media presence in and around the voting area and/or Amazon’s property during the election in Case No. 29-RC-288020.

21. Documents and communications related to Region 29’s efforts to monitor or prevent electioneering in and around the area designated by Region 29 as the “no-electioneering zone” for the election in Case No. 29-RC-288020.

22. Documents submitted to or received from, and all communications with, the press or media outlets related to the election in Case No. 29-RC-288020.

23. Documents and communications related to establishing a “no-electioneering zone” during the election in Case No. 29-RC-288020.

24. Documents and communications related to instances of electioneering in and around the voting area and/or the “no-electioneering zone” for the election in Case No. 29-RC-288020.

25. Photographs, audio recordings, and video recordings taken between March 23, 2022, and March 30, 2022, in and around the voting area for the election in Case No. 29-RC-288020.

26. Documents and communications, including but not limited to, photographs, audio recordings, and video recording sent from Region 29 and the ALU related to Case No. 29-RC-288020.

27. Documents and communications, including but not limited to, photographs, audio recordings, and video recording received by Region 29 from the ALU related to Case No. 29-RC-288020.

28. A complete list of individuals who served as ALU observers during the election in Case No. 29-RC-288020, identifying in which voting session each individual served.

29. A copy of any signage posted in and around the voting area for the election in Case No. 29-RC-288020.
30. Documents submitted to or received from, and all communications with, the ALU and/or Amazon during the conferences prior to each voting period during the election in Case No. 29-RC-288020.

31. A copy of the checked-off voter list for the election in Case No. 29-RC-288020.

32. Documents and communications evidencing the location of the ballot boxes and steps taken to protect the same during the election in Case No. 29-RC-288020.

33. Documents and communications evidencing the arrival time of Board agents for the election in Case No. 29-RC-288020.

34. Documents submitted to or received from, and all communications between, Board agents during the election in Case No. 29-RC-288020 related to ALU observers, Amazon observers, and/or voters.
May 20, 2022

Via Certified Mail, Return Receipt Requested
National Labor Relations Board
Region 29
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020—Amazon.com Services LLC and Amazon Labor Union

Dear Region 29:

You may be in possession of relevant documents relevant to Amazon’s objections in the above-referenced case before the National Labor Relations Board. Enclosed please find a Subpoena Duces Tecum [B-1-1FXCHY9] and Attachment A which includes a list of requested records that relate to this matter. The Subpoena Duces Tecum directs you to appear with your documents at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link and specific dates of attendance. To avoid delay the documents may be produced prior to the hearing via email to arogers@huntonak.com or klarkin@huntonak.com in lieu of producing hard copies.

Also enclosed is our firm’s check for the standard NLRB witness fee. We realize that, by the time your testimony is finished, you may incur travel expenses greater than this amount. Accordingly, upon presentation of appropriate receipts, you may be reimbursed your reasonable travel expenses in connection with this matter.
May 20, 2022
Page 2

We appreciate your cooperation. Please feel free to contact me should you have any questions or wish to discuss arrangements for the production of the documents requested. Thank you for your prompt assistance in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA DUces TECUM

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To NLRB Regional Office 29
100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLC
whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of Phoenix, AZ 85004

on June 13, 2022 at 10:00 am EST or any adjourned

or rescheduled date to testify in 29-RC-288020 (Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board’s E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board’s E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director, during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board’s Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.65(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

B-1-1FXCHY9

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Phoenix, AZ

Dated: May 12, 2022

Lauren M. McFerran, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in Federal court.
RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☒ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business

at

________________________

________________________

on the named person on

________________________

(Month, day, and year)

________________________

(Name of person making service)

________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

________________________

on

________________________

(Month, day or days, and year)

________________________

(Name of person certifying)

________________________

(Official title)
EXHIBIT G
May 20, 2022

Via Certified Mail, Return Receipt Requested
National Labor Relations Board
Region 29
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020–Amazon.com Services LLC and Amazon Labor Union

Dear Region 29:

You may be in possession of relevant documents relevant to Amazon’s objections in the above-referenced case before the National Labor Relations Board. Enclosed please find a Subpoena Duces Tecum [B-1-1FXCHY9] and Attachment A which includes a list of requested records that relate to this matter. The Subpoena Duces Tecum directs you to appear with your documents at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link and specific dates of attendance. To avoid delay the documents may be produced prior to the hearing via email to arogers@huntonak.com or klarkin@huntonak.com in lieu of producing hard copies.

Also enclosed is our firm’s check for the standard NLRB witness fee. We realize that, by the time your testimony is finished, you may incur travel expenses greater than this amount. Accordingly, upon presentation of appropriate receipts, you may be reimbursed your reasonable travel expenses in connection with this matter.
May 20, 2022
Page 2

We appreciate your cooperation. Please feel free to contact me should you have any questions or wish to discuss arrangements for the production of the documents requested. Thank you for your prompt assistance in this matter.

Sincerely,

*Kurt G. Larkin and Amber M. Rogers*

Kurt G. Larkin
Amber M. Rogers

Attachments
**Hunton Andrews Kurth LLP**  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219-4074  
804 • 768 • 8200  
68-2  
510  

**Pay:** Forty and 00/100

**Truist**  
Richmond, VA  
Void After 90 Days

**PAY TO THE ORDER OF:** National Labor Relations Board  
Region 29, Custodian of Records

<table>
<thead>
<tr>
<th>Invoice #</th>
<th>Reference #</th>
<th>Inv Date</th>
<th>Narrative</th>
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<td>WITNESS FEE</td>
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**Check Total:** $40.00
SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To                  NLRB Regional Office 29
                   100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by     Amazon.com Services LLC c/o Hunton Andrews Kurth LLC
whose address is    Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219
                     (Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE

a Hearing Officer of the National Labor Relations Board

at 2600 North Central Avenue Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of Phoenix, AZ 85004

on June 13, 2022 at 10:00 am EST or any adjourned
do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the
you must petition in writing to revoke the subpoena. Unless filed through the Board’s E-Filing system, the petition to revoke
must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board’s E-Filing system, it
may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should
be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing.
See Board’s Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.60(c)
representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in
the loss of any ability to raise objections to the subpoena in court.

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the
you must petition in writing to revoke the subpoena. Unless filed through the Board’s E-Filing system, the petition to revoke
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Under the seal of the National Labor Relations Board, and by direction of the
Board, this Subpoena is

B-1-1FXCHY9
Issued at Phoenix, AZ
Dated: May 12, 2022

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request
the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this
subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Disclosure 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 mandatory in that failure to supply the
information may cause the NLRB to seek enforcement of the subpoena in federal court.
RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☐ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business

at

on the named person on

(Month, day, and year)

(Name of person making service)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)
I. INSTRUCTIONS

1. All documents are to be produced as they are kept in the usual course of business with any identifying labels, file markings, or similar identifying features, or shall be organized and labeled to correspond to the categories requested herein.

2. If there are no documents in response to a particular request, or if you withhold any responsive documents or categories of documents, in whole or in part, based on any objections, you shall state this in writing in response to the specific document request.

3. Electronically stored information (ESI), including but not limited to social media content, must be produced and continue to be preserved in its original native format including its accompanying metadata. For example:
   
   (a) documents created using Microsoft Word must be produced as .DOC or .DOCX files; and
   
   (b) emails must be produced in a form that readily supports import into standard email client programs, or the form of production should adhere to the conventions set out in the internet email standard.

4. These requests call for the production of all responsive documents in your possession, custody, or control, or in the possession, custody, or control of your employees, representatives and agents, or other persons acting on your behalf, without regard to the physical location of such documents.

5. In responding to these requests, include documents obtained on your behalf by your counsel, employees, agents, or any other persons acting on your behalf. If your response is that the documents are not within your possession or custody, describe in detail the unsuccessful efforts you made to locate each such document. If your response is that documents are not under your control, identify who has control and the location of the documents.

6. If any document was, but no longer is, in your possession, subject to your control, or in existence, include a statement:

   (a) identifying the document;
   
   (b) describing where the document is now;
   
   (c) identifying who has control of the document;
   
   (d) describing how the document became lost or destroyed or was transferred; and
   
   (e) identifying each of those persons responsible for or having knowledge of the loss, destruction, or transfer of the document from your possession, custody, or control.
7. Each request contemplates production of all documents in their entirety. If only a portion of a document is responsive to one or more requests, produce the document in its entirety.

8. If any document is withheld in whole or in part for any reason including, without limitation, a claim of privilege or other protection from disclosure such as the work product doctrine or other business confidentiality or trade secret protection, set forth separately with respect to each withheld document:

(a) the ground of privilege or protection claimed;
(b) each basis under which the document is withheld;
(c) the type of document;
(d) its general subject matter;
(e) the document's date; and
(f) other information sufficient to enable a full assessment of the applicability of the privilege or protection claims.

9. If you object to any request on any ground other than privilege, you must specify:

(a) the part of the request that is objectionable, and respond and allow inspection of materials responsive to the remainder of the request; and

(b) whether any responsive materials are being withheld on the basis of an objection.

10. If you assert that a document contains information that should be protected from disclosure (based on the attorney-client privilege, work product doctrine, or another protection) and also contains non-privileged information, the non-privileged portions of the document must be produced. For each such document, indicate the portion of the document withheld by stamping the words "MATERIAL REDACTED AS [BASIS FOR PROTECTION]" on the document in an appropriate location that does not obscure the remaining text.

11. Unless otherwise specified, this Subpoena covers the time period from January 1, 2021, through the present.

12. This Subpoena continuing, and your responses must be promptly supplemented when appropriate or necessary.

13. This Subpoena should be read so as to encompass any and all items responsive to the request. Examples of responsive items set out in any request should not be construed to limit the scope of the request.
II. DEFINITIONS

1. “ALU” means the Amazon Labor Union, its agents, officers, representatives, attorneys, or any other persons under its control or acting or purporting to act on its behalf.

2. “Amazon” means Amazon.com Services LLC, its agents, officers, representatives, attorneys, or any other persons under its control or acting or purporting to act on its behalf.

3. “Communication” means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons.

4. “Computer data” means any document, information, or data ever placed into or stored on any of your computers, including, but not limited to, the hard drive, laptops, disks, storage systems, retrieval systems, back-up systems, email, internet transmissions, electronic bulletin boards, websites, diary systems, calendar systems, tickler systems, and any other computer program.

5. “Concerning” means, in whole or in part, directly or indirectly, referring to, relating to, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, or constituting.

6. “Documents” is used in the broadest sense of that term and includes, but is not limited to, the original and all non-identical copies, whether different from the original by reason of notations made on such copies or otherwise, and all drafts of: letters, telegrams, memoranda, reports of telephone conversations, ledgers, personal or business journals, invoices, bills, sales orders, call reports, financial and business records, receipts, contracts, reports, studies, calendar entries, personal or business diary entries, maps, pamphlets, notes, charts, forms, tabulations, analyses, statistical or informational accumulations, summaries or abstracts, any kind of records of meetings or conversations, firm impressions, sound or mechanical reproductions, rules, regulations, opinions, orders, interpretations, exceptions, position papers, guidelines, publications, instructions, transparencies, handbooks, manuals, operating procedures, appointment calendars, call slips, file jackets, course materials, training materials, minutes, testimony, photographs, videotapes, films, press releases, speeches, surveys, graphs, statistics, tables, printed or typewritten forms, indices, agreements, canceled checks, correspondence, memos, data on computer storage, data on computer disks, data stored on computer backup, telephone message slips, sketches, notes of conversations, and all other written, printed, typed or other reported matter (including electronic, audio, or digital recordings), or other data compilations in which information can be obtained, that are in the possession, custody, or control of you, your attorneys, agents, physicians, directors, officers, partners, affiliates, subsidiaries, servants, employees, insurers, or representatives.

7. “Person” or “persons” means not only natural persons, but also corporations, partnerships, organizations, associations, industry groups, entities, joint ventures, or any government or governmental entity, commission, or agency and any divisions or departments or other units of any of the entities defined herein.
8. "Photographs," "photos," "videos," and "videotapes" mean all films, negatives, slides, photos, digital images, visual images stored on cameras, computers, telephones, movie pictures, videotapes, DVDs, compact discs, portable electronic memory devices, movies, or pictures, whether developed or not.

9. "Region 29," "you," "your," "yours," "yourself," or any variant thereof, means Region 29 of the National Labor Relations Board, to whom these requests are directed, and its former or current agents, assigns, employees, representatives, attorneys, and other persons acting or purporting to act on its behalf, as applicable.

10. "Relating to," "related to," and "relates to" mean embodying, mentioning, or concerning, directly or indirectly, the subject matter identified in the interrogatory or request for production.

11. The singular includes the plural and vice versa.

III. DOCUMENTS TO BE PRODUCED

1. Documents submitted to or received from, and all communications with, the ALU, Gerald Bryson, Derrick Palmer, Christian Smalls, and/or Tristan Martinez from December 22, 2020 to the present related to the lawsuit in the case of Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479.


3. Documents submitted to or received from, and all communications with, the ALU related to the timing of when Region 29 would initiate a lawsuit related to the allegations now contained in the lawsuit in the case of Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479.

4. Documents and communications related to Region 29’s public statements on the lawsuit it filed in the case of Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479.

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20. Documents and communications related to press and media presence in and around the voting area and/or Amazon’s property during the election in Case No. 29-RC-288020.

21. Documents and communications related to Region 29’s efforts to monitor or prevent electioneering in and around the area designated by Region 29 as the “no-electioneering zone” for the election in Case No. 29-RC-288020.

22. Documents submitted to or received from, and all communications with, the press or media outlets related to the election in Case No. 29-RC-288020.

23. Documents and communications related to establishing a “no-electioneering zone” during the election in Case No. 29-RC-288020.

24. Documents and communications related to instances of electioneering in and around the voting area and/or the “no-electioneering zone” for the election in Case No. 29-RC-288020.

25. Photographs, audio recordings, and video recordings taken between March 23, 2022, and March 30, 2022, in and around the voting area for the election in Case No. 29-RC-288020.

26. Documents and communications, including but not limited to, photographs, audio recordings, and video recording sent from Region 29 and the ALU related to Case No. 29-RC-288020.

27. Documents and communications, including but not limited to, photographs, audio recordings, and video recording received by Region 29 from the ALU related to Case No. 29-RC-288020.

28. A complete list of individuals who served as ALU observers during the election in Case No. 29-RC-288020, identifying in which voting session each individual served.

29. A copy of any signage posted in and around the voting area for the election in Case No. 29-RC-288020.
30. Documents submitted to or received from, and all communications with, the ALU and/or Amazon during the conferences prior to each voting period during the election in Case No. 29-RC-288020.

31. A copy of the checked-off voter list for the election in Case No. 29-RC-288020.

32. Documents and communications evidencing the location of the ballot boxes and steps taken to protect the same during the election in Case No. 29-RC-288020.

33. Documents and communications evidencing the arrival time of Board agents for the election in Case No. 29-RC-288020.

34. Documents submitted to or received from, and all communications between, Board agents during the election in Case No. 29-RC-288020 related to ALU observers, Amazon observers, and/or voters.
Caution: This email originated from outside of the firm.
Please see the attached response.

Lily Nguyen
Administrative Support Specialist
National Labor Relations Board
Division of Operations-Management
lily.nguyen@nltb.gov
202-558-2478
May 27, 2022

Amber M. Rogers, Attorney at Law
Hunton Andrews Kurth LLP
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
Via email to: arogers@huntonAK.com

Kurt G. Larkin, Attorney at law
Hunton Andrews Kurth LLP
951 East Byrd Street, Suite 700
Richmond, VA 23219
Via email to: klarkin@huntonAK.com

Re: Amazon.com Services LLC
Case 29-RC-288020

Dear Ms. Rogers and Mr. Larkin:

I am writing in response to your May 20, 2022, letter requesting, pursuant to Section 102.118 of the Rules and Regulations consent for production of various Board documents, communications, photographs, audio recordings, and video recordings described in Subpoena Duces Tecum you attached to your request. You request consent to production of these documents for use at the upcoming post-election hearing in Case 29-RC-288020, Amazon.com Services LLC.

Your request identifies two categories of documents that you request be produced. The first set of documents relate to the Regional Director’s request for a temporary injunction under Section 10(j) of the National Labor Relations Act filed in Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479 and the unfair labor practice charges related to the district court case. The second set of documents relate to the representation election in case 29-RC-288020, including the preparation, logistics, and monitoring of the election, as well as Region 29’s communications about the election. You contend that you have a substantial need for the requested materials and that you cannot reasonably obtain this critical evidence by other means and that it is essential to develop a factually accurate and comprehensive record in the postelection hearing. In support of this contention, you argue that the documents would show that Region 29, by the actions of the Regional
Director and Board Agents, engaged in conduct that materially affected the results of the representation election.

As you are aware, Section 102.118 of the Board's Rules provides, in relevant part:

Except as provided in §102.117 respecting requests cognizable under the Freedom of Information Act, no present or former employee or specially designated agent of the Agency will produce or present any files, documents, reports, memoranda, or records of the Board or of the General Counsel, whether in response to a subpoena duces tecum or otherwise, without the written consent of the ... General Counsel if the document is in a Regional Office of the Board or is in Washington, DC, and in the control of the General Counsel.

The Board's rules give the General Counsel a permissive right to produce documents in the General Counsel's custody, but places no obligation on the General Counsel to do so in any particular case. Lyman Printing & Finishing Co., 183 NLRB 1048, 1053 (1970), enf'd. 437 F.2d 1356 (4th Cir. 1971) (pre-trial discovery not available in Board proceedings); North American Rockwell, 389 F.2d 866, 872-873 (10th Cir. 1966) (denying petition for review of Board order where General Counsel refused to provide subpoenaed documents under rule 102.118; rejecting argument that Section 102.118 is inconsistent with the Act); Hickman v. Taylor, 329 U.S. 495, 512 (1947) (a general demand for the documents as of right is insufficient to justify their production).

I understand that you have made requests under 102.117 the Freedom of Information Act (FOIA) and received documents in response. Requests for records under 102.117 provides you with different rights of access to Agency information than Section 101.118. To the extent that you have not made a request under 102.117 for the production of documents you wish to have produced, I encourage to make such a request for review by the Agency's FOIA Branch appropriate response.

As to your request under Section 102.118, it is the policy of the Office of the General Counsel not to produce legal research or internal communications regarding a decision in a case that is pending litigation. Further, it is the policy of the Office of the General Counsel to preserve the confidentiality of documentary materials contained in our investigative files obtained in the course of an administrative investigation of unfair labor practice and representation cases and to produce such materials in Board proceedings only to the extent required by Section 102.118(b)(1), which provides that statements of witnesses called by the General Counsel are to be made available after the witness has testified. It consistently has been held that the National Labor Relations Act does not compel the Board to provide for discovery in its proceedings and, further, that the unavailability of discovery is not a prejudicial denial of due process. See, e.g., NLRB v. Robbins Tire and Rubber Company, 437 U.S. 214 (1978); McClain Industries, Inc. v. NLRB, 521 F.2d 596 (6th Cir. 1974); Wellman Industries, Inc. v. NLRB, 490 F.2d 427 (4th
Cir. 1974); NLRB v. Automotive Textile Products Company, Inc., 422 F.2d 1255 (6th Cir. 1970); North American Rockwell Corporation v. NLRB, 389 F.2d 866 (10th Cir. 1968); NLRB v. Movie Star, Inc., 361 F.2d 346 (5th Cir. 1966); Raser Tanning v. NLRB, 276 F.2d 80 (6th Cir. 1960), cert. denied, 363 U.S. 830 (1960).

Your request does not present a compelling basis to deviate from this long-standing policy. Accordingly, your request for consent to production of documents within the control of the General Counsel is denied.

