FORM NLRB-501 I.O.

FORM EXEMPT UNDER 44 U.S.C. 3512

UNITED STATES OF AMERICA

NATIONAL LABOR RELATIONS BOARD

CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 29-CA-260062	Date Filed May 6, 2020

INSTRUCTIONS

File an original and 4 copies of this charge with National Labor Relations Board Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer		b. Number of workers employed
Amazon.com Services, Inc.		10,000
c. Address (street, city, state, ZIP code) 1 Bulova Avenue, Woodside, New York 11377	d. Employer Representative Eden Rosario. Mgr.	e. Telephone No. & Fax No. unknown
f. Type of Establishment (factory, mine, wholesaler, etc.) Warehouse	g. Identify principal product or service Online Order Fulfillment	

h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsection (1) of the National Labor Relations Act.

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

Since on or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, promulgated and maintained a rule prohibiting employees from engaging in protected, concerted activities without prior notification to management in order to discourage employees from engaging in protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, threatened to issue written warnings to employees in retaliation for their protected, concerted activities.

On or about (b) (6), (b) (7)(C), the above-named Employer, by its officers, agents, and representatives, issued a written warning to an employee in retaliation for [redacted] protected, concerted activities.

On or about (b) (6), (b) (7)(C), the above-named Employer, by its officers, agents, and representatives, changed job assignments of employees in retaliation for their protected, concerted activities.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
(b) (6), (b) (7)(C)

4a. Address (street and number, city, state and ZIP code)	4b. Telephone No. & Fax No.
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization.

6. DECLARATION

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

By (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) An Individual

Address : Same As Above

Telephone No Same As Above

Date 5/6/20

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

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

Download NLRB Mobile App

May 7, 2020

(b) (6), (b) (7)(C)
[redacted]

Re: Amazon.com Services, Inc.
Case 29-CA-260062

Dear [redacted]:

The charge that you filed in this case on May 06, 2020 has been docketed as case number 29-CA-260062. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Evamaria Cox whose telephone number is (718)765-6172. If this Board agent is not available, you may contact Supervisory Attorney NANCY LIPIN whose telephone number is (718)765-6208.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody

or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

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

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

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

KATHY DREW-KING
Regional Director

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

Download
NLRB
Mobile App

May 7, 2020

Eden Rosario, Mgr.
Amazon.com Services, Inc.
1 Bulova Avenue
Woodside, NY 11377

Re: Amazon.com Services, Inc.
Case 29-CA-260062

Dear Sir or Madam:

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

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If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

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

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

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

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

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

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

KATHY DREW-KING
Regional Director

Enclosures:
1. Copy of Charge
2. Commerce Questionnaire

Revised 3/21/2011

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

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

CASE NAME	CASE NUMBER
	29-CA-260062

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

2. TYPE OF ENTITY

[ ] CORPORATION [ ] LLC [ ] LLP [ ] PARTNERSHIP [ ] SOLE PROPRIETORSHIP [ ] OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

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

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

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

7. A. PRINCIPAL LOCATION:	B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:	B. At the address involved in this matter:

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

	YES	NO
A. Did you **provide services** valued in excess of $50,000 directly to customers outside your State? If no, indicate actual value. $		
B. If you answered no to 9A, did you **provide services** valued in excess of $50,000 to customers in your State who purchased goods valued in excess of $50,000 from directly outside your State? If no, indicate the value of any such services you provided. $		
C. If you answered no to 9A and 9B, did you **provide services** valued in excess of $50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than $50,000, indicate amount. $		
D. Did you **sell goods** valued in excess of $50,000 directly to customers located outside your State? If less than $50,000, indicate amount. $		
E. If you answered no to 9D, did you **sell goods** valued in excess of $50,000 directly to customers located inside your State who purchased other goods valued in excess of $50,000 from directly outside your State? If less than $50,000, indicate amount. $		
F. Did you **purchase and receive goods** valued in excess of $50,000 from directly outside your State? If less than $50,000, indicate amount. $		
G. Did you **purchase and receive goods** valued in excess of $50,000 from enterprises who received the goods directly from points outside your State? If less than $50,000, indicate amount. $		
H. **Gross Revenues** from all sales or performance of services ***(Check the largest amount)*** [ ] $100,000 [ ] $250,000 [ ] $500,000 [ ] $1,000,000 or more If less than $100,000, indicate amount.		
I. **Did you begin operations within the last 12 months?** If yes, specify date:		

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

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

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

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE *(Type or Print)*	SIGNATURE	E-MAIL ADDRESS	DATE

PRIVACY ACT STATEMENT

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

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMAZON.COM SERVICES, INC. Charged Party and (b) (6), (b) (7)(C) Charging Party	**Case 29-CA-260062**

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on May 7, 2020**,** I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Eden Rosario, Mgr.
Amazon.com Services, Inc.
1 Bulova Avenue
Woodside, NY 11377

May 7, 2020	Linette Gayle, Designated Agent of NLRB
Date	Name
	/S/ Lilly Banks
	Signature

FORM NLRB-4701
(9-03)

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, Inc.

and

CASE 29-CA-260062

☒ **REGIONAL DIRECTOR**

☐ **EXECUTIVE SECRETARY**
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ **GENERAL COUNSEL**
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Employer, Amazon.com Services, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ **REPRESENTATIVE IS AN ATTORNEY**

☐ **IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.**

(REPRESENTATIVE INFORMATION)

NAME: Michael E. Lignowski

MAILING ADDRESS: Morgan, Lewis & Bockius, LLP, 1701 Market Street, Philadelphia, PA 19103

E-MAIL ADDRESS: michael.lignowski@morganlewis.com

OFFICE TELEPHONE NUMBER: 215.963.5455

CELL PHONE NUMBER: _____ ***FAX:*** 215.963.5001

SIGNATURE: _____
(Please sign in ink.)

DATE: May 8, 2020

[1] IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

FORM NLRB-4701
(9-03)

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, Inc.

and

CASE 29-CA-260062

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF

Employer, Amazon.com Services, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Ross H. Friedman

MAILING ADDRESS: Morgan, Lewis & Bockius, LLP, 77 West Wacker Drive, Chicago, IL 60601

E-MAIL ADDRESS: ross.friedman@morganlewis.com

OFFICE TELEPHONE NUMBER: 312.324.1172

CELL PHONE NUMBER: *FAX:* 312.324.1001

SIGNATURE: Ross H. Friedman /s
(Please sign in ink.)

DATE: May 8, 2020

[1] IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

FORM NLRB-4701
(9-03)

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, Inc.

and

CASE 29-CA-260062

[x] REGIONAL DIRECTOR

[ ] EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

[ ] GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF

Employer, Amazon.com Services, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

[X] REPRESENTATIVE IS AN ATTORNEY

[ ] IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Andriette A. Roberts

MAILING ADDRESS: Morgan, Lewis & Bockius, LLP, 101 Park Avenue, New York, NY 10178-0060

E-MAIL ADDRESS: andriette.roberts@morganlewis.com

OFFICE TELEPHONE NUMBER: 212.309.6622

CELL PHONE NUMBER: _____ *FAX:* 212.309.6001

SIGNATURE: Andriette A. Roberts/S
(Please sign in ink.)

DATE: May 8, 2020

[1] IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

FIRST AMENDED

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
29-CA-260062	5/22/2020

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

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Amazon.com Services, Inc.		b. Tel. No. (312)324-1172 c. Cell No.
d. Address (street, city, state ZIP code) 1 Bulova Avenue, Woodside, NY 11377	e. Employer Representative Aiden Rosario Manager	f. Fax No. (312)324-1001 g. e-Mail ross.friedman@morganlewis.com h. Dispute Location (City and State) Woodside, NY
i. Type of Establishment (factory, nursing home, hotel) Warehouse	j. Principal Product or Service Online Order Fulfillment	k. Number of workers at dispute location 10000

l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section **8(a), subsections (1)** of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

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

Since on or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, directed employees not to engage in protected concerted activity without prior notification to management in order to discourage employees from engaging in protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, threatened to issue written warnings to employees in retaliation for their protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, implicitly threatened to discharge employees in retaliation for their protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, implicitly threatened employees with unspecified reprisal in retaliation for their protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, interrogated employees in retaliation for their protected, concerted activities.

On or about (b) (6), (b) (7)(C) 2020, the above-named Employer, by its officers, agents, and representatives issued a written warning to an employee in retaliation for (b) (6), protected, concerted activities.

On or around (b) (6), (b) (7)(C) 2020, the above-named Employer, by its officers, agents, and representatives, changed job assignments of employees in retaliation for their protected, concerted activities.

3. Full name of party filing charge (*if labor organization, give full name, including local name and number*)
(b) (6), (b) (7)(C) [redacted]

4a. Address (street and number, city, state, and ZIP code) (b) (6), (b) (7)(C) [redacted]	4b. Tel. No. 4c. Cell No. (b) (6), (b) (7)(C) 4d. Fax No. 4e. e-Mail (b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (*to be organization*)

6. DECLARATION **I declare that I have read the above charge and that the statements are true to the best of m** (b) (6), (b) (7)(C)		Tel. No.
B[redacted]	(b) (6), (b) (7)(C)	Office, if any, Cell No. (b) (6), (b) (7)(C)
(s[redacted]g charge)	Print Name and Title	Fax No.
Address: (b) (6), (b) (7)(C) [redacted]	Date: 05/21/2020	e-Mail (b) (6), (b) (7)(C)

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

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. (b) (6), (b) (7)(C)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

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June 4, 2020

Aiden Rosario, Mgr.
Amazon.com Services, Inc.
311 S. HIGHWAY 146
BAYTOWN, TX 77520

Re: Amazon.com Services, Inc.
Case 29-CA-260062

Dear Mr. Rosario:

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

Investigator: This charge is being investigated by Field Attorney Evamaria Cox whose telephone number is (718)765-6172. If the agent is not available, you may contact Supervisory Attorney NANCY LIPIN whose telephone number is (718)765-6208.

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

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

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

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its

determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

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

Very truly yours,

KATHY DREW-KING
Regional Director

Enclosure: Copy of first amended charge

cc: MICHAEL E. LIGNOWSKI, ESQ.
MORGAN, LEWIS & BOCKIUS, LLP
1701 Market St
Philadelphia, PA 19103-2901

Andriette A Roberts, Esquire
Morgan, Lewis & Bockius, LLP
101 Park Avenue, 37th Floor
New York, NY 10178

Ross H. Friedman, ESQ.
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, Suite 500
Chicago, IL 60601-5094

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMAZON.COM SERVICES, INC. Charged Party and (b) (6), (b) (7)(C) Charging Party	**Case 29-CA-260062**

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on June 4, 2020**,** I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Aiden Rosario, Mgr.
Amazon.com Services, Inc.
311 S. HIGHWAY 146
BAYTOWN, TX 77520

MICHAEL E. LIGNOWSKI, ESQ.
MORGAN, LEWIS & BOCKIUS, LLP
1701 Market St
Philadelphia, PA 19103-2901

Andriette A Roberts, Esquire
Morgan, Lewis & Bockius, LLP
101 Park Avenue, 37th Floor
New York, NY 10178

Ross H. Friedman, ESQ.
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, Suite 500
Chicago, IL 60601-5094

June 4, 2020	Tasha V. Fred, Designated Agent of NLRB
Date	Name
	/s/ Tasha V. Fred
	Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

Download
NLRB
Mobile App

June 4, 2020

(b) (6), (b) (7)(C)
[redacted]

Re: Amazon.com Services, Inc.
Case 29-CA-260062

Dear (b) (6), (b) (7)(C) [redacted]:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney Evamaria Cox whose telephone number is (718)765-6172. If the agent is not available, you may contact Supervisory Attorney NANCY LIPIN whose telephone number is (718)765-6208.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

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

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

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its

determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

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

Very truly yours,

KATHY DREW-KING
Regional Director

SECOND AMENDED

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
29-CA-260062	6/26/2020

INSTRUCTIONS:

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

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer		b. Tel. No.
Amazon.com Services, Inc.		(312)324-1172
		c. Cell No.
d. Address (street, city, state ZIP code)	e. Employer Representative	f. Fax No.
1 Bulova Avenue, Woodside, NY 11377	Aiden Rosario Manager	(312)324-1001
		g. e-Mail ross.friedman@morganlewis.com
		h. Dispute Location (City and State) Woodside, NY
i. Type of Establishment (factory, nursing home, hotel)	j. Principal Product or Service	k. Number of workers at dispute location
Warehouse	Online Order Fulfillment	10000

l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section **8(a), subsections (1)** of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

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

Since on or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, directed employees not to engage in protected concerted activity without prior notification to management in order to discourage employees from engaging in protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, threatened to issue written warnings to employees in retaliation for their protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, implicitly threatened to discharge employees in retaliation for their protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, implicitly threatened employees with unspecified reprisal in retaliation for their protected, concerted activities.

