OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759
Union,		

and

Rolando Lopez,
an Individual,

and

International Brotherhood of
Teamsters, Local 630,

Petitioner.

Place: Los Angeles, California

Dates: October 2, 2018

Pages: 1 through 172

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:	
WISMETTAC ASIAN FOODS, INC., Employer,	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-213978 21-CA-212285 21-RC-204759
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union,	
and	
ROLANDO LOPEZ, An Individual,	
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Tuesday, October 2, 2018, 10:26 a.m.**

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A P P E A R A N C E S

2

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1 **I N D E X**

2

3 WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
4 Carlos Quinonez	35	53	54		
5 Isidro Garcia	62	99			
6 Luis Lopez	111	130			
7 Fanor Zamora	134	161	168	169	

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EXHIBIT	IDENTIFIED	IN EVIDENCE
General Counsel:		
GC-1A - 1AM	7	7
GC-2	26	27
GC-3	26	27
GC-4	26	28
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U-1	84	83

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

2 JUDGE LAWS: All right. Let's go on the record.

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

4 before the National Labor Relations Board in Wismettac Asian

5 Foods, Incorporated and International Brotherhood of Teamsters

6 Local 630 and Rolando Lopez, an individual. Those case numbers

7 are 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978, 21-

8 CA-219153 and 29-CA-212285 and it is consolidated with case 21-

9 RC-204759 for hearing on objections to the election.

10 The administrative law judge presiding is Eleanor Laws.

11 I'm assigned to the San Francisco Division of Judges. Any

12 communication should be addressed to that office and any

13 requests for extensions of time should be addressed to the

14 associate chief judge in that office.

15 Will counsel and other representatives of the parties

16 please state their appearances for the record?

17 General Counsel?

18 MS. PEREDA: Elvira Pereda, counsel for the General

19 Counsel.

20 MR. RIMBACH: Thomas Rimbach, also counsel for the General

21 Counsel.

22 JUDGE LAWS: For the charging party?

23 MS. SANCHEZ: Renee Sanchez, Hayes Ortega & Sanchez, on

24 behalf of Teamsters Local 630.

25 JUDGE LAWS: Okay. And for the Respondent.

1 MR. WILSON: Scott Wilson, Law Offices of Scott Wilson,
2 for the Respondent.
3 JUDGE LAWS: Thank you. We talked about settlement on the
4 telephone during a pre-hearing conference. At that time, it
5 didn't look like settlement was a realistic possibility.
6 Sometimes that changes with trial development, so I want to
7 inform all the parties to, please, if it seems like settlement
8 might be something that the parties desire at any point during
9 the proceedings, just let me know and we'll take a reasonable
10 break to discuss settlement.
11 Would the General Counsel please introduce the formal
12 papers?
13 MS. PEREDA: Yes, Your Honor. The parties have been shown
14 the formal document, and at this time I would like to offer
15 into evidence the formal papers as General Counsel Exhibits 1A
16 through 1AM; 1AM being an index and description of the entire
17 exhibit.
18 JUDGE LAWS: All right. And can I take a look?
19 MS. PEREDA: Sorry about that, Your Honor.
20 JUDGE LAWS: Okay. Is there any objection --
21 MR. WILSON: No objection.
22 JUDGE LAWS: Okay. I will go ahead and admit the formal
23 documents into the record.
24 **(General Counsel Exhibit Number 1A - 1AM Received into**
25 **Evidence)**