Sincerely,

Jennifer A. Abruzzo
General Counsel

By: /s/ Joan A. Sullivan
Joan A. Sullivan
Associate General Counsel

cc: Cornele A. Overstreet
Regional Director, Region 28
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC
Employer

and

Case 29-RC-288020

AMAZON LABOR UNION
Petitioner

PETITION TO REVOKE EMPLOYER’S SUBPOENA DUCES TECUM B-1-1FXCHY9
SERVED ON THE NATIONAL LABOR RELATIONS BOARD, REGION 29

Pursuant to § 102.31(b) of the Rules and Regulations of the National Labor Relations Board
(the Board), the undersigned Counsel for Region 29 respectfully files this Petition to Revoke
subpoena duces tecum B-1-1FXCHY9 (the Subpoena) as requested by Amazon.com Services LLC
(the Employer), which seeks the production of certain Board documents.

The Subpoena should be revoked for the following reasons: First, the Subpoena should be
revoked in its entirety because the Employer has failed to comply with the mandates of
§102.118(a), which prohibits producing Agency documents in response to a subpoena duces
tecum, without the General Counsel’s prior written consent. Second, even assuming that the
Employer had complied with the Board’s rules, the Subpoena should be revoked because it seeks
to elicit testimony involving the Board’s deliberative process, which is privileged under
established evidentiary rules protecting the deliberations of administrative officials and as attorney
work product. And finally, the Subpoena seeks confidential statements and materials obtained by
Board agents during the investigatory process.
I. BACKGROUND

On December 22, 2021, Amazon Labor Union (Petitioner) filed a petition for representation with the NLRB, Region 29. Pursuant to a Stipulated Election Agreement, an election was conducted on March 25, 26, 28, 29, and 30, 2022 to determine whether a unit of employees of the Employer wished to be represented for purposes of collective bargaining by the Petitioner. Out of approximate 8325 eligible voters, 2654 votes were cast in favor of the Petitioner and 2131 votes were cast against the Petitioner. There were 67 challenged ballots. A number insufficient to affect the results of the election.

Thereafter, on April 8, 2022, the Employer filed timely objections to conduct affecting the result of the election. Some of the Employer’s objections allege that Region 29 failed to protect the integrity and neutrality of its procedures by creating the impression of Board assistance or support for Petitioner, among other things. On April 14, 2022, Case 29-RC-288020 was transferred to Region 28. On April 29, 2022, the Regional Director for Region 28 issued an Order Directing Hearing and Notice of Hearing on Objections. A hearing is scheduled to commence on June 13, 2022 by videoconference.

II. THE EMPLOYER’S SUBPOENA

On May 20, 2022, the Employer’s Counsel sent via certified mail the Subpoena to Region 29 accompanied by a cover letter. See Attachment A. The Employer Counsel’s cover letter to Region 29 shows that the Employer sought written permission pursuant to § 102.118 of the Board’s Rules and Regulations from the General Counsel concurrently with issuance of the Subpoena. Today, the General Counsel declined permission to produce any of the requested documents. See Attachment B.
III. ARGUMENT

A. The Subpoena Must Be Revoked Because It Seeks To Elicit Privileged Evidence

The Subpoena should be revoked in its entirety because the evidence sought by the Employer is privileged under established evidentiary rules protecting deliberations of administrative officials, or other attorney work product, which was obtained by the Board during investigations of unfair labor practice cases or the adjudication of representational proceedings, some of which are still pending.

There are historic privileges against disclosure of intra-agency memoranda, communications, and other documents procured during official NLRB investigations and proceedings. See NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 149-152 (1975); Davis v. Braswell Motor Freight Lines, Inc., 363 F.2d 600, 603 (5th Cir. 1966). The protection to be afforded this internal decision-making process was discussed by the United States Supreme Court in U.S. v. Morgan, 313 U.S. 409, 421-422 (1941). In Morgan, the district court, over the government’s objection, authorized the taking of the Secretary of Agriculture’s deposition. The Secretary was questioned concerning the process by which he had reached a certain decision, including the manner and extent of his study of the record and his consultation with subordinates. The Supreme Court concluded:

the Secretary should never have been subjected to this examination . . . we have explicitly held in this very litigation that it was not the function of the court to probe the mental process of the Secretary. Just as a judge cannot be subjected to such a scrutiny, . . . so the integrity of the administrative process must be equally respected. . . . It will bear repeating that although the administrative process has had a different development and pursues somewhat different ways from these courts, they are to be deemed collaborative instrumentalities of justice and the appropriate independence of each should be respected by the other. Id.
One privilege claimed by the Board here rests on this compelling need to shield administrative officers and their subordinates against inquiry into the manner and mental processes used in the decisions made in processing unfair labor practice charges or adjudicating representation petitions. As the Third Circuit stated in NLRB v. Botany Worsted Mills, "[i]f those present during the case discussions are aware that their statements, either tentative or final, may be revealed by their fellow participants, it is clear that cautions or worse would remove all candor from their minds and tongues. The logic of this position requires the preservation from questioning of each member of the general body." 106 F.2d 263, 267 (3rd Cir. 1939). For these reasons, intra-agency communications between Board employees enjoy at least a qualified privilege, which, in the absence of special circumstances, shields it from examination by the public. Davis v. Braswell Motor Freight Lines, Inc., 363 F.2d 600, 604-05 (5th Cir. 1966).

Further, such information sought by the Employer is privileged from disclosure to the extent that the Employer’s subpoena also seeks to elicit any work product of the Regional Director, or of any Board agents. Hickman v. Taylor, 329 U.S. 495 (1947); Fed R Civ P 26(b)(3). In Hickman, the Supreme Court explained that the work product protection encompasses "interviews, statements, memoranda, correspondence, briefs, mental impressions, [and] personal beliefs." 329 U.S. at 511. Moreover, the protection afforded work product under Rule 26(b)(3) extends to material prepared by agents of the attorney as well as those prepared by the attorney himself and continues beyond the litigation for which the documents at issue were prepared. U.S. v. Nobles, 422 U.S. 225, 238-39 (1975); FTC v. Grolier, 462 U.S. 19, 22-27 (1983). Therefore, the subpoenaed work product of the Board is shielded from compelled production through Rule 26(b)(3)’s directive that “the court shall protect against disclosure of the mental impressions,
conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.” Fed R Civ P 26(b)(3).

Disclosure of internal documents delving into Region 29’s impressions or conclusions concerning its consideration of an unfair labor practice case or representation proceeding would inevitably reveal the agency’s administrative deliberations during the investigatory phase, as well as its preparation and possible strategy for litigation (for unfair labor practice cases) or adjudication (for representational proceedings). This is particularly worth noting in this case given that through the Subpoena, the Employer is seeking the production of evidence from several case files that are currently open and under investigation before Region 29. See NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 236 (1978) (noting that disclosure of investigatory records while the case is pending would ‘interfere with enforcement proceedings’). Accordingly, any such records are clearly privileged from disclosure.

B. The Employer’s Subpoena Must Be Revoked As The Subpoena Seeks Confidential Information

Moreover, the Employer may not circumvent § 102.118(a) of the Board’s Rules and Regulations and the Board’s long-standing policy of preserving the confidentiality of statements and materials obtained by Board agents during the investigatory process. In this case, what the Employer seeks is pretrial discovery – documents that may be in the Region’s investigative file prior to the issuance of a complaint and the use of that evidence (if at all) in a formal hearing. It is, however, well settled that there is no prehearing discovery in Board proceedings. Plumbers Local 100 (Beard Plumbing), 128 NLRB 398, 400 (1960); see Spiegel Trucking, 225 NLRB 178 n. 5 (1976).

To permit pretrial discovery would destroy the confidentiality that parties enjoy during an investigation and is against public policy. See NLRB v. Robbins Tire & Rubber, 437 U.S. 214, 242-
43 (1978) (release of witness statements whom the Board intends to call at hearing interferes in
the Board's enforcement proceedings and the Board is not required to disclose them prior to
hearing) and Kaiser Aluminum, 339 NLRB 829 (2003) (work product doctrine protects position
statements). The National Labor Relations Act does not compel the Board to provide for discovery
in its proceedings and, further, the unavailability of discovery is not a prejudicial denial of due
process. See, e.g., NLRB v. Robbins Tire and Rubber Co., 437 U.S. at 242-43; Wellman Industries,
Inc. v. NLRB, 490 F.2d 427, 429-30 (4th Cir. 1974) (affidavits protected from FOIA disclosure
under the investigatory files exemption); NLRB v. Automotive Textile Products Company, Inc.,
422 F.2d 1255, 1256 (6th Cir. 1970) (per curiam) (no error to deny respondent witness statements
and affidavits prior to hearing); North American Rockwell Corp. v. NLRB, 389 F.2d 866, 871 (10th
Cir. 1968) (the Act does not require that National Labor Relations Board adopt the discovery
procedure contemplated by Federal Rules of Civil Procedure); NLRB v. Movie Star, Inc., 361 F.2d
346, 352 (5th Cir. 1966) (respondent not denied due process when refused pretrial discovery of
information in the possession of the General Counsel); Raser Tanning v. NLRB, 276 F.2d 80, 83
(6th Cir. 1960) (respondent not entitled to witness statements prior to the hearing under the Federal
Rules of Civil Procedure, any applicable rules of evidence or any regulation of the Board in effect
at the time of the hearing), cert. denied, 363 U.S. 830 (1960).¹

The Board has extended this broad protection to evidence turned over to the Board by
witnesses during an investigation, including position statements drafted by the charging party. See
Kaiser Aluminum, 339 NLRB 829 (2003) (sustained the administrative law judge's revocation of

¹ Section 102.118(e) of the Board's Rules and Regulations allows for the production of certain confidential
witness statements in limited circumstances, specifically, only after the witnesses have testified in a Board
proceeding about subjects covered by such statements and a timely request for such statements is made for
the purpose of cross-examination. H.B. Zachry Co., 310 NLRB 1037, 1038 (1993). The Employer can
request to view a copy of any statements provided by any witness who testifies during the hearing, after the
witness has testified on direct examination.
subpoena for position statements submitted by the charging party, citing the confidentiality interests and policy considerations set forth in Robbins Tire and H.B. Zachary).

Therefore, this petition to revoke the subpoena must be granted, and the Employer’s request for confidential witness communications, statements, and documents, particularly in matters currently being investigated, must be denied.

IV. CONCLUSION

Based on the foregoing, Counsel for Region 29 respectfully request that the Employer’s Subpoena duces tecum B-1-1FXCHY9 be revoked in its entirety.

Dated at Los Angeles, California this 27th day of May 2022.

/s/ Elvira T. Pereda
Elvira T. Pereda
Counsel for Region 29
National Labor Relations Board
ATTACHMENT A
May 20, 2022

Via Certified Mail, Return Receipt Requested
National Labor Relations Board
Region 29
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RCD-288020–Amazon.com Services LLC and Amazon Labor Union

Dear Region 29:

You may be in possession of relevant documents relevant to Amazon’s objections in the above-referenced case before the National Labor Relations Board. Enclosed please find a Subpoena Duces Tecum [B-1-1FXCHY9] and Attachment A which includes a list of requested records that relate to this matter. The Subpoena Duces Tecum directs you to appear with your documents at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link and specific dates of attendance. To avoid delay the documents may be produced prior to the hearing via email to arogers@huntonak.com or klarkin@huntonak.com in lieu of producing hard copies.

Also enclosed is our firm’s check for the standard NLRB witness fee. We realize that, by the time your testimony is finished, you may incur travel expenses greater than this amount. Accordingly, upon presentation of appropriate receipts, you may be reimbursed your reasonable travel expenses in connection with this matter.
May 20, 2022
Page 2

We appreciate your cooperation. Please feel free to contact me should you have any questions or wish to discuss arrangements for the production of the documents requested. Thank you for your prompt assistance in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA DUces TECUM
UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To __________________________

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLC

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of Phoenix, AZ 85004
on June 13, 2022 at 10:00 am EST or any adjourned
or rescheduled date to testify in 29-RC-288020 (Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board’s E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board’s E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board’s Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(e)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

B-1-1FXCHY9

Under the seal of the National Labor Relations Board, and by direction of the
Board, this Subpoena is

Issued at Phoenix, AZ
Dated: May 12, 2022

Lauren McFerran, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Disclosure of 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 mandatory in that failure to supply the information may cause the NLRB to seek enforcement of this subpoena in federal court.
Case 29-RC-288020
B-1-1FXCHY9

RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☑ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business at

on the named person on

(Month, day, and year)

(Name of person making service)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)
I. INSTRUCTIONS

1. All documents are to be produced as they are kept in the usual course of business with any identifying labels, file markings, or similar identifying features, or shall be organized and labeled to correspond to the categories requested herein.

2. If there are no documents in response to a particular request, or if you withhold any responsive documents or categories of documents, in whole or in part, based on any objections, you shall state this in writing in response to the specific document request.

3. Electronically stored information (ESI), including but not limited to social media content, must be produced and continue to be preserved in its original native format including its accompanying metadata. For example:

   (a) documents created using Microsoft Word must be produced as .DOC or .DOCX files; and

   (b) emails must be produced in a form that readily supports import into standard email client programs, or the form of production should adhere to the conventions set out in the internet email standard.

4. These requests call for the production of all responsive documents in your possession, custody, or control, or in the possession, custody, or control of your employees, representatives and agents, or other persons acting on your behalf, without regard to the physical location of such documents.

5. In responding to these requests, include documents obtained on your behalf by your counsel, employees, agents, or any other persons acting on your behalf. If your response is that the documents are not within your possession or custody, describe in detail the unsuccessful efforts you made to locate each such document. If your response is that documents are not under your control, identify who has control and the location of the documents.

6. If any document was, but no longer is, in your possession, subject to your control, or in existence, include a statement:

   (a) identifying the document;

   (b) describing where the document is now;

   (c) identifying who has control of the document;

   (d) describing how the document became lost or destroyed or was transferred; and

   (e) identifying each of those persons responsible for or having knowledge of the loss, destruction, or transfer of the document from your possession, custody, or control.
7. Each request contemplates production of all documents in their entirety. If only a portion of a document is responsive to one or more requests, produce the document in its entirety.

8. If any document is withheld in whole or in part for any reason including, without limitation, a claim of privilege or other protection from disclosure such as the work product doctrine or other business confidentiality or trade secret protection, set forth separately with respect to each withheld document:

   (a) the ground of privilege or protection claimed;
   (b) each basis under which the document is withheld;
   (c) the type of document;
   (d) its general subject matter;
   (e) the document's date; and
   (f) other information sufficient to enable a full assessment of the applicability of the privilege or protection claims.

9. If you object to any request on any ground other than privilege, you must specify:

   (a) the part of the request that is objectionable, and respond and allow inspection of materials responsive to the remainder of the request; and
   (b) whether any responsive materials are being withheld on the basis of an objection.

10. If you assert that a document contains information that should be protected from disclosure (based on the attorney-client privilege, work product doctrine, or another protection) and also contains non-privileged information, the non-privileged portions of the document must be produced. For each such document, indicate the portion of the document withheld by stamping the words "MATERIAL REDACTED AS [BASIS FOR PROTECTION]" on the document in an appropriate location that does not obscure the remaining text.

11. Unless otherwise specified, this Subpoena covers the time period from January 1, 2021, through the present.

12. This Subpoena continuing, and your responses must be promptly supplemented when appropriate or necessary.

13. This Subpoena should be read so as to encompass any and all items responsive to the request. Examples of responsive items set out in any request should not be construed to limit the scope of the request.
II. DEFINITIONS

1. "ALU" means the Amazon Labor Union, its agents, officers, representatives, attorneys, or any other persons under its control or acting or purporting to act on its behalf.

2. "Amazon" means Amazon.com Services LLC, its agents, officers, representatives, attorneys, or any other persons under its control or acting or purporting to act on its behalf.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons.

4. "Computer data" means any document, information, or data ever placed into or stored on any of your computers, including, but not limited to, the hard drive, laptops, disks, storage systems, retrieval systems, back-up systems, email, internet transmissions, electronic bulletin boards, websites, diary systems, calendar systems, tickler systems, and any other computer program.

5. "Concerning" means, in whole or in part, directly or indirectly, referring to, relating to, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, or constituting.

6. "Documents" is used in the broadest sense of that term and includes, but is not limited to, the original and all non-identical copies, whether different from the original by reason of notations made on such copies or otherwise, and all drafts of: letters, telegrams, memoranda, reports of telephone conversations, ledgers, personal or business journals, invoices, bills, sales orders, call reports, financial and business records, receipts, contracts, reports, studies, calendar entries, personal or business diary entries, maps, pamphlets, notes, charts, forms, tabulations, analyses, statistical or informational accumulations, summaries or abstracts, any kind of records of meetings or conversations, firm impressions, sound or mechanical reproductions, rules, regulations, opinions, orders, interpretations, exceptions, position papers, guidelines, publications, instructions, transparencies, handbooks, manuals, operating procedures, appointment calendars, call slips, file jackets, course materials, training materials, minutes, testimony, photographs, videotapes, films, press releases, speeches, surveys, graphs, statistics, tables, printed or typewritten forms, indices, agreements, canceled checks, correspondence, memos, data on computer storage, data on computer disks, data stored on computer backup, telephone message slips, sketches, notes of conversations, and all other written, printed, typed or other reported matter (including electronic, audio, or digital recordings), or other data compilations in which information can be obtained, that are in the possession, custody, or control of you, your attorneys, agents, physicians, directors, officers, partners, affiliates, subsidiaries, servants, employees, insurers, or representatives.

7. "Person" or "persons" means not only natural persons, but also corporations, partnerships, organizations, associations, industry groups, entities, joint ventures, or any government or governmental entity, commission, or agency and any divisions or departments or other units of any of the entities defined herein.
8. "Photographs," "photos," "videos," and " videotapes" mean all films, negatives, slides, photos, digital images, visual images stored on cameras, computers, telephones, movie pictures, videotapes, DVDs, compact discs, portable electronic memory devices, movies, or pictures, whether developed or not.

9. "Region 29," "you," "your," "yours," "yourself," or any variant thereof, means Region 29 of the National Labor Relations Board, to whom these requests are directed, and its former or current agents, assigns, employees, representatives, attorneys, and other persons acting or purporting to act on its behalf, as applicable.

10. "Relating to," "related to," and "relates to" mean embodying, mentioning, or concerning, directly or indirectly, the subject matter identified in the interrogatory or request for production.

11. The singular includes the plural and vice versa.

III. DOCUMENTS TO BE PRODUCED

1. Documents submitted to or received from, and all communications with, the ALU, Gerald Bryson, Derrick Palmer, Christian Smalls, and/or Tristan Martinez from December 22, 2020 to the present related to the lawsuit in the case of Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479.


3. Documents submitted to or received from, and all communications with, the ALU related to the timing of when Region 29 would initiate a lawsuit related to the allegations now contained in the lawsuit in the case of Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479.


5. Documents submitted to or received from, and all communications with, the ALU related to the following unfair labor practice charges: 29-CA-276926, 29-CA-277598, 29-CA-278982, 29-CA-280153, 29-CA-280386, 29-CA-281358, 29-CA-284417, 29-CA-285832, 29-CA-285445, 29-CA-285900, 29-CA-286682, 29-CA-286895, 29-CA-286898, 29-CA-287614, 29-CA-287940, 29-CA-289893, 29-CA-290046, 29-CA-290059, 29-CA-290880, 29-CA-291182, 29-CA-
6. Documents and communications related to the showing of interest in Case No. 29-RC-288020, including, but not limited to, the description or size of the bargaining unit in Case No. 29-RC-288020, a request to depart from a 30% showing of interest requirement in Case No. 29-RC-288020, and a request to alter the petitioned-for unit purposes of the showing of interest in Case No. 29-RC-288020.

7. Documents and communications related to Region 29's preparation for the election in Case No. 29-RC-288020, including, but not limited to, documents and communications reflecting Region 29's staffing decisions, equipment Region 29 utilized in the election, checklists or to-do lists, voting logistics, and any other obligations or guidance set forth in the Board's Casehandling Manual.

8. Documents and communications related to the voting line, issues with the voting line, or the time required for eligible employees to vote in the election in Case No. 29-RC-288020.

9. Documents submitted to or received from, and all communications with, Amazon and/or the ALU related to voting logistics for the election in Case No. 29-RC-288020.