On or about March 21, 2020, the above-named Employer, by its officers, agents, and representatives, interrogated employees in retaliation for their protected, concerted activities.

On or about (b) (6), (b) (7)(C) 2020, the above-named Employer, by its officers, agents, and representatives issued a written warning to an employee in retaliation for (b) (6), protected, concerted activities.

On or about (b) (6), (b) (7)(C) 2020, the above-named Employer, by its supervisor (b) (6), (b) ((b) (6), (b) (7 directed an employee not to discuss a written warning issued to said employee with other employees in order to discourage employees from engaging in protected, concerted activities.

On or around (b) (6), (b) (7)(C) 2020, the above-named Employer, by its officers, agents, and representatives, changed job assignments of employees in retaliation for their protected, concerted activities.

3. Full name of party filing charge (*if labor organization, give full name, including local name and number*)
(b) (6), (b) (7)(C)

4a. Address (street and number, city, state, and ZIP code)	4b. Tel. No.
(b) (6), (b) (7)(C)	4c. Cell No. (b) (6), (b) (7)(C)
	4d. Fax No.
	4e. e-Mail (b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (*to be filled in when charge is filed by a labor organization*)		
6. DECLARATION **I declare that I have read the above charge and that the statements are true to the best of my** (b) (6), (b) (7)(C)		Tel. No.
By: (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	Office, if any, Cell No. (b) (6), (b) (7)(C)
(sig aking charge)	Print Name and Title	Fax No.
Address: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)	Date:	e-Mail (b) (6), (b) (7)(C)

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

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq*. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. (b) (6), (b) (7)(C)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

Download
NLRB
Mobile App

Aiden Rosario, Mgr.
Amazon.com Services, Inc.
1 Bulova Avenue
Woodside, NY 11377

June 26, 2020

Re: Amazon.com Services, Inc.
Case 29-CA-260062

Dear Mr. Rosario:

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

Investigator: This charge is being investigated by Field Attorney Evamaria Cox whose telephone number is (718)765-6172. If the agent is not available, you may contact Supervisory Attorney NANCY LIPIN whose telephone number is (718)765-6208.

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

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

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

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence

submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

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

Very truly yours,

KATHY DREW-KING
Regional Director

Enclosure: Copy of second amended charge

cc: MICHAEL E. LIGNOWSKI, ESQ.
MORGAN, LEWIS & BOCKIUS, LLP
1701 Market St
Philadelphia, PA 19103-2901

Andriette A Roberts, ESQ.
Morgan, Lewis & Bockius, LLP
101 Park Avenue, 37th Floor
New York, NY 10178

Ross H. Friedman, ESQ.
Morgan, Lewis & Bockius LLP
77 West Wacker Drive
5th Floor
Chicago, IL 60601-5094

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMAZON.COM SERVICES, INC. Charged Party and (b) (6), (b) (7)(C) Charging Party	**Case 29-CA-260062**

AFFIDAVIT OF SERVICE OF SECOND AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on June 26, 2020**,** I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Aiden Rosario, Mgr.
Amazon.com Services, Inc.
1 Bulova Avenue
Woodside, NY 11377

MICHAEL E. LIGNOWSKI, ESQ.
MORGAN, LEWIS & BOCKIUS, LLP
1701 Market St
Philadelphia, PA 19103-2901

Andriette A Roberts, ESQ.
Morgan, Lewis & Bockius, LLP
101 Park Avenue, 37th Floor
New York, NY 10178

Ross H. Friedman, ESQ.
Morgan, Lewis & Bockius LLP
77 West Wacker Drive
5th Floor
Chicago, IL 60601-5094

June 26, 2020

	FREDA DEVONSHIRE, Designated Agent of NLRB
Date	Name
	/S/
	Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

Download
NLRB
Mobile App

(b) (6), (b) (7)(C)
[redacted]

June 26, 2020

Re: Amazon.com Services, Inc.
Case 29-CA-260062

Dear (b) (6), (b) (7)(C) [redacted]:

We have docketed the second amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney Evamaria Cox whose telephone number is (718)765-6172. If the agent is not available, you may contact Supervisory Attorney NANCY LIPIN whose telephone number is (718)765-6208.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the second amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

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

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Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence

submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

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

Very truly yours,

KATHY DREW-KING
Regional Director

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

November 16, 2020

(b) (6), (b) (7)(C)

Re: Amazon.com Services, Inc.
Case 29-CA-260062

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Amazon.com Services, Inc. (the Employer) has violated the National Labor Relations Act.

Conditional Decision to Dismiss: Based on that investigation, the portion of your charge alleging that on (b) (6), (b) (7)(C), 2020, the Employer unlawfully issued you a written warning will be conditionally dismissed. I have decided to conditionally dismiss this allegation 6 months from today because there is no ongoing unlawful effect on your terms and conditions of employment as your (b) (6), (b) (7)(C) write-up expired after thirty (30) days and you were converted to regular full-time status. Under the circumstances, formal proceedings will not effectuate the purposes of the Act.

If a meritorious charge involving other unfair labor practices is filed against the Employer during that period, I will reconsider whether further proceedings on this charge are warranted.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlrb.gov. See User Guide. A video demonstration which provides step-by-step instructions and frequently asked questions are also available at www.nlrb.gov. If you require additional assistance with E-Filing, please contact e-Filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

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

Appeal Due Date: The appeal is due on **November 30, 2020**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 29, 2020. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely**. If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 30, 2020.** The request may be filed electronically through the ***E-File Documents*** link on our website www.nlrb.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 30, 2020, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,

KATHY DREW-KING
Regional Director

Enclosure

cc: Aiden Rosario, Mgr.
Amazon.com Services, Inc.
1 Bulova Avenue
Woodside, NY 11377

Michael E. Lignowski, Esq.
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103

Andriette A. Roberts, Esq.
Morgan, Lewis & Bockius, LLP
101 Park Avenue, 37th Floor
New York, NY 10178

Ross H. Friedman, Esq.
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, 5th Floor
Chicago, IL 60601

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

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

Date:

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

_____

Case Name(s).

_____

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

_____

(Signature)

E-FILING TO APPEALS

1. **Extension of Time**: This document is used when the Charging Party is asking for more time to efile an Appeal.

    - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
    - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.

2. **File an Appeal**: If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.

    - Only **one** (**1**) **Appeal** can be e-filed to each determination in the Region's decision letter that is received.
    - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.

3. **Notice of Appearance**: Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.

    - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
    - This document can be e-filed **before** an Appeal is e-filed.

4. **Correspondence**: Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.

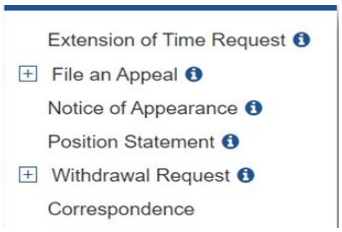
    - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal** or **Notice of Appearance** has been e-filed.

5. **Position Statement**: The Charging Party or Charged Party may e-file a Position Statement.

    - The Charging Party will e-file this document as a supplement of the Appeal.
    - The Charged Party will specifically file one to support the Region's decision.
    - This document should be e-filed **after** an **Extension of Time, Appeal** or **Notice of Appearance** has been e-filed.

6. **Withdrawal Request**: If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.

    - This document should be e-Filed **after** an **Extension of Time, Appeal** or **Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

November 16, 2020

Michael E. Lignowski, Esq.
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103

Andriette A. Roberts, Esq.
Morgan, Lewis & Bockius, LLP
101 Park Avenue, 37th Floor
New York, NY 10178

Ross H. Friedman, Esq.
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, 5th Floor
Chicago, IL 60601

Re: Amazon.com Services, Inc.
Case 29-CA-260062

Dear Mr. Lignowski, Ms. Roberts, Mr. Friedman:

This is to advise that I have approved the withdrawal of the allegations that the Employer: 1) around mid-February 2020, changed employee job assignments; 2) about March 21, 2020, implicitly threatened employees with discharge; and 3) about March 21, 2020, implicitly threatened employees with unspecified threats of unspecified reprisal, in violation of Section 8(a)(1) of the Act.

The remaining allegations that the Employer: 1) about March 21, 2020, directed employees not to engage in protected concerted activity without prior notification to management; 2) about March 21, 2020, threatened to issue employees a write-up; 3) about March 21, 2020, interrogated employees; and 4) about [redacted] 2020, directed employees not to discuss a written warning, in violation of Section 8(a)(1) of the Act remain subject to further processing.

The allegation that on [redacted] 2020, the Employer issued an employee a written warning in violation of Section 8(a)(1) will be addressed under separate cover.

Very truly yours,

KATHY DREW-KING
Regional Director

cc: Aiden Rosario, Mgr.
Amazon.com Services, Inc.
1 Bulova Avenue
Woodside, NY 11377

(b) (6), (b) (7)(C)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC

And **Case No. 29-CA-260062**

(b) (6), (b) (7)(C) **AN INDIVIDUAL**

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by (b) (6), (b) (7)(C), an Individual ((b) (6), (b) (7)(C) or Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Amazon.com Services LLC (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on May 6, 2020, and a copy was served on Respondent by U.S. mail on May 7, 2020.

(b) The first amended charge in this proceeding was filed by the Charging Party on May 22, 2020, and a copy was served on Respondent by U.S. mail on June 4, 2020.

(c) The second amended charge in this proceeding was filed by the Charging Party on May 26, 2020, and a copy was served on Respondent by U.S. mail on June 26, 2020.

2. (a) At all material times, Respondent, a Delaware limited liability company with a Delivery Station in Woodside, New York (DBK1 Facility) has been engaged in providing online retail sales throughout the United States.

(b) During the past twelve-month period, which period is representative of its operations in general, Respondent, in conducting its business operations described above in subparagraph 2(a), derived gross revenues in excess of $500,000 and purchased and received at its DBK1 Facility goods valued in excess of $5,000 directly from points outside the State of New York.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)

5. On or about March 21, 2020, (b) (6), (b) (7)(C) engaged in concerted activities on behalf of other employees for the purpose of mutual aid and protection by organizing a walk-out after learning that a coworker was sent home for presenting COVID-19 symptoms.

6. About March 22, 2020, Respondent, by (b) (6), (b) (7)(C), in the management office at the DBK1 Facility:

(a) directed employees to not engage in protected concerted activity without first notifying Respondent's management;

(b) threatened to discipline employees because they spoke to employees about a walk-out; and

(c) interrogated employees about their participation in and the participation of other employees in an employee walk-out.

7. About (b) (6), (b) (7)(C) 2020, Respondent, by (b) (6), (b) (7)(C), in the shift supervisor office at the DBK1 Facility, prohibited employees from discussing their written discipline with other employees.

8. By the conduct described above in paragraph 6(a), 6(b), 6(c) and 7, Respondent has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

9. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Complaint. The answer must be **received by this office on or before December 28, 2020 or postmarked on or before December 27, 2020**. Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents,** enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an

answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Complaint are true.

Any request for an extension of time to file an answer must, pursuant to Sections 102.22 and 102.2 of the Board's Rules and Regulations, be filed electronically by the close of business on **December 28, 2020.** The request should be in writing and addressed to the Regional Director of Region 29.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **Tuesday, February 9, 2021**, **at 9:30 AM,** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board by videoconference, or in a manner and at a location otherwise ordered by the Administrative Law Judge. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Second Consolidated Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: December 14, 2020

KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Attachments

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC and (b) (6), (b) (7)(C) An Individual.	)	Case 29-CA-260062

RESPONDENT'S ANSWER

Pursuant to Sections 102.20 and 102.21 of the National Labor Relations Board's Rules and Regulations, Amazon.com Services LLC ("Respondent," "Amazon" or the "Company"), through its undersigned counsel, answers the Complaint ("Complaint") according to the Complaint's numbered paragraphs. To the extent that the Complaint's introduction contains allegations and legal conclusions, they are denied.