1 JUDGE LAWS: Does any party in this case want a
2 sequestration order?
3 MR. WILSON: Yes, Your Honor.
4 JUDGE LAWS: All right.
5 MR. WILSON: For the Respondent, yes.
6 JUDGE LAWS: A sequestration order is being issued in this
7 proceeding. This means that all persons who expect to be
8 called as witnesses in this proceeding, other than a person
9 designated as essential to the presentation of a party's case,
10 will be required to remain outside the courtroom whenever
11 testimony or other proceedings are taking place.
12 A limited exception applies to witnesses who are alleged
13 discriminatees in this matter. They may be present in the
14 courtroom at all times other than when witnesses for the
15 General Counsel or a charging party are giving testimony
16 regarding the same events that the alleged discriminatees are
17 expected to testify about.
18 The sequestration order also prohibits all witnesses from
19 discussing with any other witness or any possible witness the
20 testimony they have already given or will give.
21 Likewise, counsel for a party may not disclose to any
22 witness the testimony of any other witness. Counsel may,
23 however, inform his or her own witness of the content of
24 testimony given by any opposing party's witness to prepare to
25 rebut that testimony.

1 It is counsel's responsibility to make sure that they and
2 their witnesses comply with the sequestration rule.
3 So, at this point, I want to ask the parties to identify
4 anyone they are designating as essential to the presentation of
5 their case.
6 For the charging party.
7 MS. SANCHEZ: I have with me Carlos Quinonez from the
8 Teamster's Local 630.
9 JUDGE LAWS: Thank you.
10 And for the Respondent.
11 MR. WILSON: We have no one here at this time.
12 JUDGE LAWS: Okay. And then you do have somebody sitting
13 to your left. I guess --
14 MR. WILSON: Yeah, and --
15 JUDGE LAWS: -- if she is going to be here, I would ask
16 for her to be identified, too.
17 MR. WILSON: Oh, I'm sorry.
18 JUDGE LAWS: That's okay.
19 MR. WILSON: So this is my assistant, Brittany Heath.
20 JUDGE LAWS: Thank you.
21 MR. WILSON: And I'm sorry I didn't identify her when I
22 made an appearance.
23 JUDGE LAWS: That's all right. She's identified now.
24 Before we move into subpoena issues, I just want to note
25 one housekeeping scheduling matter we talked about. In my

1 scheduling order dated September 11th, 2018, I stated that we
2 would start at 9:00 each day. It was pointed out to me that
3 October 8th is a federal holiday, and for that reason, we are
4 going to start October 9th at noon instead of at 9 a.m. in
5 order to give people time to travel if they need to on the 9th
6 instead of having to do so on a federal holiday.
7 We had discussions regarding a subpoena and a petition to
8 revoke; a subpoena duces tecum that was served by the Union on
9 the Respondent. We were able to talk through and resolve most
10 of the subpoena issues.
11 There are two subpoena requests that I did -- that I am
12 denying a petition to revoke for and making some modifications.
13 The first one is number 3 and that is a list of employees
14 separated from September 17th, 2017 -- the request was to the
15 present. The Union has agreed to limit that to 3/1/2018 --
16 March 1st, 2018. And with that change, I am ordering
17 production of what has been requested in number 3.
18 The other one is number 13 and that was personnel files
19 regarding the challenged voters, and we talked that through.
20 And anyone who's ever seen a personnel file knows that it's
21 full of all sorts of mundane information like information
22 provided about employee benefits, healthcare options, so -- I
23 am ordering the personnel files, however, just to hone it in a
24 little bit on relevancy and make it so that unnecessary volume
25 doesn't need to be produced, generic documents pertaining to

1 things like medical insurance, employee benefits, don't need to
2 be provided. Just sort of the canned typical things that every
3 employee gets on their first day at orientation and may or may
4 not ever read, so --
5 I did say to the parties that if the agreements that we
6 acceded to, when we were talking before going on the record,
7 don't hold up, it's incumbent upon the parties to bring that to
8 my attention, and we can try to resolve or re-resolve those at
9 the time.
10 The other pre-hearing matter I want to put on the record
11 is the parties have agreed that, in general, the "R" case will
12 be presented after the General Counsel's presentation of the
13 "C" case. There is one witness who the parties have agreed
14 will be called out of order in the "R" case because of his
15 schedule and personal demands.
16 All right. Is there anything else anybody wants to add
17 before I take opening statements?
18 MS. PEREDA: Your Honor, just one quick matter. If we
19 were going to introduce subpoena documents into the record,
20 would we do that now or after opening statements?
21 JUDGE LAWS: Well, I guess it depends on -- it doesn't
22 make a huge difference to me if these are documents that have
23 been stipulated as to their authenticity. I mean, I suppose
24 they're typically introduced unless there's a stipulation that
25 they're relevant and admissible through a witness. So my