10. From March 25, 2022, to March 30, 2022, documents submitted to or received from, and all communications with, Amazon and/or the ALU related to the election in Case No. 29-RC-288020.

11. Documents reflecting the identity of all Board Agents who were present in or around the voting area at the election in Case No. 29-RC-288020.

12. Documents and communications related to Region 29's pre-election inspection of the voting area for the election in Case No. 29-RC-288020.

13. A complete list of Board agents present during Region 29's pre-election inspection of the voting area for the election in Case No. 29-RC-288020.

14. The checklist utilized by Region 29 during the pre-election inspection of the voting area for the election in Case No. 29-RC-288020.

15. Documents submitted to or received from, and all communications with, the ALU and/or Amazon during Region 29's pre-election inspection of the voting area for the election in Case No. 29-RC-288020.

16. Documents and communications related to instructions or guidance given to the Board Agents who staffed the election in Case No. 29-RC-288020, including, but not limited to, instructions on when to arrive at the voting location, how to interact with the ALU and/or Amazon, how to interact with voters, monitoring or preventing electioneering in and around the voting area, and monitoring or preventing media presence in and around the voting area.
17. Copies of the contents of the Election Kit (as described in Section 11304.1 of the NLRB’s Casehandling Manual for Representation cases) utilized in the election in Case No. 29-RC-288020.

18. Documents submitted to or received from, and all communications with, Amazon and/or the ALU related to media presence in and around the voting area and/or on Amazon’s property in Case No. 29-RC-288020.

19. Documents and communications related to Region 29’s efforts to monitor or prevent media presence in and around the voting area and/or Amazon’s property for the election in Case No. 29-RC-288020.

20. Documents and communications related to press and media presence in and around the voting area and/or Amazon’s property during the election in Case No. 29-RC-288020.

21. Documents and communications related to Region 29’s efforts to monitor or prevent electioneering in and around the area designated by Region 29 as the “no-electioneering zone” for the election in Case No. 29-RC-288020.

22. Documents submitted to or received from, and all communications with, the press or media outlets related to the election in Case No. 29-RC-288020.

23. Documents and communications related to establishing a “no-electioneering zone” during the election in Case No. 29-RC-288020.

24. Documents and communications related to instances of electioneering in and around the voting area and/or the “no-electioneering zone” for the election in Case No. 29-RC-288020.

25. Photographs, audio recordings, and video recordings taken between March 23, 2022, and March 30, 2022, in and around the voting area for the election in Case No. 29-RC-288020.

26. Documents and communications, including but not limited to, photographs, audio recordings, and video recording sent from Region 29 and the ALU related to Case No. 29-RC-288020.

27. Documents and communications, including but not limited to, photographs, audio recordings, and video recording received by Region 29 from the ALU related to Case No. 29-RC-288020.

28. A complete list of individuals who served as ALU observers during the election in Case No. 29-RC-288020, identifying in which voting session each individual served.

29. A copy of any signage posted in and around the voting area for the election in Case No. 29-RC-288020.
30. Documents submitted to or received from, and all communications with, the ALU and/or Amazon during the conferences prior to each voting period during the election in Case No. 29-RC-288020.

31. A copy of the checked-off voter list for the election in Case No. 29-RC-288020.

32. Documents and communications evidencing the location of the ballot boxes and steps taken to protect the same during the election in Case No. 29-RC-288020.

33. Documents and communications evidencing the arrival time of Board agents for the election in Case No. 29-RC-288020.

34. Documents submitted to or received from, and all communications between, Board agents during the election in Case No. 29-RC-288020 related to ALU observers, Amazon observers, and/or voters.
ATTACHMENT B
May 27, 2022

Amber M. Rogers, Attorney at Law  
Hunton Andrews Kurth LLP  
1445 Ross Avenue, Suite 3700  
Dallas, TX 75202  
Via email to: arogers@huntonAK.com

Kurt G. Larkin, Attorney at Law  
Hunton Andrews Kurth LLP  
951 East Byrd Street, Suite 700  
Richmond, VA 23219  
Via email to: klarkin@huntonAK.com

Re: Amazon.com Services LLC  
Case 29-RC-288020

Dear Ms. Rogers and Mr. Larkin:

I am writing in response to your May 20, 2022, letter requesting, pursuant to Section 102.118 of the Rules and Regulations consent for production of various Board documents, communications, photographs, audio recordings, and video recordings described in Subpoena Duces Tecum you attached to your request. You request consent to production of these documents for use at the upcoming post-election hearing in Case 29-RC-288020, Amazon.com Services LLC.

Your request identifies two categories of documents that you request be produced. The first set of documents relate to the Regional Director’s request for a temporary injunction under Section 10(j) of the National Labor Relations Act filed in Drew-King v. Amazon.com Services LLC, E.D.N.Y., No. 22-01479 and the unfair labor practice charges related to the district court case. The second set of documents relate to the representation election in case 29-RC-288020, including the preparation, logistics, and monitoring of the election, as well as Region 29’s communications about the election. You contend that you have a substantial need for the requested materials and that you cannot reasonably obtain this critical evidence by other means and that it is essential to develop a factually accurate and comprehensive record in the postelection hearing. In support of this contention, you argue that the documents would show that Region 29, by the actions of the Regional
Director and Board Agents, engaged in conduct that materially affected the results of the representation election.

As you are aware, Section 102.118 of the Board's Rules provides, in relevant part:

Except as provided in §102.117 respecting requests cognizable under the Freedom of Information Act, no present or former employee or specially designated agent of the Agency will produce or present any files, documents, reports, memoranda, or records of the Board or of the General Counsel, whether in response to a subpoena duces tecum or otherwise, without the written consent of the ... General Counsel if the document is in a Regional Office of the Board or is in Washington, DC, and in the control of the General Counsel.

The Board's rules give the General Counsel a permissive right to produce documents in the General Counsel's custody, but places no obligation on the General Counsel to do so in any particular case. Lyman Printing & Finishing Co., 183 NLRB 1048, 1053 (1970), enfd. 437 F.2d 1356 (4th Cir. 1971) (pre-trial discovery not available in Board proceedings); North American Rockwell, 389 F.2d 866, 872-873 (10th Cir. 1966) (denying petition for review of Board order where General Counsel refused to provide subpoenaed documents under rule 102.118; rejecting argument that Section 102.118 is inconsistent with the Act); Hickman v. Taylor, 329 U.S. 495, 512 (1947) (a general demand for the documents as of right is insufficient to justify their production).

I understand that you have made requests under 102.117 the Freedom of Information Act (FOIA) and received documents in response. Requests for records under 102.117 provides you with different rights of access to Agency information than Section 101.118. To the extent that you have not made a request under 102.117 for the production of documents you wish to have produced, I encourage you to make such a request for review by the Agency's FOIA Branch appropriate response.

As to your request under Section 102.118, it is the policy of the Office of the General Counsel not to produce legal research or internal communications regarding a decision in a case that is pending litigation. Further, it is the policy of the Office of the General Counsel to preserve the confidentiality of documentary materials contained in our investigative files obtained in the course of an administrative investigation of unfair labor practice and representation cases and to produce such materials in Board proceedings only to the extent required by Section 102.118(b)(1), which provides that statements of witnesses called by the General Counsel are to be made available after the witness has testified. It consistently has been held that the National Labor Relations Act does not compel the Board to provide for discovery in its proceedings and, further, that the unavailability of discovery is not a prejudicial denial of due process. See, e.g., NLRB v. Robbins Tire and Rubber Company, 437 U.S. 214 (1978); McClain Industries, Inc. v. NLRB, 521 F.2d 596 (6th Cir. 1974); Wellman Industries, Inc. v. NLRB, 490 F.2d 427 (4th
Cir. 1974); NLRB v. Automotive Textile Products Company, Inc., 422 F.2d 1255 (6th Cir. 1970); North American Rockwell Corporation v. NLRB, 389 F.2d 866 (10th Cir. 1968); NLRB v. Movie Star, Inc., 361 F.2d 346 (5th Cir. 1966); Raser Tanning v. NLRB, 276 F.2d 80 (6th Cir. 1960), cert. denied, 363 U.S. 830 (1960).

Your request does not present a compelling basis to deviate from this long-standing policy. Accordingly, your request for consent to production of documents within the control of the General Counsel is denied.

Sincerely,

Jennifer A. Abruzzo
General Counsel

By: /s/ Joan A. Sullivan
Joan A. Sullivan
Associate General Counsel

cc: Cornele A. Overstreet
Regional Director, Region 28
STATEMENT OF SERVICE

I hereby certify that the Petition to Revoke Employer’s Subpoena *Duces Tecum* B-1-1FXCHY9 Served on the National Labor Relations Board Region, 29 was e-filed in 29-RC-288020 on Region 28 of the National Labor Relations on May 27, 2022.

I hereby certify that a copy of the Petition to Revoke Employer’s Subpoena *Duces Tecum* B-1-1FXCHY9 Served on the National Labor Relations Board, Region 29 was served by e-mail, on May 27, 2022, on the following parties:

Kurt G. Larkin, Esq.
Hunton Andrews Kurth LLP
klarkin@hunton.com

Amber M. Rogers, Esq.
Hunton Andrews Kurth LLP
arogers@huntonak.com

Cornele Overstreet
Regional Director, Region 28
cornele.overstreet@nlrb.gov

/s/ Mara Estudillo
Mara Estudillo
Designated Agent
National Labor Relations Board, Region 21
CAUTION: The sender of this message is external to the NLRB network. Please use care when clicking on links and responding with sensitive information. Forward suspicious emails to nlrbirc@nlrb.gov.

Confirmation Number: 1062710882

You have successfully accomplished the steps for E-Filing document(s) with the NLRB Region 29, Brooklyn, New York. This E-mail notes the official date and time of the receipt of your submission. Please save this E-mail for future reference.

Date Submitted: Friday, May 27, 2022 5:55 PM Eastern Standard Time

Regional, Subregional Or Resident Office: Region 29, Brooklyn, New York

Case Name: Amazon.com Services LLC

Case Number: 29-RC-288020

Filing Party: Counsel for GC / Region

Name: Eivira Pereda

Email: eivira.pereda@nlrb.gov

Address: 312 N SPRING ST # 10151

LOS ANGELES CA 90012

Telephone: (213) 634-6512

Fax: (213) 894-2778


******************************************************************************

DO NOT REPLY TO THIS MESSAGE. THIS IS A POST-ONLY NOTIFICATION.
MESSAGES SENT DIRECTLY TO THE EMAIL ADDRESS LISTED ABOVE WILL NOT BE READ.
******************************************************************************
EXHIBIT J
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

AMAZON.COM SERVICES LLC, )
) )
Employer, ) )
) )
and ) Case No. 29-RC-288020
) )
AMAZON LABOR UNION, )
) )
Petitioner.
)

AMAZON.COM SERVICES LLC’S MOTION TO EXCLUDE REGION 29’S
PARTICIPATION IN THE POST-ELECTION OBJECTIONS HEARING
THROUGH APPOINTMENT OF A “REPRESENTATIVE”

Pursuant to Section 102.65(a) of the National Labor Relations Board’s Rules &
Regulations, 29 C.F.R. §102.65(a), Amazon.com Services LLC, (“Amazon” or the “Company”),
respectfully requests that Regional Director Cornele Overstreet reconsider the decision to grant
Region 29 Regional Director Kathy Drew-King a supposed “representative” in the post-election
objections hearing in the above-captioned matter. Amazon respectfully contends that Regional
Director Drew-King has no right to a representative, to special status in the pending proceeding,
or to access Amazon’s offer of proof. Regional Director Drew-King is a potential material witness
and it is a misreading of the Board’s Rules & Regulations and Casehandling Manual to afford her
a status greater than that of any other fact witness. Moreover, of the hundreds of Board agents in
the United States whom Regional Director Overstreet could have appointed, the agency’s selection
of Field Attorney Kerstin Meyers creates the irremediable appearance of impropriety, given the
fact that just less than a year ago she ruled against Amazon in the high profile objections hearing
in case 10-RC-269250.

Regardless whether Regional Director Drew-King is entitled to a representative—and she
is not—the agency’s appointment of Field Attorney Meyers advances, rather than dispels, the
appearance of partiality at the heart of this case. Including a representative for Region 29 at the hearing introduces the same bias that necessitated the General Counsel’s decision to move this proceeding out of Region 29 in the first instance. Proceeding with Field Attorney Meyers participating in the hearing as Regional Director Drew-King’s “representative” defeats—in both fact and appearance—the very purpose of the transfer.

In support of its request, Amazon states the following:

I. Relevant Background

1. On December 22, 2021, the Amazon Labor Union (“Petitioner” or “Union”) filed its petition in case 29-RC-288020. The Union sought an election in a bargaining unit of all full-time and regular part-time fulfillment center employees working at Amazon’s JFK8 Fulfillment Center in Staten Island, NY.

2. The election was held pursuant to a Stipulated Election Agreement and took place on March 25, 26, 28, 29, and 30, 2022. See Stipulated Election Agreement, attached as Exhibit A. Ballots were tallied on March 31 and April 1, 2022 at Region 29’s Brooklyn field office. The April 1, 2022 Tally of Ballots recorded 2,654 ballots cast for the Union and 2,131 ballots cast for the Employer.

3. Amazon timely filed its Objections to the Results of the Election on April 8, 2022. See Objections, attached as Exhibit B. Many of those objections allege that Regional Director Drew-King and other Region 29 personnel engaged in a variety of actions that interfered with laboratory conditions and warrant overturning the results of the election.

4. On April 8, 2022, Amazon moved to transfer this proceeding to another Region, specifically because many of its objections implicate both the Regional Director and various Board Agents of Region 29. See Motion to Transfer Proceedings, at 1, attached as Exhibit C.
5. On April 14, 2022, General Counsel Jennifer A. Abruzzo granted Amazon’s Motion and entered an Order transferring the case to Region 28. See Order Transferring Case from Region 29 to Region 28, attached as Exhibit D.

6. On April 22, 2022, Amazon timely served its offer of proof on Regional Director Overstreet, Barbara Baynes (Assistant Regional Director for Region 28), and Christopher Doyle (Supervisory Field Attorney for Region 28).

7. On May 6, 2022, Nicholas Gordon (Field Attorney for Region 28) emailed undersigned counsel for Amazon, counsel for the Union (Eric Milner and Retu Singla), and Nancy Reibstein (then-Acting Regional Director for Region 29). Mr. Gordon’s email stated: “You are included on this email because the Region has a Notice of Appearance on file for you.” See E-mail Chain (dated May 6-17, 2022) between Region 28 and Counsel for Amazon, attached as Exhibit E.

8. Later that day, counsel for Amazon emailed Mr. Gordon, Mr. Doyle, Regional Director Overstreet, and the Union’s counsel to inquire why Acting Regional Director Reibstein from Region 29 was included on the email and respectfully asserted that Acting Regional Director Reibstein and all employees of Region 29 (and any other Region that participated in conducting the election) are fact witnesses who should not be included in correspondence between counsel for the parties. Id.

9. Within a few hours, Mr. Gordon responded, citing Casehandling Manual Section 11424:

Here, Regional Director King has, for the time being, assigned Acting RD Reibstein to be the RD Representative in this matter. Moreover, there is nothing that says that the RD Representative cannot also be a witness in the proceeding and that the RD could not assign another agent to act as RD Representative while that person is testifying. The [Casehandling Manual] is clear that the RD Representative must
be familiar with the case, which includes being aware of any pre-hearing matters needed to be addressed by the parties.

*Id.* (emphasis supplied).

10. Later that day Mr. Gordon sent a follow-up email clarifying his earlier comments. He noted that “a Regional Office Representative will be assigned shortly and that R-29 will not be included in communications going forward. Once I have the permanent RD Representative we can discuss any preliminary hearing matters.” *Id.* (emphasis added).

11. Because of Mr. Gordon’s troubling reference to “pre-hearing matters” (highlighted above), however, counsel for Amazon emailed Regional Director Overstreet, Mr. Doyle, and Mr. Gordon on May 9, 2022, asserting:

Per the Rules, Region 29 (and the union) should not have access to Amazon’s offer of proof. However, based on Mr. Gordon’s inclusion of Region 29 on correspondence, and initial emails related to Region 29 being the designated representative in this matter, Amazon has concerns that the document has been shared with or accessed by Region 29 personnel. Can you please confirm whether Region 29 has received or accessed Amazon’s offer of proof.

*Id.*

12. Counsel for Amazon sent a follow-up email to Mr. Gordon on May 10 after he did not respond. *Id.* Mr. Gordon then responded that he was “looking into this and . . . will respond substantively soon.” *Id.*

13. After hearing nothing further for a week, on May 17, 2022, counsel for Amazon emailed Mr. Gordon again about the status of his substantive response. *Id.* The following day, Mr. Gordon responded that “[m]y colleague Chris Doyle will be calling you tomorrow to discuss the offer of proof.” *Id.*
14. On the afternoon of May 18, 2022, Mr. Doyle and undersigned counsel Amber Rogers spoke by telephone. During that call, Mr. Doyle made the following representations to Ms. Rogers:

- Region 28 had consulted with the Division of Operations Management, which oversees all Regional offices, regarding Amazon’s inquiry.

- The Division of Operations Management and Region 28 contend that the Board’s Rules and policies do not prohibit Region 29 from accessing Amazon’s offer of proof or the case file (contained in NxGen). Mr. Doyle stated that there is nothing in the Casehandling Manual or the Board’s Rules that addresses this issue, and that this is probably because it has never been raised to the Board by any party until now.

- The Division of Operations Management and Region 28 do not consider Region 29 to be a “party” to the proceeding as defined by the Board’s Rules.

- Notwithstanding, the Division of Operations Management has decided, on a non-precedent basis, that Region 29 will not have access to Amazon’s offer of proof and that only the following individuals and offices will have access to Amazon’s offer of proof: Region 28; the Division of Operations Management; and Region 10 (Atlanta) Field Attorney Kerstin Meyers, who has been appointed to serve as the “representative” for Regional Director Kathy Drew-King.

- Mr. Doyle indicated that Ms. Meyers, as Regional Director Drew-King’s representative, would have access to Amazon’s offer of proof as well as the ability to call witnesses, cross-examine witnesses, and introduce documents at the hearing.

- The Division of Operations Management and Region 28 contend that Regional Director Drew-King is permitted to have a representative under Board Rule 102.69 and Casehandling Manual Section 11424.4(b).

- Ms. Meyers does not represent Mr. Overstreet or Region 28.

- Ms. Meyers has been directed not to share Amazon’s offer of proof with Region 29.

- Mr. Doyle never dispositively confirmed that Amazon’s offer of proof was not previously shared with anyone at Region 29.

II. Argument

15. Neither the Board’s Rules and Regulations nor its Casehandling Manual permit the Region’s decision to afford a “representative” to the Regional Director of a Board Region that is (i) not a party to this matter; (ii) no longer handling this matter; (iii) accused in Amazon’s objections of the very misconduct that gave rise to Amazon’s objections; and (iv) overseen by a
Regional Director (here, Regional Director Drew-King) who, along with many of her subordinates, are clearly fact witnesses in the upcoming hearing. This decision must be reversed to avoid irreparable harm before the hearing in this matter may commence.

A. No Board Rule or Policy Permits Regional Director Drew-King to Have a Representative at the Objections Hearing.

16. Region 28’s explanation regarding the Division of Operations Management’s rationale for appointing a “representative” for Regional Director Drew-King is unsupported and incorrect. The Board’s Casehandling Manual makes clear that if Regional Director Overstreet requires a representative to assist Region 28 in assuring a complete objections record, he may appoint one to represent him. However, nothing in the Casehandling Manual even implies that he may appoint one for Kathy Drew-King any more than he may appoint one for the Director of Region 16, or Region 5, or any other Region not involved in handling these proceedings.