1. (a) Respondent is without knowledge as to the allegations in this paragraph of the Complaint.

(b) Respondent is without knowledge as to the allegations in this paragraph of the Complaint.

(c) Respondent is without knowledge as to the allegations in this paragraph of the Complaint.

2. (a) Admitted.

(b) Admitted.

3. Admitted.

4. Respondent admits only that, at all material times, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7 (b) (6), (b) (7)(C) and have been supervisors of Respondent within the meaning of Section 2(11) of the

Act and agents of Respondent within the meaning of Section 2(13) of the Act. The remaining allegations in this paragraph are denied.

5. This paragraph states a legal conclusion for which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

6. (a) Denied.

(b) Denied.

(c) Denied.

7. Denied.

8. This paragraph states a legal conclusion for which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

9. This paragraph states a legal conclusion for which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

Any and all remaining allegations contained in the Complaint are denied.

SEPARATE DEFENSES

Respondent asserts the following separate defenses to the Complaint without conceding that it bears the burden of proof as to any of them:

1. The Complaint fails to state a claim upon which relief can be granted.

2. Respondent has been denied due process of law.

3. The position of the Agency and the issuance of Complaint are not substantially justified.

4. The Complaint is barred inasmuch as the Charging Party failed to properly serve the charge on the Respondent as required by Section 102.14(a) of the Board's Rules and Regulations.

5. Some or all of the allegations of the Complaint are barred in whole or in part because such allegations were not within the scope of the allegations made in any underlying unfair labor practice charge(s).

5. Some or all of the allegations of the Complaint are barred in whole or in part by the applicable limitations period under Section 10(b) of the National Labor Relations Act.

WHEREFORE, Respondent Amazon.com Services LLC requests that the Complaint and Notice of Hearing be dismissed, with prejudice.

Date: December 28, 2020

Respectfully submitted,

/s/ Ross H. Friedman

Ross H. Friedman
MORGAN LEWIS & BOCKIUS LLP
77 West Wacker Drive, Fifth Floor
Chicago, IL 60601
312.324.1000
ross.friedman@morganlewis.com

Attorneys for Respondent
Amazon.com Services LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Answer was electronically filed, and served via email, on December 28, 2020, upon the following:

Evamarie Cox
Field Attorney
National Labor Relations Board, Region 29
Two Metro Tech Center, Suite 5100
Brooklyn, NY 11201
Evamaria.Cox@nlrb.gov
(b) (6), (b) (7)(C)

/s/ Andriette A. Roberts
Andriette A. Roberts

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC

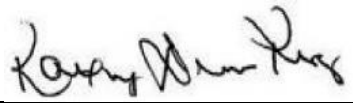
and **Case No. 29-CA-260062**

(b) (6), (b) (7)(C) [redacted], **AN INDIVIDUAL**

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from 9:30 AM on February 9, 2021 to **9:30 AM on March 2, 2021** by videoconference, or in a manner and at a location otherwise ordered by the Administrative Law Judge. The hearing will continue on consecutive days until concluded.

Dated: January 19, 2021



KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC

and **Case No. 29-CA-260062**

(b) (6), (b) (7)(C) **AN INDIVIDUAL**

AFFIDAVIT OF SERVICE OF ORDER RESCHEDULING HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on January 19, 2021, I served the above-entitled document(s) upon the following persons, addressed to them at the following addresses:

By electronic mail:
Michael E. Lignowski, Esq.
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103
michael.lignowski@morganlewis.com

Andriette A. Roberts, Esq.
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Ross H. Friedman
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, 5th Floor
Chicago, IL 60601
ross.friedman@morganlewis.com

(b) (6), (b) (7)(C)

By regular mail:
Aiden Rosario, Mgr.
Amazon.com Services, Inc.
1 Bulova Avenue
Woodside, NY 11377

January 19, 2021

Date

FREDA DEVONSHIRE, Designated Agent of NLRB
Name

/S/ FREDA DEVONSHIRE
Signature

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC

And **Case No. 29-CA-260062**

(b) (6), (b) (7)(C) **, AN INDIVIDUAL**

GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S PETITION TO PARTIALLY REVOKE SUBPOENA DUCES TECUM

I. INTRODUCTION

On January 15, 2021, Respondent filed its Petition to Partially Revoke Subpoena *Duces Tecum* B-1-1BDVKMN and Subpoena *Ad Testificandum* A-1-1BDVSVB (collectively, the Subpoenas). A copy of the Subpoenas and Respondent's Petition are attached hereto as Exhibits A and B, respectively.

Counsel for the General Counsel opposes Respondent's Petition and respectfully requests that the Petition be denied in its entirety because, as set forth below, Respondent failed to demonstrate any valid basis for revoking the Subpoenas.[1]

II. BACKGROUND

On December 14, 2020, the Regional Director issued a Complaint and Notice of Hearing (Complaint). Respondent filed its Answer to the Complaint (Answer) on December 28, 2020.

[1] Respondent includes the Subpoena *Ad Testificandum* in its Petition but makes no argument as to whether it is seeking to revoke this subpoena to the Custodian of Records.

The Complaint alleges that Respondent violated Section 8(a)(1) of the National Labor Relations Act (the Act) by on about March 22, 2020, at the DBK1 Facility in Woodside, New York: 1) directing employees to not engage in protected concerted activity without first notifying Respondent's management; 2) threatening to discipline employees because they spoke to employees about a walk-out; 3) interrogating employees about their participation in and the participation of other employees in an employee walk-out; and 4) on about (b) (6), (b) (7)(C) 2020, prohibiting employees from discussing their written discipline with other employees. The Complaint also alleges on about March 21, 2020, the Charing Party (b) (6), (b) (7)(C) ((b) (6), (b) (7)(C) engaged in concerted activities on behalf of other employees by organizing a walk-out after learning that a coworker was sent home for presenting COVID-19 symptoms. In its Answer, Respondent denied the above-mentioned Complaint allegations.

III. APPLICABLE LEGAL STANDARDS

The standard for evaluating a petition to revoke a subpoena is well established. Section 11(1) of the National Labor Relations Act, 29 U.S.C. § 161(1), grants the Board broad authority to subpoena evidence "that relates to any matter under investigation." Under Section 102.31(b) of the Board's Rules and Regulations, documents sought via subpoena should be produced as long as they relate to any matter in question or can provide background information or lead to other potentially relevant evidence. *See*, *Perdue Farms*, 323 NLRB 345, 348 (1997), aff'd. in relevant part 144 F. 3rd 830, 833-834 (D.C. Cir. 1998) (information need only be "reasonably relevant"). The applicable test for determining the appropriateness of an administrative subpoena is: 1) whether the inquiry is within the authority of the issuing agency; 2) whether the request is too indefinite; and 3) whether the information sought is reasonably relevant. *United States v. Morton*

Salt Company, 338 U.S. 632 (1950). *United States v. Powell*, 379 U.S. 48, 57-78 (1964); *NLRB v. Carolina Food Processors, Inc.*, 81 F.2d 507, 510 (4th Cir. 1996); *In re McVane*, 44 F.2d 1127 (2d Cir. 1995); *Equal Employment Opportunity Commission v. Maryland Cup Corporation*, 785 F.2d 471 (4th Cir. 1986).

The Board's subpoenas must be enforced as long as the requests are not "plainly incompetent or irrelevant to any lawful purpose." *Endicott Johnson Corp. v. Perkins*, 317 U.S. 501, 509 (1943). *See also, NLRB v. G.H.R. Energy Corp.*, 707 F. 2d 110, (5th Cir. 1982). The subpoena power under Section 11(1) is so strong that courts order production as long as the evidence sought "relates to or touches the matter under investigation." *NLRB v. Dutch Boy, Inc.*, 606 F.2d 929, 932 (10th Cir. 1979).

It is well established that the party petitioning for revocation of a government agency subpoena bears the burden of proving that it must be revoked. *NLRB v. Midwest Heating and Air Conditioning Inc.*, 528 F.Supp.2d 1172, 1179 (D. Kan. 2007); *FDIC v. Garner*, 126 F.3d 1138, 1145 (9th Cir.1997). In objecting to a subpoena for the production of documents, the subpoenaed party cannot rely upon bare assertions in the broadest of terms. *NLRB v. Dutch Boy, Inc.* 98 L.R.R.M. 2396, 2398 (W.D. Okla. 1978) (party objecting to a Board subpoena on the grounds of relevance must show by specific evidence why such documents do not relate to or touch upon the issue in controversy). Conclusory, unsupported assertions are insufficient grounds upon which to revoke a subpoena. *See NLRB v. Stanley Friedman*, 352 F.2d 545, 548 (1965).

Counsel for the General Counsel submits that the instant Subpoena meets all requisite tests for the enforceability of the Subpoena in that it has been issued pursuant to the Board's investigatory power and relates to matters under question in this proceeding. Furthermore,

Respondent has failed to meet its substantial burden of demonstrating that the Subpoena *Duces Tecum* is unreasonable in any way that would warrant revocation.

IV. RESPONDENT'S PETITION TO REVOKE SUBPOENAS SHOULD BE DENIED

Respondent asserts a series "general objections" to the Subpoenas and raises "specific objections" to Paragraphs 1, 3 and 4 of the Subpoena *Duces Tecum*. As demonstrated below, both Respondent's general and specific objections are without merit. As Respondent has failed to provide any valid grounds upon which to revoke the Subpoenas, Respondent's Petition should be revoked and Respondent should be ordered to produce all subpoenaed documents.

A. Respondent's General Objections Lack Merit and Should Be Rejected[2]

1. Respondent's General Objection that the Subpoena Subjects Respondent to Undue Burden and Expense is Without Merit

Among its general objections, Respondent objects to the use of the word "all" in the description of the subpoenaed Paragraphs, contends that the definition of the word "documents" is overbroad and concludes that these terms as applied to the subpoenaed Paragraphs subjects Respondent to undue burden and expense and could request the production of documents that are not relevant. Respondent's contentions fail. In that regard, Respondent's contentions are conclusory. By raising unsubstantiated, conclusory claims, Respondent failed to meet its burden to warrant revoking the subpoena. Moreover, Respondent failed to present any evidence establishing that producing the documents would seriously disrupt its normal business operations. The burden of proving that an administrative subpoena is unduly burdensome or unreasonable is

[2] Respondent's General Objection that the Subpoena *Duces Tecum* seeks documents privileged from disclosure will be discussed *infra* in Section B.

on the subpoenaed party, and this burden is not easily met. *NLRB v. Midwest Heating and Air Conditioning*, 528 F.Supp.2d 1172, 1179-80 (D. Kan. 2007*)*; *In re McVane v. FDIC*, 44 F.3d at 1135; *FTC v. Rockefeller*, 591 F.2d 182, 190 (2d Cir. 1979). The party subject to the subpoena must show that producing the document would "seriously disrupt" its normal business operation. *NLRB v. Carolina Food Processors, Inc*., 81 F.3d 507, 513-514 (4th Cir.1996) (internal quotation omitted). The courts consistently hold that a subpoena is not unduly burdensome merely because it requires the production of a large number of documents. *NLRB v. G.H.R. Energy Corp.* 707 F.2d 110, 114 (5th Cir. 1982), and cases cited therein.

Respondent's claim that the use of the words "all documents" in the Subpoena is overly broad is without merit. In that regard, each subpoena paragraph specifically links each request to a distinct, narrowly tailored topic and to Respondent's DBK1 Facility.

Respondent failed to substantiate its bare bones assertion that the Definition and Instructions Section of the subpoena is overly broad and would cause Respondent undue burden, expense, or disruption to its normal business operations.

Therefore, Respondent's objections that the Subpoena *Duces Tecum* is unduly burdensome are wholly without merit and must be rejected.

2. <u>Respondent's General Objection that the Subpoenas Seek Information that is Vague and/or Irrelevant[3] is Without Merit</u>

Respondent further argues that definition of the word "documents," is overbroad and vague. Document is defined in the Subpoena as "any existing printed, typewritten, or otherwise recorded material of whatever character . . . including without limitation [records on] computer

[3] Respondent's General Objection that the Subpoena *Duces Tecum* seeks documents that are irrelevant to the issues in question will be discussed *infra* in Section B.

hard drives, . . .any duplicate copies of such material. . . . ” Respondent argues this definition would require production of materials that are irrelevant to the issues in question.