1 answer to you is I don't know because I don't know how they're
2 being offered, what they're being offered to prove.
3 MS. PEREDA: Okay. We can certainly do that after the
4 opening statements.
5 MR. WILSON: Okay.
6 MS. PEREDA: So we can get that out of the way.
7 JUDGE LAWS: Okay.
8 MS. PEREDA: And address any issues --
9 MR. WILSON: Sure.
10 MS. PEREDA: -- that the parties may have at that time.
11 JUDGE LAWS: That sounds good.
12 All right. So if the General Counsel is ready to proceed.
13 MS. PEREDA: Yes, Your Honor.
14 So this case, Your Honor, is about employees' wishes to be
15 represented by the Union and Respondent Wismettac's unlawful
16 anti-union campaign to destroy employees' organizing drive at
17 all costs.
18 None of Respondent's facilities are unionized and
19 Respondent is determined not to let its Santa Fe Springs
20 headquarters become its first unionized facility.
21 Respondent is an international company that imports and
22 distributes perishable goods. Respondent has about 20
23 facilities nationwide, including the Santa Fe Springs facility
24 in question here.
25 At this facility, Respondent employs both warehouse

1 workers and drivers in addition to other workers.
2 In addition to employing employees directly, Respondent
3 also contracts with numerous staffing agencies who, in turn,
4 supply temporary workers to Respondent on a daily basis. From
5 time to time, these temporary workers may become permanent
6 employees of Respondent.
7 Since at least last year, the summer of 2017, the Union,
8 Teamsters 630, has been trying to represent and unionize about
9 100 to 150 of Respondent's warehouse workers and drivers.
10 On August 21st, 2017, the Union, along with a delegation
11 of employees, arrived at Respondent's facility to request
12 voluntary recognition. In response, Respondent refused to
13 voluntarily recognize the Union and immediately began an anti-
14 union campaign.
15 In light of Respondent's unwillingness to voluntarily
16 recognize the Union, the Union filed a petition for
17 representation that same day. Thereafter, in reaching a
18 stipulated agreement, the parties agreed that in addition to
19 allowing the permanent warehouse workers and drivers to vote in
20 the election, they would also allow the temporary employees,
21 warehouse workers, to vote in the election.
22 The election was held on September 19, 2017. In the days
23 leading up to the election, Respondent, through its acting
24 general manager, Frank Matheu, held numerous meetings with
25 employees, both temporary and permanent employees, where

1 Respondent voiced its anti-union rhetoric and was critical of
2 employees' wishes to be represented by the Union.
3 Not only did Respondent voice its opinion as to what
4 employees should do, but Respondent went as far as making
5 promises to employees, telling employees that he had the green
6 light or authority to make the changes -- to make changes to
7 improve employees' working conditions so long as employees did
8 not support or vote for the union.
9 The Union won the first election which was held on
10 September 19, 2017, by a landslide. However, after the first
11 election, Respondent did file objections one of which the
12 Region sustained for a Board agent misconduct.
13 Several months later, in December of 2017, a second
14 election was scheduled, and it was eventually held on February
15 6th, 2018.
16 The evidence will show that after the first election,
17 knowing that a second election was forthcoming, Respondent
18 intensified its anti-union campaign by aggressively targeting
19 anti-union (sic) supporters. To that end, Respondent
20 disciplined, suspended and terminated employees simply because
21 of their union activities. The evidence will show that in many
22 of these cases, Respondent disciplined employees without
23 conducting a meaningful investigation. Rather, Respondent was
24 quick to embrace any alleged complaining against known union
25 supporters.