17. Region 28’s position appears to be that Regional Director Drew-King is permitted a representative according to Rule 102.69 and Casehandling Manual Section 11424.4(b). Neither offers any support for this conclusion. First, it is clear that the Board’s Rules do not authorize Region 29 to participate in the hearing. Board Rule 102.69 is express that only a “party” may appear at a post-election objections hearing, whether “by counsel, or by other representative.” 29 C.F.R. § 102.69(c)(1)(iii). Region 29 is not a “party” to this matter, a fact that Mr. Doyle acknowledged in his conversation with Ms. Rogers. See also 29 C.F.R. §102.1(h)(“The term party means the Regional Director in whose Region the proceeding is pending”)(emphasis added). Region 28 has not pointed to any Rule that permits a non-party to participate in the hearing, by representative or otherwise.

18. Second, the Rules and the Casehandling Manual do not permit a Regional Director that is not responsible for investigation and adjudication of post-election objections to have a
“representative” present at an objections hearing. With respect to participating agency personnel, Section 11424 of the Casehandling Manual provides that an objections hearing “is ordinarily conducted by a Hearing Officer or an Administrative Law Judge (Sec. 11424.1) (Secs. 11424.2–11424.3). When no unfair labor practices are involved, the Regional Director may also assign a Board agent designated as representative of the Regional Director (Sec. 11424.4) to appear at the hearing to see that evidence adduced during the region’s investigation becomes part of the record.” Casehandling Manual § 11424.4 (emphasis added); see also Casehandling Manual § 11424.4(b).

19. This language is apparently the source of Region 28’s and/or the Division of Operations Management’s decision to appoint a representative to represent Regional Director Drew-King during the hearing. But the “Regional Director” referenced in Section 11424.4 of the Casehandling Manual—and throughout the entirety of Section 11424 for that matter—is the Regional Director of the Region presiding over the objections hearing—which is, in this case, Region 28, not Region 29. This is plainly evident in the language of Section 11424.4(b), which provides that: “the primary function of a representative of the Regional Director is to see that the relevant evidence adduced during the region’s administrative review becomes part of the record.” Casehandling Manual § 11424.4(b).

20. The “representative” of “the Regional Director” referenced in Sections 11424 and 11424.4(b) can only be a reference to the representative of the Regional Director responsible for investigating and adjudicating Amazon’s objections, including presiding over the hearing. That is Regional Director Overstreet, not Regional Director Drew-King. Regional Director Drew-King and Region 29 do not have, and have never had, responsibility for investigating Amazon’s post-
election objections, and they certainly do not have any obligation to ensure a full and complete evidentiary record. That is Region 28’s—and only Region 28’s—job.

21. Moreover, the Casehandling Manual cautions that the representative of the Regional Director appointed pursuant to Casehandling Manual Sections 11424 and 11424.4(b) “must exercise self-restraint and display impartiality as well as the appearance of impartiality.” Casehandling Manual § 11424.4(b). There is no way that any “representative” for Regional Director Drew-King can satisfy that mandate. Field Attorney Meyers will be “representing” the same Board Region and Regional Director whose alleged conduct gave rise to Amazon’s objections. In other words, she will not be there to ensure a full and complete record on behalf of Regional Director Overstreet, but instead apparently to advocate (in a non-adversarial proceeding, no less) on behalf of Regional Director Drew-King.

22. Regional Director Overstreet is authorized to appoint a representative to appear at the hearing on behalf of Region 28. But the Rules simply do not support the designation of a representative for Regional Director Drew-King, and interpreting them in such a fashion is arbitrary and capricious. If the General Counsel of the Board believed it was necessary to transfer processing of Amazon’s objections out of Region 29, it makes no sense to allow Region 29 full participatory status in, a representative at, and the opportunity to shape the evidentiary record of, the hearing on those objections.

B. The Board’s Rules and policies prohibit the transmission of the offer of proof to anyone at Region 29.

23. Board Rule 102.69 specifically states: “The Regional Director will transmit a copy of the objections to be served on each of the other parties to the proceeding, but shall not transmit the offer of proof.” 29 C.F.R. § 102.69(a)(8) (emphasis added). The Casehandling Manual likewise provides: “As a courtesy, the Regional Director will also serve a copy of the objections
on each of the other parties to the proceeding, but shall not transmit the offer of proof.” Casehandling Manual § 11392.8 (emphasis added). Thus, the Board’s Rules and policies mandate that a party’s offer of proof shall not be transmitted to the other parties, much less non-parties.

24. The fact that the Division of Operations Management and Region 28 do not consider Region 29 a party to the objections proceeding supports the conclusion that Region 29 should not be permitted access to Amazon’s offer of proof. If the Union, an actual party to the proceeding, is not entitled to receive Amazon’s offer of proof, by definition a central fact witness to the very issues in dispute such as Regional Director Drew-King (or any other employee of Region 29) is not entitled to such access. As the Division of Operations Management and Region 28 are well aware, the Board does not permit traditional discovery in these proceedings.

25. Likewise, permitting a “representative” for Regional Director Drew-King to have access to Amazon’s offer of proof improperly provides Regional Director Drew-King with information related to Amazon’s evidence and the identity of its witnesses and risks perpetuating the appearance of bias. There is no legitimate purpose for providing such information to fact witnesses who have no adjudicatory or investigative role in this proceeding, let alone far in advance of the hearing. In addition, allowing Region 29 personnel to access Amazon’s evidence in advance would be inconsonant with any witness sequestration order Hearing Officer Dunn may issue with respect to these proceedings.¹

26. Region 29 is not “defending” itself in this matter such that it needs to prepare a rebuttal to Amazon’s objections, or marshal proof in response. Instead, Region 28 is charged with ensuring a complete record so that it—not Region 29—may rule on Amazon’s objections. No

¹ Assuming arguendo that Regional Director Drew-King were entitled to her own representative, it is illogical to expect Field Attorney Meyers not to discuss the case and the proceedings with her, whether before or during the hearing. Otherwise, there is little point in her presence at the hearing.
legitimate purpose is served by providing Amazon’s offer of proof to anyone at Region 29, whether directly or through a so-called “representative.”

27. It was unclear based on Ms. Rogers’ conversation with Mr. Doyle whether Region 28 has already shared the offer of proof with anyone at Region 29, or with Field Attorney Meyers. But no plausible reading of the Board’s Rules and Casehandling Manual evidences a right to share an offer of proof with a non-participating Region, much less one accused of the conduct about which the election objections are based.

28. If Region 28 has provided anyone at Region 29 with the offer of proof, that is inappropriate and, worse, may be difficult or impossible to remedy. Removing Field Attorney Meyers as Regional Director Drew-King’s representative and compelling the return to Region 28 of all copies of the offer of proof is the minimum that should be done although even that would not mitigate such a highly prejudicial error. Moreover, if Amazon’s offer of proof was shared, Amazon requests to know when and with whom.

C. Field Attorney Meyers, Whose Presence Displays Partiality, Should Not Be a Designated Representative In This Proceeding.

29. Regardless of whether Regional Director Drew-King is entitled to a representative in this proceeding—and she is not—the selection of Field Attorney Meyers as the representative of any Region, including Region 28, creates an appearance of partiality under all of these circumstances and must be reconsidered.

30. To be clear, Amazon is not accusing Field Attorney Meyers of any bias or suggesting that she cannot be impartial in this matter. However, according to Casehandling Manual Section 11424.4(b), the representative for the Regional Director “must exercise self-restraint and display impartiality as well as the appearance of impartiality.” Casehandling Manual § 11424.4(b) (emphasis added). Given the defective legal reasoning articulated in support of her
appointment as well as circumstances under which it has been conceived, as outlined above, the agency’s selection of Field Attorney Meyers cannot meet this standard given the integral role she played in case 10-RC-269250.

31. The Region is well-aware that Field Attorney Meyers served as the Hearing Officer for case 10-RC-269250 related to the RWDSU’s objections concerning the election conducted at Amazon’s Bessemer, Alabama facility. On August 2, 2021, Hearing Officer Meyers issued a 61-page Hearing Officer’s Report on Objections, in which she concluded that Amazon interfered with the laboratory conditions necessary to conduct a fair election. See Hearing Officer’s Report on Objections, attached as Exhibit F. On November 29, 2021 an order was entered by the Regional Director of Region 10 ordering a rerun election in 10-RC-269250. See Decision and Direction of Second Election, attached as Exhibit G.

32. Given this very public history, it is inexplicable that with presumably hundreds of Board agents and attorneys across the country, including within Region 28, who could serve as a “representative” for Regional Director Overstreet (the only Regional Director entitled to a representative at the upcoming objections hearing) the Division of Operations Management and Region 28 would select Field Attorney Meyers. While the neutrality and impartiality of the entire objections hearing is called into question by the decision to grant Regional Director Drew-King a “representative,” that conclusion is underscored by the decision to appoint the one and only Board representative in the United States who has previously presided over another high-profile election objections hearing involving Amazon, and who ruled against the Company in that hearing.

33. And it is not merely the choice of Field Attorney Meyers that is the problem. It is the installation of her as the “representative” of a Regional Director—Regional Director Drew-King—who so clearly is not entitled to one and not responsible for ensuring a full record in this
proceeding that creates the problem. As explained above, Field Attorney Meyers’ role in this proceeding necessarily won’t be to assist Region 28 in the creation of the record, but instead to “defend” the interests of Regional Director Drew-King and Region 29 who she is now “representing.” That is not the job of the representative of the Regional Director. It would be difficult for any Board agent to fulfill the mandate of a representative under the flawed conditions created by the appointment of a representative for Regional Director Drew-King. By thrusting the one Board agent in the country who has already ruled against Amazon in another contentious union representation proceeding into the role, the agency itself totally undermines her ability to display the appearance of impartiality. The Regional Director must reconsider this decision.

III. Conclusion

34. In conclusion, Amazon respectfully urges the Regional Director to reconsider his decision granting Reginal Director Drew-King a representative in the upcoming objections hearing. The Board’s Rules and Casehandling Manual do not permit such a procedure or designation. The only Regional Director permitted a “representative” at the hearing is Regional Director Overstreet, not Regional Director Drew-King. Allowing Ms. Meyers to “represent” Regional Director Drew-King at the hearing will impede, not facilitate, the creation of the record, will cause significant prejudice to Amazon, and will constitute an abuse of the Board’s discretion. Moreover, should Regional Director Overstreet conclude that he needs a representative at the hearing, it should not be Field Attorney Meyers.

35. Undersigned counsel for Amazon has notified counsel for the Petitioner of its intent to file this Motion. As of the time of filing, counsel for Petitioner has not stated its position regarding the instant Motion.
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document was electronically filed with the NLRB and was served by electronic mail this 1st day of June, 2022 to:

Cornele A. Overstreet, Regional Director
Region 28, National Labor Relations Board
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
Tel No. – (602) 640-2160
Fax No. – (602) 640-2178
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/s/ Amber M. Rogers
Amber M. Rogers
EXHIBIT A
UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

Amazon.com Services LLC Case 29-RC-288020

The parties AGREE AS FOLLOWS:

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. Amazon.com Services LLC, herein called the Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, a Delaware limited liability company with a Fulfillment Center located at 546 Gulf Avenue, Staten Island, New York, herein called the JFK8 Facility, has been engaged in the retail sale of consumer products throughout the United States. During the past 12-month period, the Employer, in conducting its business operations, derived gross revenues in excess of $500,000 and purchased and received at its JFK8 Facility goods and supplies valued in excess of $5,000 directly from enterprises located outside the State of New York.

3. LABOR ORGANIZATION. Amazon Labor Union, herein called the Petitioner, is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

DATE:  Friday, March 25, 2022; Saturday, March 26, 2022; Monday, March 28, 2022; Tuesday, March 29, 2022; and Wednesday, March 30, 2022

HOURS:  8:00AM to 1:00PM and 8:00PM to 1:00AM

PLACE: In a tent located in the parking area of the Employer's facility at 546 Gulf Avenue, Staten Island, NY

In addition, the election will be conducted consistent with the following safety protocols:

(i) Provide a spacious polling area, sufficient to accommodate six (6) foot distancing, which will be marked on the floor with tape to insure separation for observers, Board Agents and voters;

Initials: ____________
(ii) Have separate tables spaced six (6) feet apart so Board Agent, observers, ballot booth and ballot box are at least six (6) feet apart;

(iii) Place markings on the floor to remind/enforce social distancing;

(iv) Provide sufficient disposable pencils without erasers for each voter to mark their ballot;

(v) Provide tape to seal challenge ballot envelopes;

(vi) Provide plexiglass barriers of sufficient size to protect the observers and Board Agent and to separate observers and the Board Agent from voters and each other, pre-election conference and ballot count attendees, as well as masks, hand sanitizer, gloves and wipes for observers.

(vii) Allow for an inspection of the polling area by video conference or in person, on March 22, 2022, at 11:00AM, or at least 24 hours prior to the election, so that the Board Agent and parties can view the polling area. A representative of Amazon Labor Union will be present during the walkthrough;

(viii) Ensure that, in accordance with CDC guidance, all voters, observers, party representatives, and other participants will wear CDC conforming masks in all phases of the election. The Employer will post signs in or immediately adjacent to the Notice of Election to notify voters, observers, party representatives and other participants of this requirement;

(ix) Provide the Region with required certification pre and post-vote regarding positive COVID-19 tests, if any.

(x) Prior to the date of the manual ballot election, the Regional Director may reassess the COVID-19 infection rates in Richmond County, NY. The Regional Director may, in accordance with guidance set forth in Apsirus Keweenaw, 370 NLRB No. 45 (2020), determine that the scheduled, manual ballot election cannot be safely conducted and the Regional Director may cancel, postpone, or order a mail ballot election. If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, place of the election, or method of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All hourly full-time and regular-part time fulfillment center associates employed at the Employer's JFK8 building located at 546 Gulf Avenue, Staten Island, New York.

Excluded: Truck drivers, seasonal employees, temporary employees, clerical employees, professional employees, managerial employees, engineering employees, maintenance employees, robotics employees, information technology employees, delivery associates, loss prevention employees, on-site medical employees, guards and supervisors as defined by the Act.

Employees will be called to vote according to a Release Schedule to be approved by the Regional Director. The Employer will post the Release Schedule alongside the Notice of Election. The parties understand that the Board agent conducting the election will not police the release schedule. The Board agent will allow any voter who is in line during the polling period to vote, regardless of whether they are voting according to the release schedule.

Initials: ____________

Case 29-RC-288020
Those eligible to vote in the election are employees in the above unit who were employed during the payroll period ending February 12, 2022, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Also eligible to vote are all employees in the unit who have worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. 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. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The ballots will be in English and Spanish and the Regional Director, in her discretion, will decide any other additional language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by Amazon Labor Union?" The choices on the ballot will be "Yes" or "No".

8. NOTICE OF ELECTION. The Notice of Election will be in English and Spanish, and the Regional Director, in her discretion, will decide any additional the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, including, but not limited to, on the Employer's bulletin boards, the Employer's Notification tab of AtoZ (to be re-posted at the beginning of March 22, 23, and 24, 2022) and on no fewer than five (5) of the Employer's electronic video displays, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required may be grounds for setting aside the election whenever proper and timely objections are filed.
9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative: Felipe Santos, General Manager; P: 347-215-3436; 546 Gulf Avenue, Staten Island, NY.

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who 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 the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station three (3) authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. SHOWING OF IDENTIFICATION. The parties have agreed that voters will be required to show identification, employer or government issued (i.e. driver's license) or any identification showing a picture and the full name of the individual, upon voting. If a voter fails to present identification, they will vote subject to challenge.

13. TALLY OF BALLOTS. The ballot count will be conducted on Thursday, March 31, 2022, at 10:00AM, and on consecutive days until the count is completed, at a Region 29 hearing room located at 2 MetroTech Center, Brooklyn, New York. All ballots cast will be comingle and counted, and a tally of ballots prepared and immediately made available to the parties.

14. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

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<th>Amazon.com Services LLC</th>
<th>Amazon Labor Union</th>
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<td>(Petitioner)</td>
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<td>By:</td>
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<td>/s/ Amber M. Rogers 2/16/2022</td>
<td>/s/ Eric M. Milner 02/16/2022</td>
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Regional Director, Region 29
National Labor Relations Board
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC,

Employer,

and

Case No. 29-RC-288020

AMAZON LABOR UNION,

Petitioner.

AMAZON.COM SERVICES LLC’S OBJECTIONS
TO THE RESULTS OF THE ELECTION

Of the 8,325 Amazon employees eligible to vote in this election, only 2,654—less than 32% of the eligible JFK8 workforce—voted for the Amazon Labor Union (“ALU” or “Union”). The Union began and ended this campaign with far less than majority support. Region 29 of the National Labor Relations Board (“Region 29”) has known this from the beginning but has acted throughout this proceeding in a manner that unfairly and inappropriately facilitated the ALU’s victory. Region 29’s interference and mismanagement of the election process, coupled with the ALU’s own objectionable, coercive, and misleading behavior throughout the campaign, destroyed the laboratory conditions necessary for a free and fair election.

Most glaringly, the Region abandoned the appearance of neutrality when it publicly initiated a 10(j) injunction lawsuit against Amazon in federal court seeking the reinstatement of former employee Gerald Bryson a mere week before the election—but more than twenty-three months after Bryson’s discharge and more than fourteen months after Region 29 initiated litigation in the underlying case in December 2020. Region 29’s filings and public commentary—which questioned the possibility of a fair election absent the immediate reinstatement of an employee terminated years ago for a sexist verbal assault against a female co-worker—painted
Amazon in a misleading and negative light to voters and suggested the Board’s preference for the ALU.

The Region’s mishandling of this proceeding began months ago when it accepted the ALU’s petition without the support required by the NLRB’s decades-old rules and standards. After it failed to generate enough support for its original petition, the ALU publicly complained that it was “impossible” to obtain the required 30% showing of interest and called on the Region to help the ALU. The Region acquiesced, arbitrarily removing over 1,500 employees from the list of employees in the petitioned-for unit. It then used that artificially reduced number to calculate whether the ALU’s submission met the 30% showing of interest threshold. The Region’s willingness to bend its rules lent a false air of legitimacy to the Union and constituted obvious and improper assistance to the ALU.

After fostering this impression throughout the critical period, during the election itself the Region demonstrated the appearance of support for the ALU in front of voters in the polling place while they were voting. The Region required employees wearing “Vote No” shirts to cover up their shirts before entering the polling place, but permitted employees wearing ALU paraphernalia to display it in the polling place. The Region also hindered voter turnout by mismanaging the beginning stages of the election and bringing insufficient resources to support the size of the election. The Region’s unpreparedness produced chaos and hours-long lines to vote on the first polling day, discouraging other employees from voting. The Region also allowed camera crews, including the ALU President’s personal videographer, to photograph, video, and interview employees standing in line to vote. This scared away those who understandably did not desire to have a microphone or news camera in their face or a reporter publicly interrogating them about how they planned to vote.
The ALU’s own misconduct during the critical period likewise chilled voters, suppressed turnout, and destroyed laboratory conditions. Among other things, the ALU unlawfully intimidated employees to support the ALU, stating among other things “if you vote no, I will know”; threatened violence against its detractors; perpetuated lies about Amazon’s conduct in the NYPD’s arrest of ALU President Christian Smalls for trespassing; recorded voters in the polling place; engaged in electioneering in the polling area; distributed marijuana to employees in exchange for their support; and surveilled employees as they exited the voting tent. All of these actions had a tendency to suppress voter turnout and interfere with laboratory conditions.

The actions of both the Region and the ALU are substantially more egregious than the installation of a mailbox by the United States Postal Service that the Board concluded destroyed and interfered with laboratory conditions in Amazon’s landslide election victory in Case 10-CA-269250. The Region and ALU’s improper actions here warrant at least the same result.

“The Board in conducting representation elections must maintain and protect the integrity and neutrality of its procedures.” Ensign Sonoma LLC, 342 NLRB 933, 933 (2004) (emphasis in original) (quoting Athbro Precision Eng’g Corp., 166 NLRB 966, 966 (1967)). Because that patently did not happen here, the Board must order a rerun election.