Contrary to Respondent’s claims, the term document is not vague or undefined. Rather, the term document is described with great particularity in the Definition and Instructions Section of the Subpoena *Duces Tecum*. The language in the Definition and Instructions Section is plain and makes clear that the term “document” as used in the Subpoena *Duces Tecum* includes electronically recorded materials. Thus, these assertions raised by Respondent about the term “document” are baseless and should be rejected.

3. Respondent’s General Objection that the Subpoena Seeks Documents Not Within Respondent’s Possession, Custody, or Control is Without Merit

Respondent generally objects to requests of documents outside the custody or control of Respondent. The Subpoena *Duces Tecum* does not request such documents. Paragraph “l.” of the Subpoena’s Definitions and Instructions Section states in relevant part, “[t]his subpoena ***applies*** to documents in your possession, custody, or control, as well as your present and former agents . . .You are required to conduct a reasonable and diligent search for all requested records within your possession, custody or control and to affirmative[ly] advise Counsel for the General Counsel if no responsive evidence exists.” Paragraph “n.” of the Subpoena’s Definitions and Instructions Section instructs Respondent to inform General Counsel of certain information if any document requested was destroyed or is no longer in its possession. Based on the foregoing, the Subpoena does not compel Respondent to produce documents outside of its custody or control. Instead, it merely requires that Respondent conduct a reasonable and diligent search and account for each requested Paragraph.

B. Respondent's Specific Objections are Wholly Without Merit

1. Respondent's Petition to Revoke Subpoena *Duces Tecum* Paragraphs 1, 3, and 4 as Overly Broad and Irrelevant Should be Denied

The standard for determining relevance under the rules and case law governing proceedings before the Board is very broad. Under the Board's Rules and Regulations, the subpoena shall be revoked on relevance grounds if it "does not relate to any matter under investigation or in question in the proceeding." Board's Rules and Regulations, §102.31(b). The Board's subpoena power under Section 11(1) of the Act has been interpreted expansively to include "any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question." *NLRB v. G.H.R. Energy Corp.,* 707 F.2d 110, 113 (5th Cir. 1982).

The United States Supreme Court has characterized the relevancy requirement as "not especially constraining." *EEOC v. Lockheed Martin Corporation*, 116 F.3d 110, 113, (4th Cir. 1997), quoting *EEOC v. Shell Oil*, 466 U.S. 54, 68 (1983). The Court instructed that the term relevant "will be generously construed to afford the Commission access to virtually ***any material*** that might cast light on the allegations against the employer." *EEOC v. Shell Oil*, 466 U.S. at 68 (emphasis added). The Board need only articulate some reasonable basis to believe that the subpoenaed information will prove relevant. *NLRB v. Frederick Cowan & Co., Inc.,* 522 F 2.d26, 28, (2d Cir. 1975). Further, the Board's authority to subpoena evidence includes the authority to subpoena evidence concerning anticipated defenses. *NLRB v. North Bay Plumbing, Inc*., 102 F.3d 1005, 1008-09 (9th Cir. 1996).

a. Paragraph 1 of the Subpoena Seeks Documents that are Relevant to the Alleged Unlawful 8(a)(1) Statements

Paragraph 1 seeks all video recordings, audio recordings, photographs, notes, reports and all other documents showing, describing, referring to, mentioning or memorializing the Charging

Party discussing a walk-out at Respondent's DBK1 facility that occurred on March 21 or March 22, 2020, including documents or notes reflecting the circumstances under which such recordings or photographs were obtained. The documents sought in Paragraph 1 can provide background and contextual information regarding why Respondent's (b) (6), (b) (7)(C) called (b) (6), (b) (7)(C) to a manager's office immediately after (b) (6), (b) (7)(C) organized a walk-out at the DBK1 facility. Furthermore, the subpoenaed documents are relevant to Respondent's anticipated defense that its (b) (6), (b) (7)(C) met with (b) (6), (b) (7)(C) on March 22, 2020 to investigate (b) (6), (b) (7)(C) alleged harassment of (b) (6), (coworkers in the course of (b) (6), (protected concerted activities, rather than to make statements to the Charging Party to unlawfully discourage (b) (6), (b) from engaging in protected concerted activities. Video or photographs of the Charging Party during the walk-out relate directly to whether (b) (6), (b) (7)(C) was harassing (b) (6), (coworkers or was engaged in protected activity. Thus, the requested documents are will prove relevant as to a disputed event and will shed light as to whether (b) (6), (b) (7)(C) conduct during the walk-out warranted a disciplinary interview. To the extent that Respondent seeks clarification as to whether a photograph can depict a discussion, the body language including hand gestures, positioning between individuals, the direction that individuals are looking and the number of individuals present are all details that may be captured by photograph and thus, would show a discussion between the Charging Party and other employees. Based on the foregoing, Respondent failed to meet its substantial burden of showing that the documents requested in Paragraph 1 do not fall within the broad definition of relevance. Accordingly, the documents in Paragraph 1 should be produced.

b. <u>Paragraphs 3 and 4 are Relevant to Paragraph 5 of the Complaint and to the Context of the 8(a)(1) Complaint Allegations as a Whole.</u>

Both Paragraphs 3 and 4 of the Subpoena *Duces Tecum* relate to the Charging Party's protected concerted activities, about which Respondent interrogated, threatened and otherwise

directed 8(a)(1) statements to (b) (6), (b) (7)(C) [redacted] Paragraph 3 seeks all written and electronic communications that mention or refer to the Charging Party's discussions with employees or discussions with Respondent's supervisors, managers, or agents on behalf of employees that occurred between March 1, 2020 through March 31, 2020 regarding employee terms and conditions of employment at the DBK1 facility.

Paragraph 4 seeks all written and electronic communications that mention or refer to Amazonians United NYC or Amazonians United that were written, distributed, or received by Respondent at its DBK1 facility between March 1, 2020 through March 31, 2020.

Paragraph 5 of the Complaint alleges that on March 21, 2020, the Charging Party engaged in concerted activities on behalf of other employees by organizing a walk-out after learning that a coworker was sent home for presenting COVID-19 symptoms. Respondent objects to the production of the documents in Paragraphs 3 and 4 on the basis that the case is not about whether the Charging Party engaged in protected concerted activity or was retaliated against in any way for being a member of or advocating for Amazonians United NYC or Amazonians United. Respondent argues that because the Complaint only alleges that Respondent's agents made certain statements to the Charging Party that violate Section 8(a)(1) of the Act, documents relating to the context of those statements are irrelevant.

The documents sought in Paragraphs 3 and 4 are relevant to Paragraph 5 of the Complaint and the case as a whole to the extent that 8(a)(1) threats of discipline and interrogations about employees' participation in protected concerted activity occurred within an active campaign by Amazonians United for better working conditions. The statements alleged to violate Section 8(a)(1) will be evaluated within the totality of the circumstances within which the statements occurred, including the active and growing campaign for better working conditions at

Respondent's DBK1 facility. Moreover, (b) (6), (b) (7)(C) is a lead organizer of the Amazonians United NYC campaign. (b) (6), (b) (7)(C) history of protected concerted activity which is well known to Respondent is critical background evidence. The requested documents will establish what Respondent (b) (6), (b) (7)(C) knew about (b) (6), (b) (7)(C) and (b) (6), protected concerted activities before speaking with (b) (6), (b) on March 22, 2020. Both the communications that refer specifically to the Charging Party's protected concerted activity and the communications written, distributed, or received by Respondent that mention Amazonians United provide the proper context and necessary information to evaluate the coercive nature of the 8(a)(1) statements alleged in the Complaint. Therefore, Respondent's argument that these records are overbroad and irrelevant should be rejected.

2. <u>Respondent Generally Objects and Specifically Objects that Subpoena *Duces Tecum* Paragraphs 1 and 4 Contain Privileged Work Product Information</u>

The attorney-client privilege "protects only those disclosures . . . necessary to obtain informed legal advice . . . which might not have been made absent the privilege." *Fisher v. U.S.*, 425 U.S. 391, 403 (1976); *Patrick Cudahy, Inc.*, 288 NLRB 968, 969 (1988). The Board has held that otherwise producible items, such as corporate records, do not become privileged merely because they have been transferred between the client and the attorney. Id. at 971, n.13. Likewise, the work product doctrine is not so broad that "all written materials obtained or prepared by an adversary's counsel with an eye toward litigation are necessarily free from discovery in all cases." *Hickman v. Taylor*, 329 U.S. 495, 511 (1947).

Conclusory claims of attorney-client and attorney work-product privileges do not satisfy a subpoenaed party's burden of proof to proffer specific evidence substantiating its assertion. *Coastal States Gas Corp. v. Dept of Energy*, 617 F.2d 854, 861 (DC Cir. 1980) (conclusory claim of attorney work product does not satisfy burden of proof); *U.S. v. Olin*, 809 F.2d 1411, 1415 (9th

Cir. 1987) (attorney-client privilege is to be strictly construed because it is an obstacle to the investigation of the truth). Indeed, no conclusion concerning such privilege claims is possible in the absence of a showing by some proffer of specific evidence supporting each such claim. *NLRB v. Dutch Boy, Inc.*, 98 L.R.R.M. 2396, 2398 (1978), aff'd., 606 F.2d 929 (10th Cir. 1979). Parties withholding documents as privileged must identify and describe the documents in sufficient detail to enable the demanding party to assess the applicability of the privilege of protection Fed. R. Civ. P. 45(e)(2)(A). Respondent's boilerplate objections or blanket refusals are insufficient to assert a privilege. *See Burlington Northern & Santa Fe Ry Corp. v. United States Dist. Court for Dist. of Montana*, 408 F.3d 1142, 1148 (9th Cir. 2005).

Respondent offers conclusory, sweeping claims of possibly privileged documents without substantiating its assertions in response to request for documents set out in Paragraphs 1 and 4 (described in B. 1a. and 1b. *supra*). Respondent fails to identify any particular document that it claims are protected from disclosure. Instead, Respondent offers a blanket objection to recordings and other documents showing the Charging Party discussing a walk-out and documents seeking communications that mention or refer to Amazonians United that were written, distributed, or received by Respondent. In accordance with the Paragraph "m." in Subpoena *Duces Tecum's* Definition and Instructions Section and Federal Rules of Civil Procedure 45(e)(2)(A), any documents Respondent wishes to withhold based on a claim of privilege must be identified, must be described, and Respondent must create a privilege log identifying the allegedly privileged documents in sufficient detail to permit the Administrative Law Judge to review in an *in camera* inspection. Absent such a showing, Respondent's blanket claim must be rejected.

V. CONCLUSION

General Counsel has shown that the Subpoena *Duces Tecum* is tailored to seek documents relevant to the issues raised in the Complaint. The Subpoena *Duces Tecum* is not overly broad or unduly burdensome. Further, the Subpoena's Definitions and Instructions Section sets forth a procedure for handling documents and communications subject to privilege. Respondent has failed to substantiate its claims and has not demonstrated a basis for revoking any portions of the Subpoena. Accordingly, it is respectfully requested that Respondent's Petition to Partially Revoke be denied in its entirety and that Respondent be directed to provide the documents.

/s/ Evamaria Cox

Evamaria Cox, Esq.
Counsel for the General Counsel
National Labor Relations Board
Region 29
Two Metro Tech Center, Suite 5100
Brooklyn, New York 11201

EXHIBIT A

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

January 8, 2021

VIA REGULAR & CERTIFIED MAIL
Custodian of the Records
Amazon.com Services, LLC
1 Bulova Avenue,
Woodside, NY 11377

Re: Amazon.com Services LLC (Case No.: 29-CA-260062)

Dear Custodian of the Records:

Enclosed, please find a *subpoena duces tecum* for records relevant to the above-referenced matter and a *subpoena ad testificandum* requiring your appearance before an Administrative Law Judge of the National Labor Relations Board at a Zoom Videoconference hearing on **February 9, 2021 at 9:30 a.m. and consecutive days thereafter**.

Please be aware that failure to attend the Zoom Videoconference hearing could result in the Agency petitioning the United States District Court for enforcement of the subpoena. Should you have any questions please contact me at the telephone number below. Thank you for your assistance in this matter.