1 As mentioned earlier, Respondent contracts with several
2 staffing agencies for the supply of temporary workers. For
3 years, Respondent contracted with Randstad worker staffing
4 agency.
5 Most recently, as of October of 2017, Randstad supplied
6 about 15 to 20 warehouse workers to Respondent, who, in turn,
7 worked the daytime and the nighttime shift at the warehouse.
8 The Randstad daytime employees, like all other temp
9 employees, were permitted to vote in the election.
10 It is no secret that several of the Randstad employees
11 were active Union supporters and Respondent was well aware of
12 this.
13 On October 23rd, 2017, when Randstad learned that
14 Respondent had agreed to let the Randstad employees vote in the
15 election, Randstad notified Respondent that, effective November
16 23rd, 2017, it was cancelling its service agreement.
17 Thereafter, Respondent decided that, effective October
18 31st, 2017, it was going to let go of the Randstad daytime
19 employees, but it would allow the nighttime Randstad employees
20 to continue working.
21 Three of the Randstad temp employees who were being let go
22 or terminated were known union supporters and they very much
23 wanted to continue working for Respondent. While the evidence
24 will show that Respondent was hiring or had concrete plans to
25 hire warehouse workers and even advised these Randstad temp

1 employees who were being let go to apply for work directly with
2 Respondent, when known union supporters, Pedro Hernandez,
3 Jeremiah Zermeno and Fanor Zamora applied for work either
4 through another staffing agency or directly with Respondent,
5 Respondent simply turned them away for no other reason than
6 because of their union activities.
7 Most recently, Your Honor, Respondent again engaged in
8 unlawful conduct by holding meetings with employees where one
9 of its labor consultants provided statements and instructed
10 employees as to how to go about so that employees could
11 retrieve their signed authorization cards from the Union.
12 As Your Honor will hear, Respondent was caught off guard
13 on August 21st when it realized that a number of its employees
14 wanted to be unionized and it was further stunned when it saw
15 the elections of the first -- when it saw the results of the
16 first election which confirmed that a majority of its employees
17 wanted to be unionized.
18 For the past year, Respondent has been working tirelessly
19 to stop employees from being unionized even if that means
20 running afoul of employees' Section 7 rights.
21 At this point, Respondent has one goal and that is to get
22 the parties to hold a third election with the hope that
23 employees will, at last, reject the Union.
24 Thank you, Your Honor.
25 JUDGE LAWS: Thank you.

1 Does the Charging Party care to make an opening statement
2 at this point?
3 MS. SANCHEZ: Yes, we would. Thank you, Your Honor.
4 Good morning. For context, I'd like to provide a little
5 bit more history. The General Counsel has adequately done so,
6 but --
7 As you've heard, there have been two elections in this
8 case dating back to the fall of last year. The first election
9 was now held just over a year ago, on September 19th, 2017, and
10 the second election took place on February 6th, 2018. The
11 Union won both of those elections, as you heard. The first
12 election was absolutely a landslide.
13 In the first election, the number of challenged ballot
14 voters were not determinative; in the second election, they
15 were. And we want to provide some context about that.
16 It's not because the union's margin of victory changed but
17 instead because the Employer, in a blatant attempt to sway the
18 election, increased the number of challenged ballot voters.
19 Teamster's Local 630, the Union, engaged in a traditional
20 organizing campaign, as you heard, in the spring and summer of
21 last year and originally, specifically, excluded office
22 clerical employees.
23 On or about August 29th, 2017, the company proposed
24 including temporary employees in the unit, as you heard, and
25 the Petitioner eventually agreed, and the temporary employees

1 overwhelmingly chose the union.

2 With the Region's help, the parties entered into a

3 stipulated election agreement to hold that election, as I said,

4 on September 19th. During the negotiation of that agreement,

5 after the parties agreed to include the temporary workers, the

6 Employer then proposed adding an additional 13 employees in

7 four different classifications.