**OBJECTIONS**

**OBJECTION 1** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it sought a 10(j) injunction in *Drew-King v. Amazon.com Services LLC*, E.D.N.Y., No. 22-01479, on March 17, 2022. The Region sought this injunction 23 months after the alleged discriminatee (Gerald Bryson) was discharged, 18 months after the charge was filed, and 14 months after the complaint was issued in Case 29-CA-261755. Delaying the filing of this lawsuit until the eve of the election improperly
influenced employees’ perception of Amazon mere days before they were to vote. The Regional Director admitted as much in a statement to multiple press outlets, specifically referencing the imminent election in Case 29-RC-288020, stating the Board’s support for the ALU and alleging Amazon was a lawbreaker. Specifically, the Regional Director said:

We are seeking an injunction in District Court to immediately reinstate a worker that Amazon illegally fired for exercising his Section 7 rights. We are also asking the Court to order a mandatory meeting at JFK8 with all employees at which Amazon will read a notice of employees’ rights under the National Labor Relations Act. No matter how large the employer, it is important for workers to know their rights—particularly during a union election—and that the NLRB will vociferously defend them.

(emphasis added). Mr. Bryson was discharged in May of 2020 for verbally berating a female co-worker. This video of the incident, which the Region attempted to conceal from Amazon throughout the investigation and trial, revealed that Mr. Bryson called his female co-worker, amongst other names, “gutter bitch,” “crack ho,” “queen of the slums,” and “crack-head” over a bullhorn in front of their workplace because she exercised her Section 7 rights to disagree with him. Yet, on the eve of the election, the Region pursued this injunction suggesting that only ALU supporters’ Section 7 rights matter, and that Amazon’s actions were worthy of an extraordinary remedy.

**OBJECTION 2** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it delayed investigating numerous unmeritorious and frivolous unfair labor practice charges that were pending during the critical period rather than properly dismissing them or soliciting withdrawals.

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The Region's inaction enabled the ALU to perpetuate its false campaign narrative\(^3\) that Amazon was a recidivist violator of the National Labor Relations Act ("Act"), when in fact there has not been a single NLRB order finding that Amazon has violated the Act. The ALU exploited the Region's inaction by continuing to file numerous baseless unfair labor practice charges throughout the critical period. Many of these charges challenge conduct that is lawful under extant Board precedent (e.g., charges about Weingarten rights and captive audience meetings). Some were later withdrawn by the ALU while others were withdrawn and then refiled to create the appearance of a greater volume of charges.

**OBJECTION 3.-** The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it allowed the ALU's petition in Case 29-RC-288020 to proceed to election knowing that the Union did not have the required 30% showing of interest in the petitioned-for unit. It did so after public threats by the ALU to expose "concerning issues" about the Region, including public comments from ALU officials that urged the Board to "work with" and help the ALU through the process, and to relax its rules. The Board's validation of the ALU's insufficient petition in response to and after these public threats and comments reasonably suggested to employees that the ALU had more support in the petitioned-for unit than it did and/or that the Region favored the ALU in its case processing.

**OBJECTION 4.-** The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it impermissibly allowed the ALU for more than a month (from December 22, 2021 to January 25, 2022) to continue gathering and submitting late signatures to bolster its insufficient showing of interest. This is contrary to Board procedure for verifying a petitioner's showing of interest. See NLRB,

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\(^3\) The ALU has repeatedly, and falsely, claimed that it has filed "over 40" unfair labor practice charges against Amazon.
CASEHANDLING MANUAL-PART TWO, REPRESENTATION PROCEEDINGS § 1103.1(a) (Sept. 2020) (CASEHANDLING MANUAL) (requiring a petitioner to file evidence in support of the showing of interest at the time the petition is filed or, when the petition is e-filed or faxed, within two days of filing).

**OBJECTION 5** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it unilaterally altered the scope and size of the petitioned-for unit for the purpose of investigating the ALU’s showing of interest. These unilateral modifications to the scope of the petitioned-for unit, which neither party endorsed, were used by the Region solely to support its flawed conclusion that the ALU purportedly met the minimum requirement of a 30% showing of interest. The petition and Stipulated Election Agreement reflect identical unit descriptions. However, in completing the public record NLRB FORM-4069, Region 29 altered the description, changing it from “All hourly full-time and regular-part time fulfillment center employees employed at the JFK8 Building located at 546 Gulf Avenue, Staten Island, NY 10314,” as requested by the ALU, to “FC Employee I, working at JFK8 building,” thereby reducing the size of the unit and excluding other petitioned-for classifications of employees. Region 29 also concluded that only 6,038 employees worked in that unit, while Amazon provided the Region with extensive payroll documentation and additional evidence that the petitioned-for unit was comprised of approximately 7,500 employees at the time of the filing of the petition. Soon after recording these manipulated and inaccurate facts, and approving the further processing of the petition, Region 29 reverted to the broader unit definition included in the ALU’s petition and did not question Amazon’s submission of a voter list containing 8,325 employees. The Region’s manipulated and inaccurate conclusion regarding the contested
showing of interest perpetuated the false impression that the ALU had sufficient support to proceed forward with an election when it clearly did not have sufficient support.

**OBJECTION 6** - The Region failed to protect the integrity of its procedures when it deviated from the Casehandling Manual on Representation Proceedings by failing to staff the election adequately. Among other things, the Region provided an insufficient number of Board Agents for check-in and failed to provide adequate equipment for the election, supplying only three voting booths for an election with more than 8,000 potential voters. *CASEHANDLING MANUAL* § 11316. The Region was well aware of the size of the petitioned-for unit and potential number of voters. *See* Voter List, filed on February 22, 2022 (including 8,325 employees in the petitioned-for unit). These inactions caused extraordinarily long lines during the first voting session, widely publicized in the news media, and discouraged many employees from voting in subsequent polling sessions, particularly as the temperatures dropped to 20 degrees during two nights of polling. The Board’s actions had a reasonable tendency to disenfranchise voters (as evidenced by extremely low voter turnout), and contributed to the Board’s ineffective policing of the polling area, as further described in objections below.

**OBJECTION 7** - The Region failed to protect the integrity of its procedures when it turned away voters when they attempted to vote during open polling sessions, and told voters they were only being allowed to vote in alphabetical order. The parties’ *Stipulated Election Agreement* provided that “the Board Agent will allow any voter who is in line during the polling period to vote.” These actions disenfranchised those voters who were turned away, but also other voters who learned that voters were turned away from the polls and chose not to participate in the election.

**OBJECTION 8** - The Region failed to protect the integrity of its procedures when it failed to control media presence in and around the voting area. Amazon specifically raised concerns to
the Region about media interference in the voting process prior to the start of the election. Yet during the first polling session, numerous media members—including a documentary film crew retained by Mr. Smalls—entered Amazon’s private property, filmed and recorded employees who were in line to vote, and even asked voters how they planned to vote, within feet of Board Agents. Photographs and quotes of these employees were then publicly broadcast across the nation. All of this media filming, recording, and broadcasting took place within the same zone around the polling place where the Region required Amazon to disable its security cameras during voting. The Board’s failure to stop the media from surveilling and interrogating voters standing in line to vote had a reasonable tendency to discourage other employees from voting in subsequent polling sessions (as evidenced by extremely low voter turnout).

**Objection 9** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it allowed non-employee ALU President Smalls to loiter around the polling location and within the “no-electioneering zone” established by the Region on multiple occasions during polling times, where he was able to observe who participated in the election. Mr. Smalls’ presence in and around the “no-electioneering zone” during polling times reasonably tended to intimidate, coerce, and create the impression of surveillance among voters and prospective voters.

**Objection 10** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it directed voters to cover up “Vote NO” shirts, but allowed other voters to wear ALU shirts and other ALU paraphernalia in the polling area. There was no basis for this direction as the Board has consistently held that wearing stickers, buttons, and similar campaign insignia by participants and observers at an election is, without more, not prejudicial. *R. H. Osbrink Mfg. Co.*, 114 NLRB 940, 941-43
(1955); see also Furniture City Upholstery Co., 115 NLRB 1433, 1434–1435 (1956). The Board has held that the impact on voters is not materially different “whether the observers wear prounion or antiunion insignia of this kind.” Larkwood Farms, 178 NLRB 226, 226 (1969) (observer wearing “Vote No” hat not objectionable). The Region’s discriminatory directions toward ALU opponents created the impression for all voters present, as well as all potential voters who learned of these incidents, that the Board appeared to favor the ALU over Amazon in the outcome of the election. “No participant in a Board election should be permitted to suggest to the voters that this Government agency, or any of its officials, endorses a particular choice.” Am-O-Krome Co., 92 NLRB 893, 894 (1950).

**Objection 11** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it repeatedly allowed an ALU observer to audio/video record the check-in tables and voting area on his mobile phone while serving as an observer during multiple voting sessions. CaseHandling Manual §§ 11318.2(b) and 11326.2. The Region permitted this individual to continue serving as an ALU election observer following his conspicuous recording of the voting area while the polls were open. These actions further constitute objectionable list keeping of voters, objectionable surveillance of voters, and also created the impression for voters and potential voters that the ALU was surveilling them.

**Objection 12** - The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it solicited unfair labor practice charges against Amazon in the presence of voters in the polling area while the polls were open. During the election, an employee entered the polling area and complained about Amazon’s actions during the campaign. Rather than tell the employee that they could discuss
the matter privately, the Board Agent, within earshot of voters, stated to the employee that the employee could file unfair labor practice charges against Amazon with the NLRB.

**OBJECTION 13** - During the critical period and while the polls were open, the ALU’s members and agents harassed and threatened physical violence and other reprisals against employees who were not supportive of the ALU’s cause. “Threats by union agents warrant the setting aside of an election where they ‘reasonably tend[] to interfere with the employees’ free and uncoerced choice in the election.’” *Robert Orr-Sysco Food Servs. LLC*, 338 NLRB 614, 615 (2002) (quoting *Baja’s Place*, 268 NLRB 868 (1984)).

**OBJECTION 14** - The ALU improperly promised employees in the final days of the campaign that it would not charge them dues unless and until the ALU secured a raise for employees during collective bargaining. Prior to and during the critical period, the ALU was clear that it would charge employees dues immediately following a successful vote. After employees expressed reluctance to pay dues, the ALU directly contradicted its earlier statements and asserted for the first time, late in the campaign, that it would not charge dues unless and until it secured higher wages in contract negotiations with Amazon. The ALU made these promises to employees during employee meetings, on social media, and in a letter from the ALU’s President to all eligible voters two days before the polls opened. The ALU’s failure to file any foundational documents and LM filings with the Department of Labor, as required by the Labor Management Reporting and Disclosure Act of 1959 (“LMRDA”), coupled with its late-hour promise of free union representation, allowed it to make promises regarding its dues structure in a way that deprived Amazon of the ability to effectively respond, and denied employees the opportunity to assess the credibility of the promise. Additionally, the ALU’s promises of free union representation is an objectionable grant of a benefit because this benefit is within the ALU’s power to effectuate. *See,*
e.g., Alyeska Pipeline Serv. Co., 261 NLRB 125, 126-27 (1982) (union controlled all access to construction jobs in Alaska for employees participating in election, and thus union’s suggesting only way to get union card was by voting for union in upcoming election was objectionable as union was clearly promising to grant members advantage over nonmembers and had power to do that); see also Go Ahead N. Am., LLC, 357 NLRB 77, 78 (2011) (finding objectionable union’s offer to waive back dues).

**Objection 15** - The ALU engaged in repeated and deliberate attempts to interfere with and “shut down” Amazon’s small group meetings, solicited employees during Amazon’s educational meetings in violation of Amazon’s policies, and destroyed Amazon’s campaign materials. The ALU’s actions intentionally created hostile confrontations in front of eligible voters and hindered Amazon’s lawful right to communicate its views to employees during the campaign. See, e.g., Livingston Shirt Corp., 107 NLRB 400, 406-07, 409 (1953) (union has no right to campaign or solicit during employer’s lawful small group meetings); United Steelworkers of Am. v. NLRB, 646 F.2d 616, 627 (D.C. Cir. 1981) (same, unless an employer has a broad rule prohibiting solicitation during nonworking time [Amazon has no such policy]).

**Objection 16** - Non-employee ALU organizers repeatedly trespassed on Amazon’s property. Over the course of many months, Amazon informed non-employee ALU organizers on several occasions that they had no right to solicit on Amazon’s property and that their presence on Amazon’s property constituted unlawful trespass. Nevertheless, Mr. Smalls and other non-employee ALU organizers continued to trespass on Amazon’s property for the purpose of soliciting employee support during the critical period. On February 23, 2022, during the critical period, Mr. Smalls and two ALU organizers initiated a confrontation with the New York Police Department after Mr. Smalls repeatedly refused to leave Amazon’s property, which resulted in
their arrests. After his arrest, Mr. Smalls and the ALU consistently misrepresented what had occurred, claiming that he merely dropping off food for employees and was akin to an Uber Eats driver, and that Amazon “called the cops on employees.” Mr. Smalls consistently failed, however, to mention in his social media posts and interviews on the subject that on the date of his arrest, he brought a film crew onto Amazon’s property without authorization, conducted an interview (that can be seen on social media), and then proceeded to trespass and loiter for over one hour. The ALU also filed ULP charges—which the Region has yet to investigate—and falsely alleged that Amazon had “violated its national settlement” with the NLRB. The ALU then amplified these misrepresentations and the pendency of the charge in the media. All of these actions had a reasonable tendency to interfere with laboratory conditions. See Phillips Chrysler Plymouth, 304 NLRB 16, 16 (1991) (Board set aside election when union agents invaded the employer’s premises without permission and refused to leave when asked, engaging in a confrontation with company management).

**OBJECTION 17** - The ALU unlawfully polled employee support, engaged in unlawful interrogation, and created the impression of surveillance during the critical period. During the critical period, the ALU distributed a pledge form that asked employees to fill out their name, state what day they planned to vote, what time they planned to vote, their phone number, their address, and to sign a commitment that they would vote “Yes.” This constitutes objectionable polling and interrogation. The ALU’s request that employees identify what time and date they would vote reasonably gave the impression that the ALU would surveil when and if they chose to vote, and the commitment to vote “Yes” gave the impression that they could not change their mind if they signed one of these commitment forms. See, e.g., Kusan Mfg. Co. v. NLRB, 749 F.2d 362, 365

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(1984) (citing NLRB v. Claxton Mfg. Co., 613 F.2d 1364 (5th Cir.1980)) (recognizing that an employer may successfully challenge a representation election by showing that pre-election polling by the union was coercive).

**OBJECTION 18** - After disparaging—and celebrating its independence from—established, institutional unions for months leading up to the vote, the ALU’s President and attorney asserted in 11th hour communications to voters that the ALU was backed by established unions with millions of union members, that those more-established unions were actively involved in the ALU’s campaign, were providing funding and other services to the ALU, and would also be involved in contract negotiations if the ALU was elected. The ALU’s failure to file any foundational documents and LM filings with the Department of Labor as required by the LMRDA, coupled with its late-hour promise of operational support from and affiliation with other unions, deprived Amazon of the ability to effectively respond and employees the opportunity to assess the ALU’s credibility. These misrepresentations are objectionable conduct because, under the circumstances, employees were unable to discern the truth of these statements regarding which labor organization would be representing them.

**OBJECTION 19** - ALU supporters misled employees by telling them that they would lose their benefits if they did not support the ALU. Relying on language barriers and misrepresentations of the election processes, during the critical period, ALU organizers specifically targeted Amazon employees who recently immigrated from Africa and threatened that their continued benefits were contingent on their support of the ALU. While the ALU’s conduct in this regard is a deplorable scare tactic targeted at an immigrant population, these false threats also constitute objectionable
conduct because they reasonably tended to coerce employees into supporting the ALU solely out of fear that they would lose their benefits.

**OBJECTION 20** - The ALU deployed a light projector outside the JFK8 facility that projected mass messaging on the façade of the JFK8 building immediately prior to the election. Late at night on March 23, 2022, and through the early morning hours, after the voting tent was in place, the ALU projected messaging on the front of JFK8 immediately over the polling area which read: “Amazon Labor Union”; “VOTE YES”; “VOTE YES! TO KEEP YOUR PHONES”; “BE THE FIRST IN HISTORY”; “THEY FIRED SOMEONE YOU KNOW”; “THEY ARRESTED YOUR COWORKERS”; and “ALU FOR THE WIN”. *See, e.g.*, Rachel Gumpert (@rlgumpert), Twitter (Mar. 27, 2022), https://twitter.com/rlgumpert/status/1508089747289219082 (last visited Apr. 8, 2022). The ALU’s light projections are also objectionable misrepresentations inasmuch as they caused confusion about the identity of the messenger, suggested that Amazon supported the messaging, and misrepresented the purpose and consequences of the vote. The ALU’s light projections also reiterated the ALU’s false campaign narrative that Amazon sought the arrest of employees. “[E]mployers and unions alike will be prohibited from making election speeches on company time to massed assemblies of employees within 24 hours before the scheduled time for conducting an election.” *Peerless Plywood Co.*, 107 NLRB 427, 429 (1953). Because “the Board’s goal is to keep voters as free of uninvited mass messages as possible during the period just prior to the conduct of the election,” the ALU’s mass projection of its campaign messaging falls squarely within the prohibitions of *Peerless Plywood*. *See Bro-Tech Corp.*, 330
NLRB 37, 39 (1999) (holding union’s use of sound truck broadcasting pro-union music constituted objectionable conduct).

**OBJECTION 21** - The ALU failed to file forms required by the LMRDA. The LMRDA requires all unions purporting to represent private sector employees to file, among other things, detailed financial reports. 29 U.S.C.A. §§ 431-432. As acknowledged by the LMRDA, these disclosures are necessary to eliminate or prevent improper practices on the part of labor organization, their officers, and their representatives and to protect employees from the activities of labor organizations. *Id.* § 401(b)-(c). To date, the ALU has not filed any financial or other reports required by the LMRDA despite being under a legal obligation to do so. The ALU’s failure to comply with the LMRDA deprived employees from access to critical financial information about the ALU’s operations during a critical time period (*i.e.*, whether to vote for them as their bargaining representative). ALU President Smalls brazenly told CNN the week before the election that he would not file these disclosures until after the election, if at all.\(^5\)

**OBJECTION 22** - The ALU distributed marijuana to employees in return for their support in the election. Amazon made the Region aware of such conduct several times. The Board, as a federal agency and regulator, cannot condone such a practice as a legitimate method of obtaining support for a labor organization. *See e.g., Stand Up for California!* v. *U.S. Dep’t of the Interior*, 959 F.3d 1154, 1165 (9th Cir. 2020) (citing *Epic Sys. Corp. v. Lewis*, 138 S. Ct. 1612, 1624 (2018) ("We will not presume that Congress would enact a statute that requires a federal agency to violate federal law.")); *see also Epic Sys. Corp.*, 138 S. Ct. at 1624 (courts should strive to give effect to both laws when two are in conflict). The ALU’s distribution of marijuana was an impermissible

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grant of benefit and interfered with employees’ free choice in the election. *See Go Ahead N. Am.*, *LLC*, 357 NLRB at 77-78 (setting aside election where union granted benefits with a value in excess of “minimal”).

**OBSESSION 23.** On March 25, 2022, Mr. Smalls posted to his social media accounts a video of himself standing outside the voting area over 20 minutes after voting began and after he had told certain employees that the ALU would know how they voted. Employees viewing a video of the ALU’s President appearing to stand outside the polling area while the polls were open reasonably tended to coerce and intimidate voters and potential voters and lead them to believe that the ALU and Mr. Smalls was or would surveil them. Mr. Smalls’ social media post also reasonably tended to create the impression with voters that the Board supported ALU in the election, as it failed to properly police and/or took no actions to remove him from the “no-electioneering zone” established by the Board.

**OBSESSION 24.** The ALU engaged a camera/documentary crew that maintained a consistent presence in the polling place. Despite being directed to leave the area by Amazon in front of the Board Agent and ALU President Smalls, the crew returned several times and filmed employees in line waiting to vote, and employees entering and exiting the voting tent. These actions reasonably tended to coerce and intimidate voters and potential voters and lead them to believe that Mr. Smalls and the ALU would know if or how they voted, and created the impression of surveillance.