Very truly yours,

/s/ Evamaria Cox

Evamaria Cox, Board Attorney
Direct No.: 718.765.6172
Evamaria.Cox@nlrb.gov

cc: Ross H. Friedman, Esq. (via electronic mail)
cc: Andriette A. Roberts, Esq. (via electronic mail)
cc: Michael E. Lignowski, Esq. (via electronic mail)

FORM NLRB-31

SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Custodian of Records

Amazon.com Services, LLC 1 Bulova Avenue Woodside, NY 11377

As requested by Evamaria Cox, Counsel for General Counsel

whose address is Two Metro Tech Center, Suite 5100, Brooklyn, NY 11201-3838
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an Administrative Law Judge

of the National Labor Relations Board

at Zoom Video Hearing

in the City of Brooklyn

on Tuesday, February 9, 2021 at 9:30 AM or any adjourned

or rescheduled date to testify in Amazon.com Services LLC
29-CA-260062
(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(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-1-1BDVKMN

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

Issued at Brooklyn, NY

Dated: January 08, 2021

John Ring, 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.

Re: Amazon.com Services LLC
Case No. 29-CA-260062

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

a. "Document" means any existing printed, typewritten or otherwise recorded material of whatever character, records stored on computer or electronically, records kept on microfiche or written by hand or produced by hand and graphic material, including without limitation, checks, cancelled checks, computer hard drives, discs and/or files and all data contained therein, computer printouts, E-mail communications and records, any marginal or "post-it" or "sticky pad" comments appearing on or with documents, licenses, files, letters, facsimile transmissions, memoranda, telegrams, minutes, notes, contracts, agreements, transcripts, diaries, appointment books, reports, records, payroll records, books, lists, logs, worksheets, ledgers, summaries of records of telephone conversations, summaries of records of personal conversations, interviews, meetings, accountants' or bookkeepers' work papers, records of meetings or conference reports, drafts, work papers, calendars, interoffice communications, financial statements, inventories, news reports, periodicals, press releases, graphs, charts, advertisements, statements, affidavits, photographs, negatives, slides, disks, reels, microfilm, audio or video tapes and any duplicate copies of any such material in the possession of, control of, or available to the subpoenaed party, or any agent, representative or other person acting in cooperation with, in concert with or on behalf of the subpoenaed party.

b. "Respondent" means Amazon.com Services LLC.

c. "Respondent's DBK1 Facility" means the facility located at 1 Bulova Avenue, Woodside, NY 11377.

d. "Charging Party" means (b) (6), (b) (7)(C).

e. "Person" or "persons" means natural persons, corporations, limited liability companies, partnerships, sole proprietorships, associations, organizations, trusts, joint ventures, groups of natural persons or other organizations, or any other kind of entity.

f. "Period covered by this subpoena" means the period from March 1, 2020 through March 31, 2020 and the subpoena seeks only documents from that period unless another period is specified. This subpoena request is continuing in character and if additional responsive documents come to your attention after the date of production, such documents must be promptly produced.

g. Any copies of documents that are different in any way from the original, such as by interlineation, receipt stamp, notation, or indication of copies sent or received, are considered original documents and must be produced separately from the originals.

h. If any document covered by this subpoena contains codes or classifications, all documents explaining or defining the codes or classifications used in the document must also be produced.

i. Electronically stored information should be produced in the form or forms in which it is ordinarily maintained or in a reasonably usable form or forms. Execution of this subpoena requires a reasonable search of the ESI of all individuals ("custodians") who are most likely to possess information covered by the subpoena.

j. For all searches of ESI, records should be maintained documenting each "custodian" whose ESI was searched and all hardware and software systems searched. Records should also include who was responsible for the search and the search methodology used including, but not limited to, search terms and software tools.

k. All documents produced pursuant to this subpoena should be presented as they are kept in the usual course of business or organized by the subpoena paragraph to which the document or set of documents is responsive. Labels referring to that subpoena paragraph are to be affixed to each document or set of documents.

l. This subpoena applies to documents in your possession, custody, or control of Respondent, as well as your present or former agents, attorneys, accountants, advisors, investigators, and any other persons or companies directly or indirectly employed by or connected with you. You are required to conduct a reasonable and diligent search for all requested records within your possession, custody or control and to affirmative advise Counsel for the General Counsel if no responsive evidence exists.

m. If a claim of privilege is made as to any document which is the subject of this subpoena, a claim of privilege must be expressly made and you must describe the nature of the withheld document, communication, or tangible thing in a manner that, without revealing information itself privileged or protected, will enable an assessment of the claim to be made.

n. As to any documents not produced in compliance with this subpoena on any ground or if any document requested was, through inadvertence or otherwise, destroyed or is no longer in your possession, please state:

    1. the author;
    2. the recipient;
    3. the name of each person to whom the original or a copy was sent;
    4. the date of the document;
    5. the subject matter of the document; and
    6. the circumstances under which the document was destroyed, withheld or is no longer in your possession.

o. This request seeks production of all documents described, including all drafts and non-identical or distribution copies.

p. This request seeks production of responsive documents in their entirety, without abbreviation, redaction, deletion or expurgation.

q. When used in this subpoena, the term “documents regarding” means all documents that, in whole or in part, discuss, describe, mention, pertain to, reflect, refer to or relate to the subpoenaed item.

r. Unless otherwise stated, this subpoena does not supersede, revoke or cancel any other subpoena(s) previously issued in this proceeding.

Re: Amazon.com Services LLC
Case No. 29-CA-260062

DOCUMENTS TO BE PRODUCED

1. All video recordings, audio recordings, photographs, notes, reports and all other documents showing, describing, referring to, mentioning or memorializing the Charging Party discussing a walk-out at Respondent's DBK1 Facility that occurred on about March 21 or March 22, 2020, including documents or notes reflecting the circumstances under which such recordings or photographs were obtained.

2. The complete personnel and employment file(s) for the Charging Party excluding any confidential medical records.

3. All written and electronic communications that mention or refer to the Charging Party's discussions with employees or discussions with Respondent's supervisors, managers or agents on behalf of employees that occurred during the period covered by this subpoena regarding employee terms and conditions of employment at the DBK1 Facility.

4. All written and electronic communications that mention or refer to Amazonians United NYC or Amazonians United that were written, distributed, or received by Respondent at its DBK1 Facility during the period covered by this subpoena.

5. All written and electronic documents, including any form of video/audio recording, that show, mention, refer to or describe a conversation between (b) (6), (b) (7)(C) and the Charging Party in the management office at Respondent's DBK1 Facility on about March 21 or March 22, 2020, including all documents that indicate the time, date, and location of such conversation, the identities of those who participated in or witnessed the conversation, and what was said during such conversation.

6. All written and electronic documents, including any form of video/audio recording, that show, mention, refer to or describe a conversation between (b) (6), (b) (7)(C) and the Charging Party in the shift supervisor office at Respondent's DBK1 Facility on about (b) (6), (b) (7)(C) 2020, including all documents that indicate the time, date, and location of such conversation, the identities of those who participated in or witnessed the conversation, and what was said during such conversation.

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Custodian of Records

Amazon.com Services, LLC 1 Bulova Avenue Woodside, NY 11377

As requested by Evamaria Cox, Counsel for General Counsel

whose address is Two Metro Tech Center, Suite 5100, Brooklyn, NY 11201-3838
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an Administrative Law Judge

of the National Labor Relations Board

at Zoom Video Hearing

in the City of Brooklyn

on Tuesday, February 9, 2021 at 9:30 AM or any adjourned

or rescheduled date to testify in Amazon.com Services LLC
29-CA-260062
(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-1-1BDVSVB

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

Issued at Brooklyn, NY

Dated: January 08, 2021

John Ring, 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.

EXHIBIT B

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC	)	
and	)	Case 29-CA-260062
(b) (6), (b) (7)(C)	)	
An Individual.	)	

RESPONDENT AMAZON'S PETITION TO PARTIALLY REVOKE
COUNSEL FOR THE GENERAL COUNSEL'S TRIAL SUBPOENA *DUCES TECUM*

Pursuant to Sections 102.31(b) and 102.66(c) of the Rules and Regulations of the National Labor Relations Board ("NLRB" or "Board"), Amazon.com Services LLC ("Respondent," "Amazon" or the "Company"), through its undersigned counsel, hereby petitions to partially revoke the subpoena *duces tecum* (B-1-1BDVKMN) and the subpoena *ad testificandum* (A-1-1BDVSVB) served by the Counsel for General Counsel upon counsel for Amazon. A copy of the subpoena is attached hereto as **Exhibit 1**.

INTRODUCTION

This Petition is submitted following the Regional Director of Region 29 of the NLRB's issuance on December 14, 2020 of a Complaint and Notice of Hearing. The subpoena underlying this petition was received by counsel for Amazon on Friday, January 8, 2021. This Petition is timely filed within five business days after the date of service of the subpoena, as required by Section 102.31(b) of the Board's Rules and Regulations. As discussed further below, Amazon submits this petition to revoke because certain of the production requests (1) are temporally and/or substantively overbroad and seek a broad range of information which subjects

Amazon to undue burden and expense, (2) seek information which is not relevant to this proceeding and is not likely to lead to the discovery of facts or materials relevant to the issues in question at the hearing, and (3) seek confidential information and/or information protected by the attorney-client privilege, attorney-work-product privilege, or other applicable privileges.

ARGUMENT

Section 102.31(b) of the Board's Rules and Regulations states, in relevant part, the following:

> The Administrative Law Judge or the Board, as the case may be, ***will*** revoke the subpoena if in their opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid.

29 C.F.R. § 102.31(b) (emphasis added). Accordingly, the subpoena must be "for a legitimate purpose, the inquiry in question must be reasonably related to the purpose, and the demand for information must not be overly broad, indefinite or otherwise unreasonable." *NLRB v. U.S. Postal Serv.*, 790 F. Supp. 31, 34 (D.D.C. 1992). *See also Drukker Commc'ns, Inc. v. NLRB*, 700 F.2d 727, 730 (D.C. Cir. 1983) ("Although the statute explicitly permits the quashing of subpoenas only for irrelevance or lack of particularity, it does not explicitly exclude other grounds . . . ."). Indeed, the Board's own Casehandling Manual indicates that subpoenas should be "drafted as narrowly and specifically as is practicable." NLRB Casehandling Manual, Part 1, § 11776.

In applying this standard, the Board has deemed persuasive the Federal Rules of Civil Procedure. *See Brink's Inc.*, 281 NLRB 468, 468 (1986). Rule 26(b)(1) of the Federal Rules limits discovery if, *inter alia*, "the burden or expense of the proposed discovery outweighs its

likely benefit." *See also* NLRB Division of Judges Bench Book § 8–330. In addition, Rule 26(c)(1) provides that a protective order may be issued "to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense . . . ."

The materials sought must also be relevant to the case at hand. NLRB Casehandling Manual, Part 1, § 11776; *see also NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507, 510 (4th Cir. 1996). Where documents are to be produced pursuant to a subpoena, they must be described with certainty and particularity both with reference to content and time period. *See* NLRB Casehandling Manual, Part 1, § 11779.; FED. R. CIV. P. 26(b)(1) (limiting the scope of discovery to materials that are relevant to the claim or defense of a party). Mere "fishing expeditions" do not serve the purpose of the Board's Rules or the Act. *See Millsboro Nursing & Rehab. Ctr., Inc.*, 327 NLRB 879, 879 n.2 (1999) (holding that the "broad request for the production of records [was] a mere 'fishing expedition' . . . not entitled to a subpoena from the Board.").

In this case, the subpoena (a) would subject Amazon to undue burden and expense, (b) seeks a variety of information that is vague and/or immaterial to the issues in question, and (c) seeks privileged and protected information. The Company's specific objections are as follows.

PRELIMINARY STATEMENT

Amazon responds to these Requests subject to the accompanying general and specific objections. All the responses and objections contained herein are based upon only that information and those documents presently available and specifically known to Amazon. Facts and evidence now known may be imperfectly understood. Further discovery, independent investigation, legal research, and analysis may supply additional facts, add meaning to the known facts, or establish entirely new factual conclusions and legal contentions, all of which may lead to

substantial additions to, changes in, and variations from, these responses.

These responses are made in good faith, but should in no way prejudice Amazon in relation to further investigation, discovery, research, or analysis. Amazon expressly reserves its right to introduce and rely upon any information and documents not provided in these responses and objections at trial, or at any other stage of this proceeding. Except for facts explicitly admitted herein, no admission of any nature whatsoever is to be implied or inferred from these responses. The fact that Amazon has responded to a request should not be taken as an admission, or a concession of the existence, of any fact set forth or assumed by such request, or that such response constitutes evidence of any fact thus set forth or assumed.