8 While the Union did not necessarily agree that those 13

9 employees were appropriate for the unit and that they did not

10 share a community of interest with the union, traditional or

11 otherwise, the Union eventually agreed to allow the employees

12 to vote subject to challenge. The parties agreed to that.

13 Here, I'd like to just note that the issue of the 13

14 employees in the four categories is going to be extremely

15 relevant in this hearing because, from the Union's perspective,

16 there was only a meeting of the minds with regard to those 13

17 employees.

18 What happened, over the course of seven different lists,

19 Your Honor, from the Employer's original position statement and

20 then the original list that was provided prior to the first

21 election and the second election that happened in February, on

22 February 6th, 2018, seven different employee lists were

23 provided over the course of those few months -- the original

24 one and six different or revised or what were called amended

25 voter lists.

1 In each of those lists, the Employer, Respondent,
2 systematically increased the alleged eligible voters in the
3 challenged ballot categories, in those four categories, when we
4 had originally discussed 13 employees. And that was all in a
5 strenuous effort to effect the outcome of the election which
6 was successful all along. It was not successful in the first
7 election, and so the list kept growing and growing and growing
8 and eventually, even though the Union won in the second
9 election, the challenged ballot votes were determinative.
10 On the one hand, prior to the second election, the
11 Employer argued, and I quote, that there has been significant
12 turnover. And on the other hand, there's little to no evidence
13 of any such turnover or increase in the volume of work.
14 And in the Employer's position statement regarding the
15 challenged ballot, along with its supplemental position
16 statement, the Employer all but admitted that it simply changed
17 the ineligible status of employees to a status that would later
18 allow them to vote. It referred to the changes as inadvertent
19 or clerical errors. But you will see that the evolution of the
20 lists clearly show the systematic change from ineligible voter
21 to challenged ballot voter over the course of those few months.
22 And all of that, Your Honor, was in an effort to
23 manipulate the lists. It was in bad faith and was a clear
24 intent on ruining and interfering with the election and
25 employee free choice.

1 The Union intends to provide clear and strong testimony
2 regarding the challenged ballot voters. Specifically, the
3 Union's position is that the Employer manipulated the voter
4 lists, and the evidence will show that Wismettac, over the
5 course of those five months, produced seven different lists,
6 increased that number from 13 to 68 challenged ballot voters.
7 Your Honor, the majority of the challenged ballot voters
8 were not new employees. They were, instead, office clerical,
9 front office employees. And you'll be hearing the difference
10 between those who worked in the front office versus in the
11 warehouse, and you'll be provided a description of the
12 facility.
13 Also, over the course of the evolution of the voter list,
14 the Employer included improper employees on the list, included
15 supervisors on the list, included P.O. Box addresses, listed
16 the addresses for temporary agency employees as the temp agency
17 address, and in some cases, listed no contact information, at
18 all. Your Honor, the Union objected to this misconduct at
19 every turn. The admissions and problems had an effect on the
20 second election. Wismettac's blatant inference with the
21 election was in bad faith, intentional and should be
22 scrutinized.
23 For example, in In Re: Custom Catering, Inc. 175 NLRB 9 --
24 that's a 1969 case -- the Board found that the Employer
25 interfered with the election by its failure to furnish a list

1 of employees when the original list was filed late and omitted
2 names and addresses and when it filed a supplemental list that
3 remained faulty just like in this case.
4 Put simply, the Board takes the voter lists very
5 seriously, as it should, and in this case the voter lists were
6 problematic from the start. The sheer number of them over the
7 course of a few months is outrageous, in and of itself, and
8 each of these interfered with the election.
9 Turning back to the category of employees that were
10 included on the subject to challenge category of employees.
11 The Union's contention is that the four categories, putting
12 aside the increase and the volume of the number of those voters
13 -- these four categories don't share community of interest with
14 the petition for a unit and, at best, only one of the subject
15 to challenge categories has any community of interest
16 whatsoever with the petition for a unit and that one is titled
17 logistics office clerks.
18 You will hear testimony that our petition was originally filed
19 that there were -- when it was originally filed, there were
20 three logistics office clerks, and by the time the second
21 election occurred Wismettac had changed the job titles of over
22 two dozen employees to this category alone in an attempt to
23 affect the outcome of the vote. Namely, an attempt to ensure
24 that the challenge ballot voters would, the second time around,
25 be determinative.