**OBSESSION 25.** ALU officials, agents, and supporters, including but not limited to non-employee ALU President Smalls and non-employee Gerald Bryson, engaged in objectionable conduct, including loitering in the “no-electioneering zone” established by the Board and/or within view of the polling area while polls were open, creating the impression among employees that the
ALU was surveilling the polling area, and otherwise engaging in electioneering. This conduct reasonably tended to coerce and intimidate voters and potential voters.

Respectfully submitted,

HUNTON ANDREWS KURTH LLP

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document was electronically filed with the NLRB and was served by electronic mail this 8th day of April, 2022 to:

Kathy Drew King, Regional Director
Region 29, National Labor Relations Board
100 Myrtle Ave, Suite 5100
Brooklyn, NY 11201-4201
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Fax No. – (718) 330-7579
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Eric Milner
Simon & Milner
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E-mail - emilner@simonandmilner.com

/s/ Amber M. Rogers
Amber M. Rogers
You have E-Filed your document(s) successfully. You will receive an E-Mail acknowledgement noting the official date and time we received your submission. Please save the E-Mail for future reference. You may wish to print this page for your records.

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Please be sure to make a note of this confirmation number.

- **Confirmation Number:** 1060944815
- **Date Submitted:** Friday, April 8, 2022 4:31 PM Eastern Standard Time
- **Submitted E-File To Office:** Region 29, Brooklyn, New York

- **Case Number:** 29-RC-288020
- **Case Name:** Amazon.com Services LLC
- **Filing Party:** Employer

**Contact Information:**

Amber Rogers
HUNTON ANDREWS KURTH LLP, 1445 Ross Avenue, Suite 3700, Dallas, TX 75202
Ph: (214) 468-3308
E-mail: arogers@hunton.com

**Attached Documents:**

- Objections to an Election: 29-RC-288020 Amazon_s Objections.pdf

Start Another E-Filing
EXHIBIT C
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC, ( )
Employer,

and

Case No. 29-RC-288020

AMAZON LABOR UNION,

Petitioner.

AMAZON.COM SERVICES LLC’S MOTION TO TRANSFER PROCEEDINGS

Pursuant to Section 102.72(a)(3) of the National Labor Relations Board’s Rules &
Regulations, 29 C.F.R. §102.72(a)(3), Amazon.com Services LLC, ("Amazon" or the
"Company"), respectfully requests this matter be transferred out of Region 29 for a hearing on
Amazon’s timely objections to conduct affecting the results of the election in the above-captioned
matter. In support of its request, Amazon states the following:

1. Amazon is timely filing objections in the above-captioned matter.

2. A number of Amazon’s objections assert objectionable conduct by both the
Regional Director of Region 29 and various Board Agents who, upon information and belief, work
out of the Region 29 office.¹

3. It is appropriate to transfer a representation case proceeding for purposes of a post-
election objections hearing where the subject matter of those objections involves Regional or
Board Agent action. Such a transfer enables a Hearing Officer outside the Regional Office to hear

¹ The Board Agents did not identify where they work, thus Amazon is unable to discern if the various Board
Agents present during the 10 voting sessions all work in Region 29’s office. Upon information and belief, some of the
Board Agents work in Region 2’s office. Accordingly, if any Board Agents present for any voting session were from
Region 2, or another Region, Amazon contends this matter should not be transferred to that Region, as the objections
related to objectionable conduct of Board Agents extends to them.
the objections relating to the Region at issue and an out-of-Region Director to review the Hearing Officer’s report. Specifically, General Counsel Memorandum 15-06 states: “If the subject matter of the objections involves regional or Board Agent misconduct that would require that a Hearing Officer outside the Regional office be assigned to hear the matter, the case should be transferred to another Region before an order directing a hearing issues so that exceptions to the Hearing Officer’s report will be reviewed by the out-of-region director.” General Counsel Memorandum 15-06 (“Guidance Memorandum on Representation Case Procedure Changes Effective April 14, 2015”) at 31.

4. Moreover, Section 11424.2(a) of the Board’s Representation Casehandling Manual requires that a case be transferred to a different Region where an employer, as Amazon does here, alleges individualized objectionable conduct by Board personnel in the originating Region.

5. Because Amazon objects to actions taken by Regional Director Drew-King and various Board Agents, including, but not limited to, the improper docketing of the petition; inappropriately seeking a 10(j) injunction a week before the election and specifically tying that unrelated 10(j) injunction to the election; making public statements that call into question the Region’s “neutral” stance during the election; taking steps—whether intended or not—to disenfranchise voters, and making statements—whether intended or not—purporting to support ALU’s cause in front of voters, it would be inappropriate for those same individuals to serve as judges of their own alleged objectionable conduct. Indeed, the Hearing Officer in a postelection objections hearing “makes (1) credibility resolutions and (2) findings, conclusions, and recommendations, whereas the preelection Hearing Officer does neither.” CASEHANDLING MANUAL § 11424.3(b).
6. In the interest of fairness, and pursuant to the Board’s Rules and Regulations, General Counsel Memorandum, and Casehandling Manual the processing of objections related to this petition should be transferred to another Region.

Respectfully submitted,

HUNTON ANDREWS KURTH LLP

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document was electronically filed with the NLRB and was served by electronic mail this 8th day of April, 2022 to:

Kathy Drew King, Regional Director
Region 29, National Labor Relations Board
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E-mail – kate.anderson@nrb.gov
E-mail – ioulia.fedorova@nrb.gov

/s/ Eric Milner
Simon & Milner
99 W. Hawthorne Ave. Suite 308
Valley Stream, NY 11580
Tel No. – (516) 561-6622
Fax No. – (516) 561-6828
E-mail - emilner@simonandmilner.com

/s/ Amber M. Rogers
Amber M. Rogers
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| Confirmation Number: 1060944859 |
| Date Submitted: Friday, April 8, 2022 4:33 PM Eastern Standard Time |
| Submitted EFile To Office: Region 29, Brooklyn, New York |

| Case Number: 29-RC-288000 |
| Case Name: Amazon.com Services LLC |
| Filing Party: Employer |

Contact Information:
Amber Rogers
HUNTON ANDREWS KURTH LLP, 1445 Ross Avenue, Suite 3700, Dallas, TX 75202
Ph: (214) 468-3308
E-mail: arogers@hunton.com

Attached Documents:
Other 29-RC-288000 Amazon_s Motion to Transfer Proceedings.pdf

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Ladies & Gentlemen:

I am sending this e-mail in lieu of a telephone call.

This is to inform everyone that Kerstin Meyers will no longer serve as the representative for Region 29 Regional Director Kathy Drew-King. Region 13 Field Attorney Lisa Friedheim-Weis and Region 21 Field Attorney Elvira Pereda will serve as co-representatives for Region 29’s Regional Director. (The reason that there are two representatives for Region 29’s Regional Director is because, given the anticipated length of the hearing, neither Ms. Friedheim-Weis nor Ms. Pereda are available to attend the hearing every day.)

Insofar as the Employer’s Motion to Exclude Region 29’s Participation in the Post-Election Objections Hearing Through Appointment of a “Representative” (Motion), a decision on the Employer’s Motion will be made prior to the opening of the hearing on June 13.

Sincerely,

Chris J. Doyle
Supervisory Field Attorney
National Labor Relations Board – Region 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
Telephone: (602) 416-4762
Facsimile: (602) 640-2178
Cellular: (202) 689-7315
chris.doyle@nlrb.gov

The NLRB is transitioning to a mandatory electronic filing system for all case documents. Effective January 21, 2020, all position statements and evidence must be submitted through the Agency’s electronic filing system unless the Regional Director otherwise approves (See GC 20-01):

Documents: https://apps.nlrb.gov/eservice/efileterm.aspx
From: Rogers, Amber <arogers@hunton.com>
Sent: Friday, June 3, 2022 12:13 PM
To: Retu Singla <rsingla@workingpeopleslaw.com>; Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>; Dunn, Lisa J <Lisa.Dunn@nlrb.gov>; Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nlrb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilner@simonandmilner.com>; Seth Goldstein <sgold352002@icloud.com>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

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Are we scheduling a call for today?

From: Rogers, Amber
Sent: Friday, June 3, 2022 1:18 PM
To: Retu Singla <rsingla@workingpeopleslaw.com>; Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>; Dunn, Lisa J <Lisa.Dunn@nlrb.gov>; Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nlrb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilner@simonandmilner.com>; Seth Goldstein <sgold352002@icloud.com>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

I am available at 2:00-3:00 CST; and again at 4:00 CST. We do not agree to participate in a call with a “representative” of Region 29 because as noted in our motion, we do not believe such a representative is permitted under the Board’s Rules and Regulations.
From: Retu Singla <rsingla@workingpeopleslaw.com>
Sent: Friday, June 3, 2022 1:07 PM
To: Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>; Rogers, Amber <arogers@hunton.com>; Dunn, Lisa J <Lisa.Dunn@nlrb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilner@simonandmilner.com>; Seth Goldstein <sgold352002@icloud.com>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

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Mr. Doyle,

Petitioner would also like to be included in any call regarding this.

Julien, Mirer & Singla, PLLC
A Working People’s Law Center
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New York, NY 10004
www.workingpeopleslaw.com
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of this message by unintended recipients is not authorized and may be unlawful. If you have received this communication in error, please notify me by electronic mail or by telephone immediately, and delete this communication including any attachments. Thank you.

From: Doyle, Christopher J.
Sent: Friday, June 3, 2022 2:00 PM
To: Rogers, Amber; Friedheim-Weis, Lisa; Dunn, Lisa J
Cc: Larkin, Kurt G.; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner; Seth Goldstein; Retu Singla
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

Ms. Rogers:

I will call you.

Chris J. Doyle
Supervisory Field Attorney
National Labor Relations Board – Region 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
Telephone: (602) 416-4762
Facsimile: (602) 640-2178
Cellular: (202) 689-7315
christopher.doyle@nrlb.gov

The NLRB is transitioning to a mandatory electronic filing system for all case documents. Effective January 21, 2020, all position statements and evidence must be submitted through the Agency’s electronic filing system unless the Regional Director otherwise approves (See GC 20-01):

Documents:  https://apps.nrlb.gov/eservice/efileterm.aspx

From: Rogers, Amber <arogers@hunton.com>
Sent: Friday, June 3, 2022 10:47 AM
To: Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nrlb.gov>; Dunn, Lisa J <Lisa.Dunn@nrlb.gov>; Doyle, Christopher J. <Christopher.Doyle@nrlb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilner@simonandmilner.com>; Seth Goldstein <sgold352002@icloud.com>; Retu Singla <rsingla@workingpeopleslaw.com>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

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Mr. Doyle,
Can you please clarify this issue. When we spoke you told me that Kerstin Meyers was Region 29’s representative. Does Region 29 have two representatives?

Please let us know so that we can appropriately update our Motion to Exclude Region 29’s Participating in the Post-Election Objections Hearing Through Appointment of a “Representative.”

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Are you serving as the representative in addition to Kerstin Meyers, or have you replaced her?
From: Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nrlb.gov>
Sent: Friday, June 3, 2022 12:14 PM
To: Rogers, Amber <arothers@hunton.com>; Dunn, Lisa J <Lisa.Dunn@nrlb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilner@simonandmilner.com>; Seth Goldstein <sgold352002@icloud.com>; Retu Singla <rsingla@workingpeopleslaw.com>; Doyle, Christopher J. <Christopher.Doyle@nrlb.gov>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

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I will be serving as the RD rep. for Region 29 due to the objections that were made in this matter concerning that Region – please see Section 11424.4 of the Manual on Representation Proceedings as to the nature/functions of an RD rep at a post-election hearing.

Lisa Friedheim-Weis
NLRB

From: Rogers, Amber <arothers@hunton.com>
Sent: Friday, June 3, 2022 10:06 AM
To: Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nrlb.gov>; Dunn, Lisa J <Lisa.Dunn@nrlb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilner@simonandmilner.com>; Seth Goldstein <sgold352002@icloud.com>; Retu Singla <rsingla@workingpeopleslaw.com>; Doyle, Christopher J. <Christopher.Doyle@nrlb.gov>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

CAUTION: The sender of this message is external to the NLRB network. Please use care when clicking on links and responding with sensitive information. Forward suspicious emails to nrlbirce@nrlb.gov.

For further clarification, the “RD rep.” for which Region? And to represent which “Region’s interests”?

Thanks,

Amber
From: Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nrlb.gov>
Sent: Friday, June 3, 2022 9:14 AM
To: Rogers, Amber <arogers@hunton.com>; Dunn, Lisa J <Lisa.Dunn@nrlb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilner@simonandmilner.com>; Seth Goldstein <sgold352002@icloud.com>; Retu Singla <rsingla@workingpeoplelaw.com>; Doyle, Christopher J. <Christopher.Doyle@nrlb.gov>
Subject: Re: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

Caution: This email originated from outside of the firm.

I have been assigned as the RD rep. in this matter to represent the Region’s interests. I am a senior field attorney for Region 13 (Chicago).

Lisa Friedheim-Weis

Get Outlook for iOS

From: Rogers, Amber <arogers@hunton.com>
Sent: Friday, June 3, 2022 8:50:10 AM
To: Dunn, Lisa J <Lisa.Dunn@nrlb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmirer@julienmirer.com <jmirer@julienmirer.com>; rjulien@julienmirer.com <rjulien@julienmirer.com>; Eric Milner <emilner@simonandmilner.com>; Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nrlb.gov>; Seth Goldstein <sgold352002@icloud.com>; Retu Singla <rsingla@workingpeoplelaw.com>; Doyle, Christopher J. <Christopher.Doyle@nrlb.gov>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

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Hearing Officer Dunn,
Can we please get clarification on the role of the various NLRB personnel who are filing documents in this case and being copied on correspondence. We would like to know their role in the objections hearing, which Region they represent, and which Region they work in.

Thanks,

Amber

HUNTON ANDREWS KURTH

Amber Rogers
Partner
arogers@HuntonAK.com
p 214.468.3308
bio | vCard
Hunton Andrews Kurth LLP
Fountain Place
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
HuntonAK.com

This communication is confidential. If you are not an intended recipient, please advise by return email immediately and then delete this message, including all copies and backups.

From: Rogers, Amber
Sent: Friday, June 3, 2022 8:47 AM
To: Dunn, Lisa J <Lisa.Dunn@nlrb.gov>
Cc: Larkin, Kurt G. <klarkin@hunton.com>; jmurer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilner@simonandmilner.com>; Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nlrb.gov>; Seth Goldstein <sgold352002@icloud.com>; Retu Singla <rsingla@workingpeopleslaw.com>; Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

Hearing Officer Dunn,

Amazon respects the Hearing Officer’s protocols, but it does not interpret them to prohibit Amazon from having daily or real-time transcription services as a part of the makeup of its trial team. Additionally, there is no “improper advantage” Amazon receives from such services. It is unclear why ordering the service from the NLRB-selected vendor would be permissible, but not an outside vendor. We called the service, as you recommended, and the service is not, for a number of reasons, able to provide the services Amazon counsel needs to effectively present its case. The service stated that it only had the hearing scheduled for one day; and it is not capable of providing a daily transcript. Moreover, based on conversations with Board personnel and the NLRB’s rules prohibiting it from taking anything of value from a party, Amazon cannot use the service hired by the NLRB because the service stated the transcripts (which are obviously not free) must also be provided to the NLRB per its contract with the Region. As counsel for the Union knows, the NLRB recently refused to hold a hearing in Hunton’s office (for free) because the NLRB considered it something of value, among other reasons.
Amazon has no objection if the Union desires to hire a similar service. Or, if the Union wants to split the upfront cost of the service with the Company, the Company is amenable to such an arrangement. Ms. Singla, please let us know and we can arrange an invoice be sent to your attention.

Nevertheless, counsel for Amazon attests that the service it uses is for counsel and Amazon’s in-house legal counsel, and the unofficial transcript will not be distributed to the media or outside third parties.

We welcome a call to discuss this matter further if you are inclined to prohibit Amazon from using such services as part of its trial team.

Thanks,

Amber

Amber Rogers
Partner
arogers@HuntonAK.com
p 214.468.3308
bio | vCard
Hunton Andrews Kurth LLP
Fountain Place
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
HuntonAK.com

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From: Retu Singla <rsingla@workingpeopleslaw.com>
Sent: Thursday, June 2, 2022 1:55 PM
To: Dunn, Lisa J <Lisa_Dunn@nltb.gov>
Cc: Rogers, Amber <arogers@hunton.com>; Doyle, Christopher J. <Christopher.Doyle@nltb.gov>; Larkin, Kurt G. <klarkin@hunton.com>; Lirmer@julienmirer.com; rjulien@julienmirer.com; Eric Milner <emilmer@simonandmilner.com>; Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nltb.gov>; Seth Goldstein <sgold352002@icloud.com>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

Caution: This email originated from outside of the firm.

Dear Hearing Officer Dunn,

Petitioner, Amazon Labor Union, objects to the Employer’s assumption that it may legally record and or transcribe the proceedings in this matter because it is unsatisfied with “certain terms” contained in the government’s contract with official court room reporter services.

The Board and Federal Government have been very clear that no party and no non-party is permitted to audio or video record any of NLRB hearing. This has been made very clear by the Federal government in a number of different
places as it relates to the Board. Amazon.com Services LLC is seeking an improper advantage that it is not entitled to and is prohibited from by Federal law under penalty of sanction.

1. When turning on the zoom for government platform the following statement appears on the screen:

   • “No videotaping or audio recording is permitted except by the official court reporter, if any. ... violators will be removed and may also be reported to both zoom and federal authorities for further sanctions.”

2. The instruction from the NLRB’s “ATTORNEY/REPRESENTATIVE INSTRUCTIONS AND GUIDELINES FOR VIDEO HEARINGS” applicable in hearings before ALJs and Hearing Officers states:

   • “The court reporter is the only person authorized to record the hearing. Participants and observers may not record, duplicate, screenshot or save any audio or video of the video hearing, including conferences or sidebars.”

3. The instruction from the NLRB’s “INSTRUCTIONS FOR VIDEOCONFERENCE HEARING” as part of Hearing Officer Instructions states:

   • “Prohibition of Videotaping or Recording the Hearing
   The official court reporter is the only individual permitted to record the hearing. Accordingly, do not video record, audio record, broadcast, televise, stream, screenshot, photograph, or otherwise copy the hearing. Violation of this rule may result in removal and other sanctions.”

Petitioner strongly urges the Hearing Officer and Region in this matter to prohibit the employer’s attempt to circumvent the Board’s clear instructions prohibiting recording to create “daily and real time transcription” because it is unsatisfied with the services of the official court reporter in this matter.

Sincerely,
Retu Singla

Julien, Mirer & Singla, PLLC
A Working People's Law Center
One Whitehall Street, 16th floor
New York, NY 10004
www.workingpeopleslaw.com
Tel: (212) 231-2235
Mobile: (646) 228-4729
Fax: (212) 319-2955
rsingla@workingpeopleslaw.com

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CONFIDENTIALITY NOTICE: The preceding e-mail message (including any attachments) contains information that may be confidential, protected by the attorney-client privilege or other applicable privileges, protected by the right of privacy, or constitute other non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful. If you have received this communication in error, please notify me by electronic mail or by telephone immediately, and delete this communication including any attachments. Thank you.

From: Rogers, Amber
Sent: Friday, May 27, 2022 11:05 AM
To: Dunn, Lisa J
Cc: Doyle, Christopher J.; Larkin, Kurt G.; Retu Singla; jmirez@julienmirer.com; rjulien@julienmirer.com; Eric Milner; Friedheim-Weis, Lisa
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

Hearing Officer Dunn,

We have conferred with the court reporting service and we will not be able to use them based on certain terms they revealed of their contract with the NLRB. We will obtain the official transcript from them, but will use our own service for daily and real time transcription.

Thank you for sending us their information.

Amber
Caution: This email originated from outside of the firm.