Amazon's responses are made without waiver of the following rights, but, on the contrary, are intended to preserve and do preserve the following:

(a) The right to raise any and all questions of authenticity, foundation, relevancy, materiality, privilege and admissibility;

(b) The right to object on any ground to the use of any information identified in response to the requests in this or any other action;

(c) The right to object on any ground to the introduction into evidence of said information identified in response to the requests;

(d) The right to revise, correct, supplement, or clarify any of these responses at any time, including at trial. Inadvertent identification or production of privileged documents or information by Amazon is not a waiver of any applicable privilege.

GENERAL OBJECTIONS

Amazon objects to each and every request in the subpoena as overbroad and contrary to Section 11776 of the Casehandling Manual insofar as they rely on broad definitions, utilize the

disfavored term "all," and are not drafted as "narrowly and specifically as is practicable." For example, the Counsel for the General Counsel broadly defines "documents" as "***any existing*** printed, typewritten, or otherwise recorded material ***of whatever character*** . . . including without limitation [records on] computer hard drives, ***any duplicate copies of any such material***. . . ." (**Exhibit 1**, at 3.) Amazon objects to this overbroad definition and its use in any of the requests below, as it subjects Amazon to undue burden and expense. Amazon further objects that any request utilizing this overbroad definition of documents would also require production of information and materials that are irrelevant and immaterial to the issues in question. Amazon objects to each request to the extent it contains vague and/or undefined terms, and also objects to the extent any request seeks documents not within Amazon's possession, custody, or control.

Amazon objects to the extent any of the requests below seek documents privileged from disclosure pursuant to the attorney-client privilege, the attorney-work-product privilege or any other applicable evidentiary privilege.

SPECIFIC OBJECTIONS AND RESPONSES

Along with its Preliminary Statement and General Objections, Amazon sets forth the following specific objections and responses to each of the subpoena's requests listed below:

> **1) All video recordings, audio recordings, photographs, notes, reports and all other documents showing, describing, referring to, mentioning or memorializing the Charging Party discussing a walk-out at Respondent's DBK1 Facility that occurred on about March 21 or March 22, 2020, including documents or notes reflecting the circumstances under which such recordings or photographs were obtained.**

OBJECTION: Amazon incorporates by reference its Preliminary Statement and General Objections. Amazon objects that this improperly broad request seeks information that is completely irrelevant to the issues to be addressed at the hearing given the limited scope of the issues presented in the Complaint, namely the alleged conversations the Charging Party had with

(b) (6), (b) (7)(C) on or about March 23, 2020 and (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2020. None of the complaint allegations relate to unlawful surveillance; the entirety of the allegations are encompassed in the two referenced conversations. Moreover, the portions of the subpoena demand make little sense; how could a photograph "show[], describe[e], refer to, mention[], or memorializ[e]" the Charging Party *discussing* a walk-out? To the extent this demand isn't revoked, it should at least be clarified. Further, Amazon objects to this request to the extent that it seeks documents that are protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or any other applicable evidentiary privilege.

2) The complete personnel and employment file(s) for the Charging Party excluding any confidential medical records.

OBJECTION: Amazon incorporates by reference its Preliminary Statement and General Objections. Amazon objects that this improperly broad request seeks information that is completely irrelevant to the issues to be addressed at the hearing given the limited scope of the issues presented in the Complaint, namely the alleged conversations the Charging Party had with (b) (6), (b) (7)(C) on or about March 23, 2020 and (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2020. Subject to and without waiving the foregoing objections, Amazon responds that it will produce (b) (6), (b) (b) (6), (b) (7)(C) personnel file, with appropriate redactions for confidential medical information and other confidential information.

3) All written and electronic communications that mention or refer to the Charging Party's discussions with employees or discussions with Respondent's supervisors, managers or agents on behalf of employees that occurred during the period covered by this subpoena regarding employee terms and conditions of employment at the DBK1 Facility.

OBJECTION: Amazon incorporates by reference its Preliminary Statement and General Objections. Amazon objects that this improperly broad request seeks information that is completely irrelevant to the issues to be addressed at the hearing given the limited scope of the

issues presented in the Complaint, namely the alleged conversations the Charging Party had with (b) (6), (b) (7)(C) on or about March 23, 2020 and (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2020. The issue in this case is not whether the Charging Party engaged in protected concerted activity – it is whether certain statements allegedly made to the Charging Party were violations of Section 8(a)(1). Moreover, this demand is impossibly overly broad – "all written and electronic communications that mention or refer to the Charging Party's discussions with employees or discussions with Respondent's supervisors, managers or agents on behalf of employees" would cover every single thing the Charging Party said or wrote in an e-mail while at work or talking about work for the entire time period.

4) All written and electronic communications that mention or refer to Amazonians United NYC or Amazonians United that were written, distributed, or received by Respondent at its DBK1 Facility during the period covered by this subpoena.

OBJECTION: Amazon incorporates by reference its Preliminary Statement and General Objections. Amazon objects that this improperly broad request seeks information that is completely irrelevant to the issues to be addressed at the hearing given the limited scope of the issues presented in the Complaint, namely the alleged conversations the Charging Party had with (b) (6), (b) (7)(C) on or about March 23, 2020 and (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2020. Neither Amazonians United NYC nor Amazonians United is mentioned in the complaint, and there is no allegation that the Charging Party was retaliated against in any way for being a member of or advocating for either of these groups. Further, Amazon objects to this request to the extent that it seeks documents that are protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or any other applicable evidentiary privilege.

> **5) All written and electronic documents, including any form of video/audio recording, that show, mention, refer to or describe a conversation between (b) (6), (b) (7)(C) and the Charging Party in the management office at Respondent's DBK1 Facility on about March 21 or March 22, 2020, including all documents that indicate the time, date, and location of such conversation, the identities of those who participated in or witnessed the conversation, and what was said during such conversation.**

OBJECTION: Without waiving and subject to its objections, Amazon responds that it will provide non-privileged documents regarding Charging Party's conversation with (b) (6), (b) (7)(C) on or about March 23, 2020.

> **6) All written and electronic documents, including any form of video/audio recording, that show, mention, refer to or describe a conversation between (b) (6), (b) (7)(C) and the Charging Party in the shift supervisor office at Respondent's DBK1 Facility on about (b) (6), (b) (7)(C) 2020, including all documents that indicate the time, date, and location of such conversation, the identities of those who participated in or witnessed the conversation, and what was said during such conversation.**

OBJECTION: Without waiving and subject to its objections, Amazon responds that it will provide non-privileged documents regarding Charging Party's conversation with (b) (6), (b) (7 (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2020, if any.

CONCLUSION

For the foregoing reasons, Amazon respectfully requests that Counsel for the General Counsel's Subpoena be revoked, as set forth above.

Date: January 15, 2021

Respectfully submitted,

/s/ Ross H. Friedman

Ross H. Friedman
MORGAN LEWIS & BOCKIUS LLP
77 West Wacker Drive, Fifth Floor
Chicago, IL 60601
312.324.1000
ross.friedman@morganlewis.com

Attorneys for Respondent
Amazon.com Services LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Amazon's Petition to Partially Revoke Counsel for the General Counsel's Trial Subpoena Duces Tecum was served this 15th day of January, 2021 via electronic mail upon the following:

Evamaria Cox
Counsel for the General Counsel
National Labor Relations Board, Region 29
Two Metro Tech Center, Suite 5100
Brooklyn, NY 11201
Evamaria.Cox@nlrb.gov
(b) (6), (b) (7)(C)

/s/ Andriette A. Roberts
Andriette A. Roberts

EXHIBIT 1

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

January 8, 2021

VIA REGULAR & CERTIFIED MAIL
Custodian of the Records
Amazon.com Services, LLC
1 Bulova Avenue,
Woodside, NY 11377

Re: Amazon.com Services LLC (Case No.: 29-CA-260062)

Dear Custodian of the Records:

Enclosed, please find a *subpoena duces tecum* for records relevant to the above-referenced matter and a *subpoena ad testificandum* requiring your appearance before an Administrative Law Judge of the National Labor Relations Board at a Zoom Videoconference hearing on **February 9, 2021 at 9:30 a.m. and consecutive days thereafter**.

Please be aware that failure to attend the Zoom Videoconference hearing could result in the Agency petitioning the United States District Court for enforcement of the subpoena. Should you have any questions please contact me at the telephone number below. Thank you for your assistance in this matter.

Very truly yours,

/s/ Evamaria Cox

Evamaria Cox, Board Attorney
Direct No.: 718.765.6172
Evamaria.Cox@nlrb.gov

cc: Ross H. Friedman, Esq. (via electronic mail)
cc: Andriette A. Roberts, Esq. (via electronic mail)
cc: Michael E. Lignowski, Esq. (via electronic mail)

FORM NLRB-31

SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Custodian of Records

Amazon.com Services, LLC 1 Bulova Avenue Woodside, NY 11377

As requested by Evamaria Cox, Counsel for General Counsel

whose address is Two Metro Tech Center, Suite 5100, Brooklyn, NY 11201-3838
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an Administrative Law Judge

of the National Labor Relations Board

at Zoom Video Hearing

in the City of Brooklyn

on Tuesday, February 9, 2021 at 9:30 AM or any adjourned

or rescheduled date to testify in Amazon.com Services LLC
29-CA-260062
(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(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-1-1BDVKMN

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

Issued at Brooklyn, NY

Dated: January 08, 2021

John Ring, 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.

Re: Amazon.com Services LLC
Case No. 29-CA-260062

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

a. "Document" means any existing printed, typewritten or otherwise recorded material of whatever character, records stored on computer or electronically, records kept on microfiche or written by hand or produced by hand and graphic material, including without limitation, checks, cancelled checks, computer hard drives, discs and/or files and all data contained therein, computer printouts, E-mail communications and records, any marginal or "post-it" or "sticky pad" comments appearing on or with documents, licenses, files, letters, facsimile transmissions, memoranda, telegrams, minutes, notes, contracts, agreements, transcripts, diaries, appointment books, reports, records, payroll records, books, lists, logs, worksheets, ledgers, summaries of records of telephone conversations, summaries of records of personal conversations, interviews, meetings, accountants' or bookkeepers' work papers, records of meetings or conference reports, drafts, work papers, calendars, interoffice communications, financial statements, inventories, news reports, periodicals, press releases, graphs, charts, advertisements, statements, affidavits, photographs, negatives, slides, disks, reels, microfilm, audio or video tapes and any duplicate copies of any such material in the possession of, control of, or available to the subpoenaed party, or any agent, representative or other person acting in cooperation with, in concert with or on behalf of the subpoenaed party.

b. "Respondent" means Amazon.com Services LLC.

c. "Respondent's DBK1 Facility" means the facility located at 1 Bulova Avenue, Woodside, NY 11377.

d. "Charging Party" means (b) (6), (b) (7)(C).

e. "Person" or "persons" means natural persons, corporations, limited liability companies, partnerships, sole proprietorships, associations, organizations, trusts, joint ventures, groups of natural persons or other organizations, or any other kind of entity.

f. "Period covered by this subpoena" means the period from March 1, 2020 through March 31, 2020 and the subpoena seeks only documents from that period unless another period is specified. This subpoena request is continuing in character and if additional responsive documents come to your attention after the date of production, such documents must be promptly produced.

g. Any copies of documents that are different in any way from the original, such as by interlineation, receipt stamp, notation, or indication of copies sent or received, are considered original documents and must be produced separately from the originals.

h. If any document covered by this subpoena contains codes or classifications, all documents explaining or defining the codes or classifications used in the document must also be produced.

i. Electronically stored information should be produced in the form or forms in which it is ordinarily maintained or in a reasonably usable form or forms. Execution of this subpoena requires a reasonable search of the ESI of all individuals ("custodians") who are most likely to possess information covered by the subpoena.

j. For all searches of ESI, records should be maintained documenting each "custodian" whose ESI was searched and all hardware and software systems searched. Records should also include who was responsible for the search and the search methodology used including, but not limited to, search terms and software tools.

k. All documents produced pursuant to this subpoena should be presented as they are kept in the usual course of business or organized by the subpoena paragraph to which the document or set of documents is responsive. Labels referring to that subpoena paragraph are to be affixed to each document or set of documents.

l. This subpoena applies to documents in your possession, custody, or control of Respondent, as well as your present or former agents, attorneys, accountants, advisors, investigators, and any other persons or companies directly or indirectly employed by or connected with you. You are required to conduct a reasonable and diligent search for all requested records within your possession, custody or control and to affirmative advise Counsel for the General Counsel if no responsive evidence exists.

m. If a claim of privilege is made as to any document which is the subject of this subpoena, a claim of privilege must be expressly made and you must describe the nature of the withheld document, communication, or tangible thing in a manner that, without revealing information itself privileged or protected, will enable an assessment of the claim to be made.

n. As to any documents not produced in compliance with this subpoena on any ground or if any document requested was, through inadvertence or otherwise, destroyed or is no longer in your possession, please state:

    1. the author;
    2. the recipient;
    3. the name of each person to whom the original or a copy was sent;
    4. the date of the document;
    5. the subject matter of the document; and
    6. the circumstances under which the document was destroyed, withheld or is no longer in your possession.

o. This request seeks production of all documents described, including all drafts and non-identical or distribution copies.

p. This request seeks production of responsive documents in their entirety, without abbreviation, redaction, deletion or expurgation.

q. When used in this subpoena, the term “documents regarding” means all documents that, in whole or in part, discuss, describe, mention, pertain to, reflect, refer to or relate to the subpoenaed item.

r. Unless otherwise stated, this subpoena does not supersede, revoke or cancel any other subpoena(s) previously issued in this proceeding.