1 With regard to community of interest, and PPC Structurals,
2 in particular, members Pearce and McFarren in their dissent,
3 cited Fed Ex Freight Inc. noting that numerous courts of
4 appeals have acknowledged that the initiative in selecting an
5 appropriate union for bargaining resides with the employees.
6 And Your Honor, when worker seeking a representative have
7 selected a bargaining unit in which they seek to organize, the
8 role of the Board in reviewing that selection is to determine
9 whether the selected unit is appropriate for one under the
10 statute, and not the unit the Board would prefer or in
11 particular the Employer would inter -- would prefer.
12 Here, the Employer misstates the degree of integration at
13 the facility, and has outright told untruths about the
14 classifications of employees in order to manipulate the vote
15 count. While I don't want to legitimize Respondent's actions
16 in any way by turning to the traditional community of interest
17 factors, I will note that, again, there's no -- there's just
18 simply not integration between the employees and the petition
19 for a unit, and those the Employer wants to include.
20 The Petitioner will provide testimony that the facility is
21 comprised of a front lobby. Through the lobby are offices, and
22 a second floor. There are cubicles there where office
23 employees sit. The second floor is similar, but then you have
24 to go through the facility. There is a very long hallway that
25 separates the warehouse from the front office, and you'll hear

1 testimony about that during the course of this hearing.
2 The petitioned-for unit -- those in the petitioned-for
3 unit share a community of interest sufficiently distinct from
4 the interest of the employees excluded for the petition -- from
5 the petition-for group and the challenge group to warrant a
6 finding that the proposed group constitutes a separate
7 appropriate unit.
8 Finally, with regard to the Union's objections, numbers 1,
9 4, and 11 have to do with the quality voter list, tampering
10 with the voter list, and allowing the office clericals to vote.
11 And I discussed that a bit already. The Union's objections 2
12 and 3 are regarding suspending and terminated pro-union
13 employees. And the Employer's retaliation against those
14 employees, and you heard a little bit about in the General
15 Counsel's opening statement. Union's objections number 5 and
16 number 9 have to do with Wismettac's anti-union campaign and
17 propaganda, and their refusal on the day of the second election
18 to turn off its cameras that pointed directly to the voting
19 room, which allowed them to consequently surveil the voting
20 employees. And it also refused to take down anti-union banners
21 that were hanging throughout the warehouse. And that -- those
22 refusals occurred in the presence of the Board agent conducting
23 the election and counsel, and other witnesses.
24 With regard to Union's objections number 7 and 8. Number
25 7, it was regarding armed guards that were hired to intimidate

1 employees specifically in advance of the election. And number
2 8 is regarding that at the vote count, the Employer allowed
3 anti-union employees to observe the ballot count that the
4 guards kept out of the room of the voting -- the pro-union
5 employees. And number 10 is regarding to supervisors who
6 voted.
7 At this time, the Union would agree to withdraw objections
8 number 6 and objections number -- I'm sorry. Objections
9 numbers 6, 12, and 13. Thank you.
10 JUDGE LAWS: Thank you. And does the Respondent care to
11 make any opening?
12 MR. WILSON: Just very, very briefly. Your Honor, there
13 has been a long and somewhat contentious relationship between
14 my client and Teamsters Local 630. Not so much with NLRB, but
15 dating back to August of 2017. I will say this, that the
16 company's in the food distribution business. And they have to
17 operate a business successfully, like any other employer. And
18 they have to make decisions as it relates to employees.
19 The picture painted by counsel for, the Board and the
20 Region, is that virtually every morning the company's
21 supervisors wake up, and say what can we do hurt the Teamsters
22 Local 630? What can we do to diminish employee support? And
23 they couldn't run a business like that. And so the idea -- the
24 Union and the General Counsel look at every decision the
25 company makes pretty much with blinders, and so there was a