Counsel:

Below is the current contact information for Region 28’s court reporting service. According to our court reporting service, if a party wants to order daily transcripts, the party must make arrangements with our court reporting service before the hearing, so it can assign an appropriate court reporter. Daily transcripts may not be available if requested on the first day of the hearing. Region 28 is unaware of our court reporting service providing real time transcription services.

LeAnna Ward
Free State Reporting, Inc.
1378 Cape St. Claire Rd,
Annapolis, MD 21409
Office: 410-757-4369
Cell: 443-926-6778 (emergency purposes)
leanna.ward@freestaterreporting.com

Agatha Pak
Free State Reporting, Inc.
1378 Cape St. Claire Road
Annapolis, MD 21409
(410) 757-4369 office
(410) 974-0297 fax
(410) 980-9273 cell (Evenings and Weekends)
agatha.pak@freestaterreporting.com

Sincerely,

Lisa J. Dunn, Attorney
NLRB Region 28, Phoenix
2600 N Central Ave., Suite 1400
Phoenix, AZ 85004
(602) 640-2160 office
(602) 640-2178 fax
lisa.dunn@nlrb.gov

From: Rogers, Amber <arogers@hunton.com>
Sent: Thursday, May 26, 2022 12:29 PM
To: Dunn, Lisa J <Lisa.Dunn@nlrb.gov>
Cc: Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>; Larkin, Kurt G. <klarkin@hunton.com>
rsingla@workingpeopleslaw.com; jmirer@julienmirer.com; rjulien@julienmirer.com; Eric Milner
emilner@simonandmilner.com; Friedheim-Weis, Lisa <Lisa.Friedheim-Weis@nlrb.gov>
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)
CAUTION: The sender of this message is external to the NLRB network. Please use care when clicking on links and responding with sensitive information. Forward suspicious emails to nlrbirc@nrb.gov.

Hearing Officer Dunn,

Checking on the status of the information related to the court reporter. If they are not able to provide these services, we intend to have a member of our trial team provide these for the company. We recognize that it will not be an official transcript and will not use it for any briefing purposes.

Best regards,

Amber

Amber Rogers
Partner
arogers@HuntonAK.com
p 214.468.3308
bio | vCard

Hunton Andrews Kurth LLP
Fountain Place
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
HuntonAK.com

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From: Dunn, Lisa J <Lisa.Dunn@nlrb.gov>
Sent: Tuesday, May 24, 2022 5:12 PM
To: Rogers, Amber <arogers@hunton.com>
Cc: Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>; Larkin, Kurt G. <klarkin@hunton.com>; rsingla@workingpeopleslaw.com; jmirer@julienmirer.com; rjulien@julienmirer.com; emilner@simonandmilner.com
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

Caution: This email originated from outside of the firm.
Counsel:

Direct, the hearing will not be held on Federal holidays, including Monday, June 20, and Monday, July 4. The Region is asking our court reporting service whether a party may request daily and/or real time transcription services. We will let you know once we get a response.
Sincerely,

Lisa J. Dunn, Attorney
NLRB Region 28, Phoenix
2600 N Central Ave., Suite 1400
Phoenix, AZ 85004
(602) 640-2160 office
(602) 640-2178 fax
lisa.dunn@nlrb.gov

From: Rogers, Amber <arogers@hunton.com>
Sent: Tuesday, May 24, 2022 2:43 PM
To: Dunn, Lisa J <Lisa.Dunn@nlrb.gov>
Cc: Doyle, Christopher J. <Christopher.Doyle@nlrb.gov>; Larkin, Kurt G. <klarkin@hunton.com>
rsingla@workingpeopleslaw.com; jmirer@julienmirer.com; rjulien@julienmirer.com; emilner@simonandmilner.com
Subject: RE: Post-Election Zoom Hearing Instructions and Protocols: Amazon.com Services LLC (29-RC-288020)

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Hearing Officer Dunn,

Monday, June 20 (Juneteenth) and Monday, July 4 are federal holidays. We are assuming that the hearing will not occur on these days, but can you please confirm.

Thanks,

Amber

Amber Rogers
Partner
arogers@HuntonAK.com
p 214.468.3308
bio | vCard

Hunton Andrews Kurth LLP
Fountain Place
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
HuntonAK.com

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From: Rogers, Amber
Sent: Tuesday, May 24, 2022 1:59 PM
To: Dunn, Lisa J <Lisa.Dunn@nlrb.gov>; Larkin, Kurt G. <klarkin@hunton.com>; rsingla@workingpeopleslaw.com; jmirer@julienmirer.com; rjulien@julienmirer.com; emilner@simonandmilner.com
 Hearing Officer Dunn,

Regarding the court reporter that the NLRB Regional Office is responsible for hiring, will they be able to provide daily and real time transcription?

Thanks,

Amber

Amber Rogers
Partner
arothers@HuntonAK.com
p 214.468.3308
bio | vCard
Hunton Andrews Kurth LLP
Fountain Place
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
HuntonAK.com

Communication is confidential. If you are not an intended recipient, please advise by return email immediately and then delete this message, including all copies and backups.

From: Dunn, Lisa J <Lisa.Dunn@nlrb.gov>
Sent: Monday, May 23, 2022 6:31 PM
To: Rogers, Amber <arothers@hunton.com>; Larkin, Kurt G. <klarkin@hunton.com>; rsingla@workingpeopleslaw.com; jmirer@julienmirer.com; rjulien@julienmirer.com; emilner@simonandmilner.com; Meyers, Kerstin <Kerstin.Meyers@nlrb.gov>
Cc: Doyle, Christopher J. <mailto:Christopher.Doyle@nlrb.gov>
General Counsel Abruzzo:

Pursuant to Rule 102.118, attached is Amazon’s request for testimony from Region 29 personnel related to the objections hearing in case 29-RC-288020. The request is also being sent to you via overnight delivery.

Please let us know if you have any questions, or want to discuss Amazon’s letter. We appreciate your prompt attention to this matter.

Best regards,

Amber Rogers
June 7, 2022

Via Email and Overnight Delivery

Jennifer A. Abruzzo
General Counsel
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Re: Request for Witness Testimony in 29-RC-288020—Amazon.com Services LLC and Amazon Labor Union

General Counsel Abruzzo:

Pursuant to 29 C.F.R. § 102.118, counsel for Amazon.com Services LLC ("Amazon") hereby requests witness testimony from the of NLRB Region 29 personnel listed below in order to present evidence of Amazon’s objections to the election at the upcoming hearing in Case 29-RC-288020 - Amazon.com Services LLC and Amazon Labor Union, currently scheduled to begin via video conference on Monday, June 13, 2022 before a Hearing Officer from the NLRB's Region 28 Offices in Phoenix, AZ 2600 North Central Avenue, Suite 1400, Phoenix, AZ 85004-3099.

On April 14, 2022 you transferred this case from Region 29 because a number of Amazon’s objections assert that both the Regional Director of Region 29 and various Board Agents engaged in objectional conduct including, but not limited to, improper docketing of the petition, inappropriately seeking 10(j) injunction a week before the election and specifically tying the unrelated 10(j) injunction to the election, making public statements that call into question the Region’s “neutral” stance during the election, taking steps - whether intended or not - to disenfranchise voters, and making statements - whether intended or not – purporting to support the Union’s cause in front of voters. For the Hearing Officer to make a comprehensive
and accurate report, as required by the Board’s rules and policies, as to the merit of Amazon’s election objections, it is necessary that the Office of the General Counsel permit the testimony of the following Region 29 Board personnel:

1. Regional Director Kathy Drew-King
2. Ioulia Federova
3. Teresa Poor
4. Annie Hsu
5. Emily Cabrera
6. Matthew Jackson
7. Evamaria Cox
8. John Mickley
9. Nancy K. Reibstein
10. Kate Anderson
11. Tara O’Rourke
12. Any other employee of Region 29 (or another Region) that attended the election on March 25, 26, 28, 29, 30.

Amazon seeks permission to obtain Board Agent testimony in order to assist the presentation of evidence that Region 29 significantly deviated from its standard procedures in pursuing unfair labor practice charges against Amazon and significantly deviated and in its process for holding a union election.

Testimony from Kathy Drew-King, as the individual responsible for initiating the 10(j) injunction, Matthew Jackson, Evamaria Cox, Emily Cabrera, Tara O’Rourke, as well as all Region 29 personnel involved in this matter is necessary in order to present evidence that Region 29 significantly delayed filing of its 10(j) injunction petition in *Drew-King v. Amazon.com Services LLC*, E.D.N.Y., No. 22-01479 and delayed investigation of other unfair labor practice charges through the critical election period. Region 29’s public comments about Amazon and its decision to delay filing the injunction or to investigate unfair labor practice charges reasonably tended to suggest that Region 29 may have failed to protect the integrity and neutrality of its procedures and decision making in the election process. The requested testimony of Board personnel is essential to this hearing in order for the Hearing Officer to adequately determine the process and reasoning behind Region 29’s decision to deviate from published Board guidance and whether Region 29’s failure to follow standard Board procedures for unfair labor practice charges was due to the Region’s failure to remain adequately neutral and impartial in the election process.

Testimony from Ioulia Fedorova as the Board Agent assigned to handle Case 29-RC-288020, Teresa Poor, John Mickley, Emily Cabrera, Annie Hsu, Kate Anderson, Nancy Reibstein, as well as all Region 29 personal involved in conducting and overseeing the election,
is necessary to present evidence that Region 29 significantly deviated from its standard Board election procedures by: 1) allowing the Union’s petition to proceed to election despite knowing that the Union did not have the required 30% showing of interest in the petitioned-for unit, 2) allowing the Union to continue gathering and submitting late signatures to bolster its insufficient showing on interest, 3) unilaterally altering the scope and size of the petitioned-for unit which enabled the Region to validate the Union’s showing of interest, and 4) the Region’s failure to adequately plan for, staff, and monitor the election. Region 29’s actions, which followed public threats and comments made by the Union about the Board, reasonably tend to suggest that Region 29 may have failed to protect the integrity and neutrality of its procedures and decision making in the election process. The requested testimony of Board personnel is essential to this hearing in order for the Hearing Officer to adequately determine the process and reasoning behind Region 29’s decisions to deviate from published Board guidance, the Board’s Rules and Regulations, and whether Region 29’s failure to follow standard Board election procedure was due to theRegion’s failure to remain adequately neutral and impartial in the election process.

The requested testimony is essential to for the Hearing Officer to create an accurate factual record of the conduct alleged in Amazon’s Objections. At this hearing the need for the requested testimony greatly outweighs any Board policy on prohibiting testimony from Board employees. Furthermore, the mere incantation by the general counsel of the NLRB agent’s privilege is not conclusive in preventing testimony of Board personnel. And according to Board guidance, the board historically has “routinely granted” requests such as “when a party to a representation case alleges that Board agent conduct has interfered with the conduct of an election and Board agent testimony regarding the issues is necessary to develop a complete record.” The circumstances surrounding the election and content of Amazon’s Objections requires that the Board produce evidence explaining Region 29’s conduct that appears bias on its face. Failure to permit this testimony will compromise the Hearing Officer’s ability to develop a comprehensive record.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments

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1 M.S.P. Indus., Inc. v. NLRB, 568 F.2d 166, 178 (10th Cir. 1977).
2 GC Memo 94-14 at 1-2.
June 7, 2022

Via Certified Mail, Return Receipt Requested
Kate Anderson
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020—Amazon.com Services LLC and Amazon Labor Union

Dear Ms. Anderson:

Enclosed please find a Subpoena ad testificandum [A-1-1FY0NRV]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

Also enclosed is our firm’s check for the standard NLRB witness fee. We realize that, by the time your testimony is finished, you may incur travel expenses greater than this amount. Accordingly, upon presentation of appropriate receipts, you may be reimbursed your reasonable travel expenses in connection with this matter.

Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Kate Anderson
100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)

in the City of

on at or any adjourned

or rescheduled date to testify in Amazon.com Services LLC

29-RC-288020

(Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board’s E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board’s E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board’s Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

A-1-1FY0NRV

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Phoenix, AZ

Dated: May 13, 2022

Lauren McFerran, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA). 26 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 mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.
RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☑ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business at

________________________________________

________________________________________

________________________________________

on the named person on

________________________________________

(Month, day, and year)

________________________________________

(Name of person making service)

________________________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

________________________________________

on

________________________________________

(Month, day or days, and year)

________________________________________

(Name of person certifying)

________________________________________

(Official title)
Check No. 68-2

Date: June 7, 2022

Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
501 East Byrd Street
Richmond, VA 23219-4074
804 • 788 • 6300

Pay to the Order of
Kate Anderson

Truist
Richmond, VA

$40.00

Payee: Kate Anderson
Vendor ID: [redacted]

Check #: [redacted]
Check Date: 06/07/22

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Check Total: $40.00
June 7, 2022

Via Certified Mail, Return Receipt Requested
Emily Cabrera
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020 – Amazon.com Services LLC and Amazon Labor Union

Dear Ms. Cabrera:

Enclosed please find a Subpoena ad testificandum [A-1-1G6EP8V]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

Also enclosed is our firm’s check for the standard NLRB witness fee. We realize that, by the time your testimony is finished, you may incur travel expenses greater than this amount. Accordingly, upon presentation of appropriate receipts, you may be reimbursed your reasonable travel expenses in connection with this matter.

Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To

Emily Cabrera

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by

Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is

Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE

a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of Phoenix, Arizona 85004

on June 13, 2022 at 10:00 a.m. (EST) or any adjourned

or rescheduled date to testify in

Amazon.com Services LLC

Case 29-RC-288020

(Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

A-1-1G6EP8V

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Phoenix, AZ

Dated: June 07, 2022

Lauren McFerran, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

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 mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.
RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☒ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business at


on the named person on

(Month, day, and year)

(Name of person making service)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)
| Vendor ID: |  |
| Payee: | Emily Cabrera |
| Check #: |  |
| Check Date: | 06/07/22 |
| Pay to the order of: | Emily Cabrera |

**INV060722BH**

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Check Total: $40.00
June 7, 2022

Via Certified Mail, Return Receipt Requested
Evamaria Cox
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020 — Amazon.com Services LLC and Amazon Labor Union

Dear Ms. Cox:

Enclosed please find a Subpoena ad testificandum [A-1-1G6AB57]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

Also enclosed is our firm’s check for the standard NLRB witness fee. We realize that, by the time your testimony is finished, you may incur travel expenses greater than this amount. Accordingly, upon presentation of appropriate receipts, you may be reimbursed your reasonable travel expenses in connection with this matter.

Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Evamaria Cox

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of Phoenix, Arizona 85004

on June 13, 2022 at 10:00 a.m. (EST) or any adjourned

or rescheduled date to testify in Amazon.com Services LLC

Case 29-RC-288020

(Case Name and Number)

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Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

A-1-1G6AB57

Issued at Phoenix, AZ

Dated: June 07, 2022

Lauren McFerran, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

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RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☐ by certified mail
☒ by registered mail
☐ by telegraph
☐ by leaving copy at principal office or place of business at

________________________________________________________

________________________________________________________

on the named person on

________________________________________________________

(Month, day, and year)

________________________________________________________

(Name of person making service)

________________________________________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

________________________________________________________

on

________________________________________________________

(Month, day or days, and year)

________________________________________________________

(Name of person certifying)

________________________________________________________

(Official title)
**Hunton Andrews Kurth LLP**  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA, 23219-4074  
804.786.8200

**Check No.**-

**Date:** June 7, 2022

Pay: Forty and 00/100

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**Truist**

Richmond, VA

 Void After 90 Days

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**Evamaria Cox**

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**Payee:** Evamaria Cox

**Vendor ID:**

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**Check #:**-

**Check Date:** 06/07/22

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**Check Total:** $40.00
June 7, 2022

Via Certified Mail, Return Receipt Requested
Kathy Drew-King
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020—Amazon.com Services LLC and Amazon Labor Union

Dear Ms. Drew-King:

Enclosed please find a Subpoena ad testificandum [A-1-1FY0M9Z]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

Also enclosed is our firm’s check for the standard NLRB witness fee. We realize that, by the time your testimony is finished, you may incur travel expenses greater than this amount. Accordingly, upon presentation of appropriate receipts, you may be reimbursed your reasonable travel expenses in connection with this matter.

Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Kathy Drew-King, Regional Director, NLRB Regional Office 29

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)

in the City of Phoenix, Arizona 85004

on June 13, 2022 at 10:00 a.m. (EST) or any adjourned

or rescheduled date to testify in Amazon.com Services LLC

29-RC-288020 (Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board’s E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board’s E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board’s Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

A-1-1FY0M9Z

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Phoenix, AZ

Dated: May 13, 2022

Lauren McFerran, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

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RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☐ by certified mail
✓ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business at

on the named person on

(Month, day, and year)

(Name of person making service)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)
Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074
804 • 788 • 8200

Pay to the Order of: Kathy Drew-King

Trust
Richmond, VA

Pay
Forty and 00/100

$40.00

Void After 90 Days

Payee: Kathy Drew-King
Vendor ID: 

Invoice # Reference # Inv Date Narrative Invoice Amount Discount Amount Withheld Amount Amount Paid

INVO07/22BH 06/07/22 witness fees 40.00

Check Total: $40.00

Date: June 7, 2022
Check No. 

Check #: 06/07/22
Check Date: 06/07/22
June 7, 2022

Via Certified Mail, Return Receipt Requested

Ioulia Federova
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020 – Amazon.com Services LLC and Amazon Labor Union

Dear Ms. Federova:

Enclosed please find a Subpoena ad testificandum [A-1-1FY0MIL]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

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Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To: Ioulia Federova
100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201
As requested by: Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is: Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of Phoenix, Arizona 85004
on June 13, 2022 at 10:00 a.m. (EST) or any adjourned
or rescheduled date to testify in Amazon.com Services LLC
29-RC-288020 (Case Name and Number)

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Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

A-1-1FY0MIL

Issued at Phoenix, AZ
Dated: May 13, 2022

Lauren M. Ferraro, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

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RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☑ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business at

__________________________________________________________

__________________________________________________________

on the named person on

__________________________

(Month, day, and year)

__________________________

(Name of person making service)

__________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

__________________________

on

__________________________

(Month, day or days, and year)

__________________________

(Name of person certifying)

__________________________

(Official title)
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Check Total: $40.00
June 7, 2022

**Via Certified Mail, Return Receipt Requested**

Annie Hsu
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020 – Amazon.com Services LLC and Amazon Labor Union

Dear Ms. Hsu:

Enclosed please find a Subpoena ad testificandum [A-1-1G6ERQB]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

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Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

*Kurt G. Larkin and Amber M. Rogers*

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Annie Hsu

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of Phoenix, Arizona 85004

on June 13, 2022 at 10:00 a.m. (EST) at or any adjourned

or rescheduled date to testify in

Amazon.com Services LLC
Case 29-RC-288020

(Case Name and Number)

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A-1-1G6ERQB

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Phoenix, AZ

Dated: June 07, 2022

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RETURN OF SERVICE

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☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business
at

__________________________

__________________________

on the named person on

__________________________

(Month, day, and year)

__________________________

(Name of person making service)

__________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

__________________________

on

__________________________

(Month, day or days, and year)

__________________________

(Name of person certifying)

__________________________

(Official title)
Hunton Andrews Kurth LLP

Pay: Forty and 00/100

Truist
Richmond, VA

Payee: Annie Hsu
Vendor ID: [Redacted]

NON-NEGOTIABLE

Check #: [Redacted]
Date: June 7, 2022
Check Date: 06/07/22

Pay to the Order of: Annie Hsu

Check Total: $40.00

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Check # 40: 40.00

Void After 90 Days

$40.00
June 7, 2022

Via Certified Mail, Return Receipt Requested
Matthew Jackson
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020 – Amazon.com Services LLC and Amazon Labor Union

Dear Mr. Jackson:

Enclosed please find a Subpoena ad testificandum [A-1-1G6ENXD]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

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Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Matthew Jackson

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of Phoenix, Arizona 85004

on June 13, 2022 at 10:00 a.m. (EST) at or any adjourned

to testify in Amazon.com Services LLC

Case 29-RC-288020

(Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

A-1-1G6ENXD

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Phoenix, AZ

Dated: June 07, 2022

Lauren McFerran, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

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RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☑ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business at


on the named person on

(Month, day, and year)

(Name of person making service)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)
Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
991 East Byrd Street
Richmond, VA 23219-4074
68-2
510
Pay: Forty and 00/100

Truist
Richmond, VA
Void After 90 Days

PAY TO THE ORDER OF: Matthew Jackson

Payee: Matthew Jackson
Vendor ID: 

Invoice #: INV/060722BH
Reference #: 
Inv Date: 06/07/22
Narrative: witness fees

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Check Total: $40.00

Check No. 
Date: June 7, 2022

Check #: 
Check Date: 06/07/22
June 7, 2022

Via Certified Mail, Return Receipt Requested

John Mickley
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020 – Amazon.com Services LLC and Amazon Labor Union

Dear Mr. Mickley:

Enclosed please find a Subpoena ad testificandum [A-1-1G6EE1J]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

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Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To  John Mickley

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by  Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is  Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

(Street)  (City)  (State)  (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE  a Hearing Officer

of the National Labor Relations Board

at  2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)

in the City of  Phoenix, Arizona 85004

on  June 13, 2022 at 10:00 a.m. (EST)  at  or any adjourned

or rescheduled date to testify in  Amazon.com Services LLC

Case 29-RC-288020

(Case Name and Number)

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Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

A-1-1G6EE1J

Issued at  Phoenix, AZ

Dated:  June 07, 2022

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RETURN OF SERVICE

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☐ by person
☐ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business at

______________________________

______________________________

______________________________

on the named person on

______________________________

(Month, day, and year)

______________________________

(Name of person making service)

______________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

______________________________

on

______________________________

(Month, day or days, and year)

______________________________

(Name of person certifying)

______________________________

(Official title)
Check No.:

Date: June 7, 2022

Forty and 00/100 $40.00

Truist
Richmond, VA

Payee: John Mickley
Vendor ID: [redacted]

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Check Total: $40.00
June 7, 2022

Via Certified Mail, Return Receipt Requested
Tara O’Rourke
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020–Amazon.com Services LLC and Amazon Labor Union

Dear Ms. O’Rourke:

Enclosed please find a Subpoena ad testificandum [A-1-1FY0OC5]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

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Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Tara O'Rourke

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)

in the City of Phoenix, Arizona 85004

on June 13, 2022 at 10:00 a.m. (EST) or any adjourned

or rescheduled date to testify in Amazon.com Services LLC

29-RC-288020 (Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board’s E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board’s E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board’s Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R, Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

A-1-1FY0OC5

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Phoenix, AZ

Dated: May 13, 2022

Lauren McFerran, Chairman

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

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RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☑ by certified mail
☐ by registered mail
☐ by telegraph

(Check method used.)