Re: Amazon.com Services LLC
Case No. 29-CA-260062

DOCUMENTS TO BE PRODUCED

1. All video recordings, audio recordings, photographs, notes, reports and all other documents showing, describing, referring to, mentioning or memorializing the Charging Party discussing a walk-out at Respondent's DBK1 Facility that occurred on about March 21 or March 22, 2020, including documents or notes reflecting the circumstances under which such recordings or photographs were obtained.

2. The complete personnel and employment file(s) for the Charging Party excluding any confidential medical records.

3. All written and electronic communications that mention or refer to the Charging Party's discussions with employees or discussions with Respondent's supervisors, managers or agents on behalf of employees that occurred during the period covered by this subpoena regarding employee terms and conditions of employment at the DBK1 Facility.

4. All written and electronic communications that mention or refer to Amazonians United NYC or Amazonians United that were written, distributed, or received by Respondent at its DBK1 Facility during the period covered by this subpoena.

5. All written and electronic documents, including any form of video/audio recording, that show, mention, refer to or describe a conversation between (b) (6), (b) (7)(C) and the Charging Party in the management office at Respondent's DBK1 Facility on about March 21 or March 22, 2020, including all documents that indicate the time, date, and location of such conversation, the identities of those who participated in or witnessed the conversation, and what was said during such conversation.

6. All written and electronic documents, including any form of video/audio recording, that show, mention, refer to or describe a conversation between (b) (6), (b) (7)(C) and the Charging Party in the shift supervisor office at Respondent's DBK1 Facility on about (b) (6), (b) (7)(C) 2020, including all documents that indicate the time, date, and location of such conversation, the identities of those who participated in or witnessed the conversation, and what was said during such conversation.

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Custodian of Records

Amazon.com Services, LLC 1 Bulova Avenue Woodside, NY 11377

As requested by Evamaria Cox, Counsel for General Counsel

whose address is Two Metro Tech Center, Suite 5100, Brooklyn, NY 11201-3838
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an Administrative Law Judge

of the National Labor Relations Board

at Zoom Video Hearing

in the City of Brooklyn

on Tuesday, February 9, 2021 at 9:30 AM or any adjourned

or rescheduled date to testify in Amazon.com Services LLC
29-CA-260062
(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-1-1BDVSVB

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

Issued at Brooklyn, NY

Dated: January 08, 2021

John Ring, 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.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC

and **Case No. 29-CA-260062**

(b) (6), (b) (7)(C) **, AN INDIVIDUAL**

CERTIFICATE OF SERVICE: GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S PETITION TO PARTIALLY REVOKE SUBPOENA DUCES TECUM

I certify that on January 25, 2021, I served the above-entitled document(s) as noted below, upon the following persons:

By electronic mail:
Michael E. Lignowski, Esq.
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103
michael.lignowski@morganlewis.com

Andriette A. Roberts, Esq.
Morgan, Lewis & Bockius, LLP
101 Park Avenue, 37th Floor
New York, NY 10178
andriette.roberts@morganlewis.com

Ross H. Friedman
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, 5th Floor
Chicago, IL 60601
ross.friedman@morganlewis.com

(b) (6), (b) (7)(C)

By electronic filing:
NLRB New York Division of Judges
26 Federal Plaza, 41st Floor, Suite 41-120
New York, NY 10278

/s/ Evamaria Cox
Evamaria Cox
Counsel for the General Counsel
National Labor Relations Board, Region 29
Two MetroTech Center, 5/Fl.
Brooklyn, New York 11201

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
NEW YORK DIVISION OF JUDGES

AMAZON.COM SERVICES, LLC

and Case No. 29-CA-260062

(b) (6), (b) (7)(C) AN INDIVIDUAL

ORDER DENYING THE RESPONDENT'S PETITION TO REVOKE THE GENERAL COUNSEL'S SUBPOENAS

On January 15, 2021, counsel for Amazon.com Services, LLC (Respondent) moved to revoke in total subpoenas Duces Tecum (B-1-1BDVKMN) and Ad Testificandum (A-1-1BDVSVB) served on January 8, 2021 by the counsel for the General Counsel. The counsel for the General Counsel replied in opposition to the petition to revoke on about January 25. Upon due consideration and for the reasons set forth in the General Counsel's opposition to revoke, the Respondent's petition to revoke Subpoena B-1-BDVKMN is denied.[1]

The complaint alleges that on about March 22, 2020, at the Respondent's DBK1 Facility in Woodside, New York, the Respondent 1) directed employees not to engage in protected concerted activity without first notifying Respondent's management; 2) threatened to discipline employees because they spoke to employees about a walk-out; 3) interrogated employees about their participation in and the participation of other employees in an employee walk-out; and 4) on about (b) (6), (b) (7)(C) (b) (6), (b) 2020, prohibited employees from discussing their written discipline with other employees. The complaint also alleges on about March 21, 2020, the Charing Party (b) (6), (b) (7)(C) engaged in concerted activities on behalf of other employees by organizing a walk-out after learning that a coworker was sent home for exhibiting COVID-19 symptoms. The complaint alleges that the Respondent engaged in the described conduct in violation of Section 8(a)(1) of the Act.

The petition to revoke the subpoena Duces Tecum argues general and specific objections. The petition maintains that the information sought in the subpoena is 1) burdensome to produce; 2) that the subpoena definition of "documents" is vague, overly broad, and non-specific; 3) the information sought is not relevant; 4) the

[1] Subpoena Ad Testificandum A-1-1BDVSVB requires the appearance of the custodian of records for the subpoena duces tecum and, as such, the petition to revoke this subpoena is also denied.

documents are privileged or confidential; and, 5) the subpoena seeks documents not in the possession or control of the Respondent. Specifically, the petition maintains that subpoena's paras. 1, 3, 4 and 5 seek documents that are overly broad and irrelevant to the complaint.

I find that Subpoena Duces Tecum B-1-BDVKMN is reasonably specific and describe with sufficient particularity the evidence sought, as required by Section 11 (1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. The subpoena is reasonable and I find that the information is relevant and not vague or may be necessary as background information and/or may lead to other evidence potentially relevant to the allegations in the complaint. Board's Rules, Section 102.31(b). I note that the request for "documents" is not overly broad or vague as the documents are referencing to specific information described in the subpoena paragraphs.

The information sought in the subpoena is specific, clear, and relevant to the allegations in the complaint. With respect to para 1, the subpoena seeks documents, including video and audio recordings, photographs, notes, and reports showing, describing, or referencing (b) (6), (b) (7)(C) discussions of a walk-out at the DBK1 facility on March 21 or March 22, 2020. The requested documents are limited in scope and duration and cannot be reasonably argued to be burdensome. The information sought is directly related to the events of March 21 and/or 22. Photographs subpoenaed would corroborate any written or electronic recordings. Para 3 of the subpoena seeks any written or electronic communications in the possession of the Respondent regarding (b) (6), (b) (7)(C) discussions with employees or with Respondent's supervisors and agents on employee terms and conditions of employment at the DBK1 facility from March 1 through March 31, 2020. Para 4 of the subpoena seeks written and electronic communications received, produced, or distributed by the Respondent at the DBK1 facility in referenced to a labor advocacy organization referred as Amazonians United NYC or Amazonians United. Again, both paragraphs are related to the Respondent's knowledge of and any action it took in the concerted activity of the workers for better working conditions. The request is limited in scope and cannot be said to be overly burdensome. Finally, para. 5 seeks production of documents referencing the allegation that (b) (6), (b) (7)(C) engaged in concerted activity on behalf of other employees by organizing a walk-out in response to a worker sent home with COVID-19 symptoms. This also directly relates to any concerted activity engaged by (b) (6), (b) (7)(C) with (b) (6), (b) coworkers.

I agree with the counsel for the General Counsel that the request for such documents on specific and limited dates in March 2020 is not burdensome and more voluminous production of documents have been granted by the Board in other NLRB subpoenas. *McDonald's USA*, 363 NLRB No. 144 (2016). As such, I do not find that the subpoena is unduly burdensome on the Respondent to produce. The Respondent has not met the burden to show that the documents requested are irrelevant or to produce the requested documents would be unduly burdensome on its operations or would threaten the normal operation of its business. Additionally, the subpoenaed documents need only to be reasonably relevant to matters in the complaint, or if the documents can provide background information or may lead potentially lead to other relevant information. *McDonald*, above.

To the extent that the Respondent claims that subpoenaed documents are not in its control or possession, the Respondent is only required to identify the documents (if any) relevant to each subpoena paragraph and represent to the General Counsel that it does not have such documents in its control or possession.

Finally, with respect to the contention in the petition that the information sought in the subpoena is confidential, proprietary and/or privileged, it is undisputed that the party asserting a privilege has the burden to establish that the documents are in fact privileged and confidential. As part of showing this burden, the Respondent must provide a privilege (or confidential) index log, specifically identifying the documents that are covered by the asserted privilege and provide a good cause explanation showing harm if the privilege/confidential nature of the document is disclosed. The index log must include 1) a description of the document, including its subject matter and the purpose for which it was created; 2) the date the document was created; 3) the name and job title of the author of the document; and 4) if applicable, the name and job title of the recipient(s). *CNN America, Inc*. 353 NLRB at 899 (2009).

Therefore, the Respondent is ordered to produce all documents pursuant to the subpoena duces tecum noted above, but not to the extent that the subpoenaed documents are covered by a privilege or represented that they are not in the control or possession of the Respondent.[2] The counsel for the Respondent is instructed to provide an index log as outlined above before the date of the hearing for any privileged and confidential information.

Dated: February 3, 2021
New York, New York

Kenneth W. Chu

Kenneth W. Chu
Administrative Law Judge

[2] In order not to unduly delay the start of the hearing, I would strongly request that the Respondent provide the subpoenaed documents in advance of the hearing date or that Respondent's counsel engage in a dialogue with the counsel for the General Counsel as to documents that would satisfy the subpoena, which may also eliminate the subpoena for the custodian of records to identify and authenticate the documents.

FORM NLRB-4701
(9-03)

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Amazon.com Services, LLC,
Employer

and

Individual,
Charging Party

CASE 29-CA-260062

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF

Employer, Amazon.com Services, LLC

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: David R. Broderdorf

MAILING ADDRESS: Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Ave., NW, Washington, DC 20004

E-MAIL ADDRESS: david.broderdorf@morganlewis.com

OFFICE TELEPHONE NUMBER: 202-739-5817

CELL PHONE NUMBER: _____ *FAX:* 312.324.1001

SIGNATURE: David R. Broderdorf
(Please sign in ink.)

DATE: Feb. 5, 2021

[1] IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
NEW YORK BOARD DIVISION OF UDGES

AMAZON.COM SERVICES LLC

and **Case No. 29-CA-260062**

(b) (6), (b) (7)(C)**, AN INDIVIDUAL**

PRETRIAL ORDER FOR A VIDEO HEARING
VIA THE ZOOM PLATFORM

The hearing in the above-captioned case is currently scheduled for March 2, 2021. On December 14, 2020, the parties were noticed by Region 29 that a video hearing will be conducted using the Zoom technology platform. The parties of the date of this Order, have not expressed any objections to holding a video trial by Zoom in lieu of an in-person hearing. Accordingly, as per Board Rule 102.35(c), due to "compelling circumstances" created by the COVID-19 pandemic, I ORDER that the trial be conducted remotely by video with Zoom. See *William Beaumont Hospital*, 370 NLRB No. 9 (2020).

It is further ORDERED that the Zoom trial be conducted as follows:

Courtroom Deputy and Host

An NLRB Board-side attorney will participate in the hearing as a courtroom deputy. The name and email address of the courtroom deputy will be provided shortly after our pretrial conference on February 9. The courtroom deputy will provide the parties, participants, and witnesses with the Zoom access information for the hearing. The courtroom deputy will be recused from working on this case following the trial. The courtroom deputy will be available to assist with Zoom technology and the video hearing, including the presentation of documents. Throughout the hearing, the courtroom deputy or I will be the "host" of the meeting with the ability to control certain functions of the Zoom program, including muting participants, hiding video feeds of participants and non-participant observers, sending individuals to breakout rooms, and moving participants to/from the waiting room. The parties will be informed of the name and email address of the courtroom deputy shortly after our pretrial conference.

No Recording of the Hearing

All recording, videotaping, broadcasting, or photographing of the trial by anyone other than the official court reporter shall be strictly prohibited.

Participants, Responsibilities of Counsel, Witnesses, Waiting Room, and Breakout Rooms

The counsel for the General Counsel is responsible for informing the parties the name and email address of the court reporter. No later than COB of February 19, counsel must email the Judge, courtroom deputy, and court reporter a list of all hearing participants, including witnesses, to which counsel has sent the Zoom access information for the hearing. The Zoom access information will be provided after our pretrial conference. The list of participants is for procedural use only and will not be part of the record. The list must include the individual's name, email address, telephone number and role in the proceeding. This list is necessary for the Judge or courtroom deputy to allow the appropriate access to the proceedings and to correctly assign individuals to breakout rooms or the waiting room. However, parties will not be precluded from calling witnesses who are not on this list, if necessary, for the presentation of their case.

If participants do not already have a Zoom account, they should visit Zoom.US and create an account using their real names. If you are using a smart phone, install Zoom from the App Store.

It will be important for all involved to familiarize themselves with the Zoom platform in advance of the hearing. Zoom has several video tutorials which may be helpful.

Counsel will be responsible for ensuring that their witnesses have access to equipment, internet, and training necessary to fully participate in the Zoom video hearing. Although it is possible to access a Zoom meeting by cellular device, a computer with WiFi generally provides a more stable connection and better functionality. Accordingly, counsel and their witnesses should test and use a WiFi connection to access the meeting. If counsel anticipates that their witnesses may have problems with equipment and/or an internet connection, the other parties and I should be notified immediately.

Subject to a potential sequestration order, the parties are not restricted from inviting individuals of their choosing to access the Zoom hearing. However, as noted above, by COB February 19, counsel should email me, the courtroom deputy and the court reporter, a list of any individuals who may access the meeting as co-counsel, paralegals, witnesses, representatives, observers, etc. Upon entering the Zoom meeting, participants should select "Join with Computer Audio." Participants will be placed in an online waiting room until they are admitted to the meeting.

Witness Instructions and Guidelines are included with this Order. Witnesses need not join the meeting significantly before it is time for them to testify but should err on the side of joining somewhat early. Counsel should inform witnesses as to the approximate time that they will testify. For example, Respondent witnesses may not

need to log in at the time when the hearing starts. We can expect a video hearing to take longer than a standard in-person trial and will need the best efforts of participants to avoid undue delay and expense.

Only one attorney for each party shall be unmuted at any given time to avoid extraneous sound and audio feedback (which occurs when two devices are unmuted and accessing the meeting from the same space). Further, in addition to being muted, the video feed of individuals other than myself, the courtroom deputy, counsel, and the witness should be stopped. It is the responsibility of the respective counsel to advise their non-participant observers the manner that they will access the hearing. Identified non-participant observers may join the meeting with any of the above-mentioned devices in any of the above described ways. However, they must remain muted with their video output off throughout the hearing. They may not disrupt the hearing in any way. If they disrupt the hearing, or violate the judge's instructions, they may be subject to removal and other sanctions.

The Zoom video settings can be set to "hide non-video participants" (i.e., the video box for a person who has stopped his/her video feed will be removed from the gallery view) in order to avoid confusion caused by having too many video participant boxes on your monitor. You can expect that non-participants and observers will be muted and without video unless otherwise requested by counsel.

Witnesses may not use virtual backgrounds. Other participants may use virtual backgrounds.

Witnesses shall not have any surreptitious communication with anyone or view non-exhibit materials while testifying. I will instruct each witness to that effect when I administer the oath.

Counsel should arrange in advance to have witnesses, upon being called to testify, scan the location (or affirm that) where they are testifying is free of people and case materials, except in the event that counsel is present.

At my discretion, witnesses may be temporarily removed from the primary hearing room and returned to the waiting room if it is necessary to discuss an issue outside the presence of the witness.

If counsel desire to consult with each other or speak with clients (other than a client on the witness stand), they may ask to be placed in a private breakout room for a pre-determined period of time. Conversations in a breakout room cannot be heard by people outside of it.

Documents and Exhibits

It would greatly facilitate the conduct of the hearing if the parties emailed all their potential exhibits to the Judge, courtroom deputy, their own witnesses and opposing

counsel no later than COB Thursday, February 25, 2021. While parties may not wish to reveal the identity of all potential witnesses in advance, it should be obvious that certain individuals, such as persons named in the complaint may be witnesses. Therefore, the parties are requested to provide any exhibits they plan to use with such witnesses to opposing counsel in advance-with the exception of Jencks materials.

Exhibits for the record will be emailed to the opposing side, the court reporter and to the witness for examination. The parties are encouraged but not mandated to exchange potential exhibits ahead of the hearing date. The parties are also encouraged to stipulate to documents, such as the exhibit containing the General Counsel's complaint and Respondent's answers ahead of the hearing. A SharePoint page will be available for uploading documents into a file folder and accessing those documents. **SharePoint will only be used** for voluminous documents or data, such as subpoenaed documents (that may or may not be exhibits for the record) or video/audio transmissions. SharePoint access will be provided by the courtroom deputy prior to the hearing date so parties may upload voluminous documents. Please note that I will not access or review subpoenaed documents before they are marked for use as exhibits. Again, the parties are encouraged to exchange subpoenaed documents and potential exhibits ahead of the hearing date. This would enable the parties to determine which documents would likely be introduced as an exhibit and would also avoid delays with the parties reviewing subpoenaed documents on the day of the hearing.

If counsel would like additional people to have access to the SharePoint page, the names and email addresses of those individuals should be emailed to me and the courtroom deputy. An invitation link to the SharePoint page will be emailed to counsel and any other individuals they designate for access.

As noted above, I would request, but not mandate, that the parties exchange subpoenaed records and/or potential exhibits no later than February 25, 2021. Each party should pre-mark/paginate each individual exhibit as an Adobe PDF file with bookmarks to the first page of each exhibit. Exhibits need not be produced in advance if the introducing party has a legitimate reason to withhold them, including a strategic reason or uncertainty as to whether the document will be necessary. However, withheld documents must be premarked and available in electronic form when it is time to use them in the video hearing

The Zoom "Share Screen" function will be used as the primary method of presenting exhibits to witnesses because this function allows other participants to see the witness while the witness reviews the document. Participants are encouraged to use two computer monitors if possible.

Jencks Statements

Jencks statements such as affidavits will not be produced by the General Counsel until a witness has been called by the General Counsel and testifies on direct

examination. Upon the conclusion of the hearing, Respondent's counsel **MUST** delete all Jencks statements from their computers and represent that they have done so.

Conferring via the Zoom Breakout Room Function

If counsel want to consult each other or speak with clients (other than when the client is on the witness stand), they may ask to be placed in a private breakout room.

The Judge or his co-host will close the breakout room and return those in it to the main hearing when requested or, with adequate notice, when it is appropriate to do so. Conversations inside the breakout room cannot be heard by persons outside of it.

Chat Function

Zoom is equipped with a chat function which allows participants to send typed messages to each other and exchange documents. Private chat between individual participants will be disabled. However, public chat among all participants will be allowed.

Advance Notice of Difficulties

I strongly encourage parties to be proactive in notifying each other and me of any technical difficulties or other issues they may encounter while preparing for trial. In particular, Zoom participants sometimes struggle with connectivity and audio. To establish a stable connection, it may be helpful to remain close to the router (perhaps tethering the computer to the router by wire), close unused applications, and/or limit the number of devices that are using the wifi. It will also be useful to test your computer speaker and microphone shortly before the trial.

Dated: February 8, 2021
New York, New York

/s/ *Kenneth W. Chu*
Kenneth W. Chu
Administrative Law Judge

Electronically filed and served by email to the following:

Evamaria Cox, Esq. and Matthew Jackson, Esq., counsel for the General Counsel.
Ross Friedman, Esq. and Andriette Roberts, Esq, counsel for the Respondent.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

AMAZON.COM SERVICES LLC and (b) (6), (b) (7)(C) An Individual.	)	Case 29-CA-260062

RESPONDENT'S AMENDED ANSWER

Pursuant to Sections 102.20, 102.21, and 102.23 of the National Labor Relations Board's Rules and Regulations, Amazon.com Services LLC ("Respondent," "Amazon" or the "Company"), through its undersigned counsel, submits the following Amended Answer to the Complaint ("Complaint") according to the Complaint's numbered paragraphs. To the extent that the Complaint's introduction contains allegations and legal conclusions, they are denied.

1. (a) Respondent is without knowledge as to the allegations in this paragraph of the Complaint.

(b) Respondent is without knowledge as to the allegations in this paragraph of the Complaint.

(c) Respondent is without knowledge as to the allegations in this paragraph of the Complaint.

2. (a) Admitted.

(b) Admitted.

3. Admitted.

4. Respondent admits only that, at all material times, (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) held the position of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and have been supervisors of Respondent within the meaning of Section 2(11) of the

Act and agents of Respondent within the meaning of Section 2(13) of the Act. The remaining allegations in this paragraph are denied.

5. This paragraph states a legal conclusion for which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

6. (a) Denied.

(b) Denied.

(c) Denied.

7. Denied.

8. This paragraph states a legal conclusion for which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

9. This paragraph states a legal conclusion for which no answer is required. To the extent a response is required, the allegations of this paragraph are denied.

Any and all remaining allegations contained in the Complaint are denied.

SEPARATE DEFENSES

Respondent asserts the following separate defenses to the Complaint without conceding that it bears the burden of proof as to any of them:

1. The Complaint fails to state a claim upon which relief can be granted.

2. Respondent has been denied due process of law.

3. The position of the Agency and the issuance of Complaint are not substantially justified.

4. The Complaint is barred inasmuch as the Charging Party failed to properly serve the charge on the Respondent as required by Section 102.14(a) of the Board's Rules and Regulations.

5. Some or all of the allegations of the Complaint are barred in whole or in part because such allegations were not within the scope of the allegations made in any underlying unfair labor practice charge(s).

6. Some or all of the allegations of the Complaint are barred in whole or in part by the applicable limitations period under Section 10(b) of the National Labor Relations Act.

7. The Acting General Counsel has no authority to prosecute the Complaint based on the premature and improper removal of General Counsel Peter Robb on January 20, 2021. Pursuant to Section 3(d) of the Act, the General Counsel is appointed "for a term of four years" and has the "final authority . . . in respect of the prosecution of such complaints before the Board." General Counsel Peter Robb's improper removal and replacement, before his four-year term ends on or about November 15, 2021, renders prosecution of the Complaint *ultra vires*.

WHEREFORE, Respondent Amazon.com Services LLC requests that the Complaint and Notice of Hearing be dismissed, with prejudice.

Date: February 22, 2021

Respectfully submitted,

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Attorneys for Respondent
Amazon.com Services LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Amended Answer was electronically filed, and served via email, on February 22, 2021, upon the following:

Evamaria Cox
Field Attorney
National Labor Relations Board, Region 29
Two Metro Tech Center, Suite 5100
Brooklyn, NY 11201
Evamaria.Cox@nlrb.gov

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

/s/ Andriette A. Roberts
Andriette A. Roberts