☐ by leaving copy at principal office or place of business at

____________________________________

____________________________________

____________________________________

on the named person on

____________________________________

(Month, day, and year)

____________________________________

(Name of person making service)

____________________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

____________________________________

on

____________________________________

(Month, day or days, and year)

____________________________________

(Name of person certifying)

____________________________________

(Official title)
Hunton Andrews Kurth LLP

Riverfront Place, East Tower
951 East Byrd Street
Richmond, VA 23219-4074
804-788-8200
882-510

Pay: Forty and 00/100

$***40.00***

Trust
Richmond, VA

Pay to the order of: Tara O'Rourke

Vendor ID: [Redacted]

Payee: Tara O'Rourke

Check #: [Redacted]

Check Date: 06/07/22

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Check Total: $40.00

Void After 90 Days
June 7, 2022

Via Certified Mail, Return Receipt Requested
Teresa Poor
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020– Amazon.com Services LLC and Amazon Labor Union

Dear Ms. Poor:

Enclosed please find a Subpoena ad testificandum [A-1-1FY0P7T]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

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Please feel free to contact me should you have any questions. We appreciate your cooperation in this matter.

Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Teresa Poor
100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer
of the National Labor Relations Board

at 2600 North Central Avenue, Suite 1400 (via Zoom or other platform deemed appropriate by the Hearing Officer)
in the City of

on ___________________________ at __________________ or any adjourned

or rescheduled date to testify in Amazon.com Services LLC
29-R-C-288020 (Case Name and Number)

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A-1-1FY0P7T

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Phoenix, AZ

Dated: May 13, 2022

Lauren McFerran, Chairman

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RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

☐ by person
☑ by certified mail
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☐ by telegraph

(Check method used.) ☐ by leaving copy at principal office or place of business at

________________________________________________________

________________________________________________________

on the named person on

________________________________________________________

(Month, day, and year)

________________________________________________________

(Name of person making service)

________________________________________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

________________________________________________________

on

________________________________________________________

(Month, day or days, and year)

________________________________________________________

(Name of person certifying)

________________________________________________________

(Official title)
Hunton Andrews Kurth LLP

Date: June 7, 2022

Payee: Teresa Poor

Check #:

Vendor ID:

Check Date: 06/07/22

Invoice #: INV0028888

Reference #: 06/07/22

Inv Date: 06/07/22

Narrative: witness fees

Invoice Amount: 40.00

Discount Amount: 0.00

Withheld Amount: 0.00

Amount Paid: 40.00

Check Total: $40.00

Truist

Richmond, VA

Void After 90 Days

Pay

Forty and 00/100

$ 40.00

TO THE ORDER OF:

Teresa Poor
June 7, 2022

Via Certified Mail, Return Receipt Requested
Nancy K. Reibstein
100 Myrtle Avenue, Suite 5100
Brooklyn, NY 11201-4201

Re: 29-RC-288020 – Amazon.com Services LLC and Amazon Labor Union

Dear Ms. Reibstein:

Enclosed please find a Subpoena ad testificandum [A-1-1G6AAWB]. The Subpoena ad testificandum directs you to appear at the hearing in the above styled case on Monday, June 13, 2022, beginning at 10:00 a.m. EST, or, if the hearing is postponed to a later date, on that later date, at 2600 North Central Avenue, Suite 1400, Phoenix, Arizona 85004. The hearing will be conducted via Zoom or another video conference platform deemed appropriate by the Hearing Officer and you will be provided further information regarding a link.

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Sincerely,

Kurt G. Larkin and Amber M. Rogers

Kurt G. Larkin
Amber M. Rogers

Attachments
SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Nancy K. Reibstein

100 Myrtle Avenue, Suite 5100, Brooklyn, NY 11201-4201

As requested by Amazon.com Services LLC c/o Hunton Andrews Kurth LLP

whose address is Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219

 (Street) (City) (State) (ZIP)

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Case 29-RC-288020

(Case Name and Number)

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A-1-1G6AAWB

Issued at Phoenix, AZ

Dated: June 07, 2022

Lauren McFerran, Chairman

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(Check method used.)

☐ by leaving copy at principal office or place of business at

__________________________

__________________________

on the named person on

__________________________

(Month, day, and year)

__________________________

(Name of person making service)

__________________________

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

__________________________

on

__________________________

(Month, day or days, and year)

__________________________

(Name of person certifying)

__________________________

(Official title)
Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA, 23219-4074
804 • 788 • 8200
66-2
919

Pay: Forty and 00/100

Check No.:

Trust
Richmond, VA

PAY TO THE ORDER OF: Nancy K Reibstein

$ 40.00

Check #: 06/07/22

Payee: Nancy K Reibstein
Vendor ID:

Invoice # Reference # Inv Date Narrative
INV060722BH

Invoiced Amount Discount Amount Withheld Amount Amount Paid

40.00

Check Total: $40.00
June 10, 2022

Kurt G. Larkin, Attorney at law
Hunton Andrews Kurth LLP
951 East Byrd Street, Suite 700
Richmond, VA 23219
Via email to: klarkin@huntonAK.com

Amber M. Rogers, Attorney at Law
Hunton Andrews Kurth LLP
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
Via email to: arogers@huntonAK.com

Re: Amazon.com Services, LLC
Case 29-RC-288020

Dear Mr. Larkin and Ms. Rogers:

I am writing in response to your June 7, 2022, letter requesting, pursuant to Section 102.118 of the Board’s Rules and Regulations, consent to allow employees from Region 29, to testify at the Hearing on Objections scheduled for the above-captioned matter on June 14, 2022. Your objections concern allegations that Region 29 significantly deviated from its standard procedures in pursuing unfair labor practice charges against Amazon and significantly deviated and in its process for holding a union election.

After careful consideration, I am denying your request. Absent a showing of most unusual circumstances, it is the policy of the Office of the General Counsel not to permit Board agents to testify as witnesses with respect to the processing of unfair labor practice or representation cases. Laidlaw Transit, Inc., 327 NLRB 315, 316 (1998). The reason for this policy is that the highly sensitive and delicate role of Board agents in investigating and processing such cases would be seriously undermined if a real likelihood existed of a Board agent becoming enmeshed as a witness in a Board proceeding with respect to matters related to the processing of cases. Frank Invaldi, et al., A California Limited Partnership d/b/a Sunol Valley Golf and Recreation Co., 305 NLRB 493 (1991).
Your request does not provide a clear basis that would warrant a deviation from this policy. The timing of the 10(j) proceedings is a matter of record. You are free to present evidence that the timing affected the Region’s appearance of neutrality to voters. The Region’s internal deliberations and decision-making process is not necessary to determine whether there was the claimed effect on voters.

I also note that, the testimony you seek relating to the Region’s determination with respect to the showing of interest is unnecessary. NLRB Casehandling Manual, Part 2 Representation Proceedings (September 2020), Section 11028.4 Postelection Challenges provides:

   After an election has been held, the adequacy of the showing of interest is irrelevant. Gaylord Bag Co., 313 NLRB 306 (1993). Accordingly, challenges to the adequacy of the showing of interest may not be raised after an election has been held.

Moreover, you have not established that the testimony of Board staff is necessary for you to introduce evidence as to the conduct of the election. If aspects of the conduct of the election impacted employees, there would be employee witnesses you may call to testify and a record can be created without need for testimony from Region 29 personnel. The request for testimony from Regional personnel is premature.

Accordingly, your request under Section 102.118 that I authorize Board personnel in Region 29 to testify is denied. My determination is without prejudice to your renewing your request supported by additional facts or argument.

Sincerely,

Jennifer A. Abruzzo
General Counsel

By: /s/ Joan A. Sullivan
    Joan A. Sullivan
    Associate General Counsel

cc: Kathy Drew-King, Regional Director
    Region 29
UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

AMAZON.COM SERVICES LLC
Employer

and

AMAZON LABOR UNION
Petitioner

Case 29-RC-288020

ORDER DENYING MOTION TO EXCLUDE REGION 29'S PARTICIPATION IN THE POST-ELECTION OBJECTIONS HEARING

On June 1, 2022, the Employer filed its Motion to Exclude Region 29's Participation in the Post-Election Objections Hearing Through Appointment of a “Representative” (Employer's Motion), seeking that the Regional Director for Region 29, Kathy Drew-King, be prohibited from having a representative in the post-election objections hearing, denying Regional Director Drew-King special status in the proceeding, and barring Regional Director Drew-King from accessing the Employer’s offer of proof. The Employer’s Motion also requests the removal of Field Attorney Kerstin Meyers from acting as the Regional Director’s representative in the post-election hearing.

In support of its position, the Employer argues that the Regional Director for Region 29 is not a party to the matter under the National Labor Relations Board’s Rules and Regulations (Board’s Rules) and therefore is not entitled to appear at the post-election objections hearing either by counsel or other representative. However, the Employer admits that the Board’s Rules would permit the Regional Director of Region 28 to appoint a representative to appear at the hearing on my behalf.
The Employer further argues that Regional Director Drew-King should not be entitled to access or view the Employer’s offer of proof because Region 29 is not a party to the matter, Region 29 is not conducting the administrative investigation of the Employer’s objections, and Regional Director Drew-King is a potential fact witness in the post-election hearing. Finally, the Employer argues that appointing Field Attorney Kerstin Meyers as the Regional Director’s representative, whether for Region 28 or Region 29, is inappropriate because Field Attorney Meyers previously acted as the Hearing Officer for Case 10-RC-269250 concerning objections to the conduct of an election at the Employer’s Bessemer, Alabama facility, so her participation in the instant proceeding would give the appearance of partiality.

I find that the Employer’s arguments are wholly without merit, and I shall address each of them in turn.

First, the Employer’s contention that Regional Director Drew-King is not a party to the proceeding and not entitled to a representative is contrary to long-standing Board procedure. Section 102.1(h) of the Board’s Rules defines “Party” as “the Regional Director in whose Region the proceeding is pending and any person ... properly seeking and entitled as of right to be admitted as a party[.] ...”. See also Sections 101.30(b) and 101.30(d) of the Board’s Statements of Procedure.1

In this case alleging misconduct by both Regional Director Drew-King and the Regional Office staff, Regional Director Drew-King is entitled to have a representative appear at the hearing to defend and explain the conduct that the Employer alleges to be objectionable. To find

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1 Section 101.30(b), which addresses pre-election hearings, states in relevant part, “The parties are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions [..]. Section 101.30(d) explains that the rights afforded to parties in pre-election hearings are applicable in post-election hearings. (“The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots as is described in connection with the postelection procedures in representation cases under section 9(c) of the Act.”)
otherwise would mean that other parties, such as a union representative accused of conduct interfering with the results of the election, would also not be entitled to be represented at the hearing or know the allegations made against them. Prohibiting parties from defending themselves is not the purpose of the Board's procedures. See Section 101.30(b) of the Board's Statements of Procedure ("The hearing ... is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case."). (emphasis added).

Furthermore, although not officially adopted by the Board, the Agency's casehandling manual codifies the consistent practices of the Agency when processing representation petitions. Under Casehandling Manual (Part Two) Representation Proceedings Section 11424, during a post-election hearing where no unfair labor practices are involved, "the Regional Director may also assign a Board agent designated as representative of the Regional Director to appear at the hearing to see that evidence adduced during the region's investigation becomes part of the record." See also, Casehandling Manual (Part Two) Section 11424.4 (b) ("the primary function of a representative of the Regional Director is to see that the relevant evidence adduced during the region's administrative review becomes part of the record ... [t]he representative may voice objections; cross-examine, call and question witnesses; and call for and introduce appropriate documents."); Outline of Law and Procedure in Representation Cases Section 22-119 ("[t]he regional director may assign an attorney as counsel for the Region at the hearing. The functions and duties of the ... counsel for the Region, if there is one, [is] in [Casehandling Manual Part Two] section 11424.4."). Clearly, the functions and powers of the Regional Director's representative are identical to those of the employer and petitioner in a post-election hearing and
thus contending that the Regional Director is not a party is contrary to the only logical interpretation of the Board’s practices and procedures.

Moreover, the Agency’s experience with processing representation petitions and holding post-election objections hearings shows that the long-standing procedure is to permit the Regional Director of the Regional Office accused of misconduct to designate a representative for the hearing. See, e.g., *Fox Television Stations, LLC*, Case 28-RD-274741 (Regional Office afforded representative at post-election hearing where the objection alleged was Board agent misconduct); *Patient Care of Pennsylvania, Inc.*, Case 4-RC-101021 (same), *approved in 360 NLRB* No. 76 (2014); *Polymers, Inc.* 174 NLRB No. 42 (1969) (Board upholds Regional Director’s decision on objections addressing his own Regional Office misconduct) *enfd.* *Polymers, Inc.* v. *NLRB*, 414 F.2d 999 (2nd Cir. 1969). The Agency’s policy is well known to the Board and the Board has never taken the opportunity to clarify or limit the participation of the Regional Director’s representative from the Region accused of the objectionable conduct.²

The Employer has presented no compelling reason to find that the facts of this case or the offer of proof warrant a deviation from the Board’s well-established practice. In fact, the Employer has pointed to no Board decision, reviewing court case, or general practice of the Agency, that would support its assertion that the Regional Office accused of misconduct cannot have a representative at the post-election hearing where that Regional Office’s conduct is at issue. Indeed, if the Employer’s logic is extended, the Board could determine to bar any respondent attorney or party representative accused of engaging in, for example, unfair labor practice misconduct from attending an unfair labor practice hearing as well. Although a

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² To the extent that the Employer may argue that the Board’s Rules only allow a single Regional Director representative to be appointed, I find this contention wholly without merit. To find a restriction of this manner would similarly require that I conclude that the Board’s references to “a party representative” would allow only a single individual to represent each party at the hearing, which is patently incorrect.
counterargument could be made that the two cases are different because in the case of the Regional Director, the right to have a representative at the hearing is not explicitly set forth in the Board’s Rules and Regulations, while the right to representation is definitively guaranteed to a respondent by the Board’s Rules, this is distinction without a difference. The principle is the same: The accused has a right to face his or her accuser and respond. This is a bedrock principle of judicial and the administrative process. Otherwise put, the Employer’s request to exclude the Regional Director stands in stark contrast to basic principles of fair play and justice. Although I am mindful of the Employer’s concerns about certain Board policies and procedures, those concerns alone cannot be the basis for deviating from standard, universal Board processes.

I therefore decline to exclude Region 29 from having a Regional Director representative at the hearing or barring Region 29 from exercising its right to act as a party at the hearing. 3

Because Regional Director Drew-King is permitted to have a representative at the post-election hearing, it is likewise appropriate for her representative to view the Employer’s offer of proof to prepare for the hearing. See Casehandling Manual (Part Two) Sections 11424.4(a) and 11424.4(b). 4

Similarly, Section 102.69(a) of the Board’s Rules, cited by the Employer that the Regional Director shall not serve the offer of proof on the other parties, is argued without context. It is clear from Casehandling Manual (Part Two) Section 11392.6 that the Regional Director is supposed to serve a courtesy copy of the objections on the other parties, but not the offer of proof identifying witnesses and summarizing testimony. This practice mirrors the

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3 In any event, the Employer admits that I may appoint a Regional Office representative to appear at the hearing and so I may choose the same Board Agents as the Regional Director of Region 29, resulting in essentially the same outcome.

4 Section 11424.4(a) states in relevant part, “The representative of the regional director, if one is utilized (Sec. 11424), should be thoroughly familiar with the contents of the regional office case file. [. . . ]” Section 11424.4(b) states in relevant part, “As indicated in Sec. 11424, the primary function of a representative of the regional director is to see that relevant evidence adduced during the region’s administrative review becomes part of the record. During the hearing, the file should be in his/her possession. [. . . ]”
Agency's policies for unfair labor practice cases where the Regional Office serves a courtesy copy of the charge notifying the charged party of the allegations against it but would not divulge the specific facts presented in support of the charge. See Casehandling Manual (Part One) Unfair Labor Practice Proceedings Sections 10012.8 and 10054.4. The purpose for these policies is embedded in Section 102.118 of the Board's Rules, which prohibits the release of case file documents in the possession of the Agency to outside individuals without the written permission of the Board or the General Counsel. However, there is nothing that prevents any Board Agent from viewing any document in the Regional Office case files, even those case files from Regions other than their own. So too is the Regional Director's representative in this case allowed to view the Board's case files to prepare for the hearing.

However, I have determined that the offer of proof will remain available only to Region 28 personnel, Division of Operations Management staff, and the Regional Director's representative(s). I am imposing this restriction not because the Board's Rules require it, but as a particular precaution in this case. Accordingly, I have taken steps to ensure that no one outside of the above individuals can access the casefile. These deviations from normal practice are only made from an abundance of caution and do not signal a change in the Board's policies in any other matter. I further find that any additional deviation is unwarranted based on the reasons currently presented to me.

Finally, as the Employer is aware, Field Attorney Meyers is no longer acting as the Regional Director's representative in this case. Notwithstanding that the Employer has identified no particular reason why Field Attorney Meyers could not act impartially in this case, except that it seems to disagree with her prior decisions. Nevertheless, the assignment of alternative Board
Agents to act as the Regional Director's representative renders the issue moot. I, therefore, deny the Employer's Motion in this respect.

Accordingly,

**IT IS ORDERED** that the Employer's Motion be, and the same is, denied.

Dated in Phoenix, Arizona on the 10th day of June, 2022.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director
National Labor Relations Board, Region 28