1 very contentious campaign by both sides. And -- but there's an
2 assumption that just because the Employer engaged in conduct
3 protected by HC, that that means that all of their decisions
4 are tainted by that. So all that will come out in the trial.
5 Now, I don't want to get into the -- our case too much
6 other than this issue of the challenge ballot. So at the very
7 beginning of the case, the parties agreed that certain
8 categories -- and I want to emphasize categories of employees
9 could vote, and those were stipulated in. And then there were
10 four or five other categories. They said, okay, we will leave
11 those categories. People that fall within this position, we're
12 going to leave that open, and then we'll litigate that should
13 it become outcome determinative.
14 So there's two issues. What are the categories, and who is in
15 the categories? So we believe that the categories themselves
16 clearly have a community interest. The categories that were
17 left open clearly have a community of interest with the
18 categories that were included. The issue with which employees
19 are in the categories and these allegations that we've packed
20 the unit -- let me say this, Your Honor.
21 First off, the company had never been through anything like
22 this, ever. And so with these categories, there was a lot of
23 confusion as to who does what. By the time we had the second
24 election, we did go back and take a look at these categories,
25 and then employees who may fit in them, even though they were

1 not included on the first list. And this idea that they
2 weren't on the first list, and we put them on the second list
3 is completely irrelevant. Either they fit with the categories,
4 or they don't.
5 Now, if Your Honor finds that these categories are
6 legitimate, and that they -- the categories have a community
7 interest -- the challenge categories have a community interest
8 with the included categories. Then, if employees fall within
9 them, they should be -- their vote should be counted. The fact
10 that they weren't on the first list to begin with, like I say,
11 is completely irrelevant. They either fit within the
12 categories or they don't. If they do, they get to vote.
13 As far as this issue about the voter list, there's
14 warehouse employees and drivers. The drivers are all full-time
15 employees. Naturally, we have all of their contact
16 information. And as this comes out, there will be no evidence,
17 I don't believe, showing a voter list with inaccurate
18 information regarding drivers or anyone else that was a
19 full-time employee.
20 The problem was, at the eleventh hour, there was a
21 stipulation, as counsel for the Union indicated, that the temps
22 could vote. And so that created a problem in terms of an
23 employee list as the company doesn't have contact information
24 for the temporary employees. We had to ask the agencies,
25 including Randstad, to provide that, and in most cases they

1 wouldn't. So we gave whatever contact information we had -- we
2 didn't have it available at the time.
3 As I recall, the stipulation was entered into, like, late
4 on a Wednesday, and we had until, like, Friday night to turn
5 that over going into a holiday weekend of Labor Day, and they
6 provided the best information they had. They simply don't have
7 contact information for temporary employees. That's why the
8 list -- I agree; there were problems with it, but it wasn't
9 based on purposely trying to undermine the Union and not
10 provide them the employees. You know, on contact information,
11 if that were true, they would have done it with the drivers or
12 anybody else that was full-time. The problem was with
13 temporary employees; we simply didn't have the information.
14 So with that, I have nothing further to state at this
15 time.
16 JUDGE LAWS: Thank you. All right. Why don't we go off
17 the record and we can get the first witness ready?
18 (Off the record at 10:59 a.m.)
19 JUDGE LAWS: Let's go back on the record. While we were
20 off the record, counsel for the General Counsel handed the
21 court reporter, myself, and the parties, what have been marked
22 for identification as General Counsel Exhibits 2 through 10.
23 **(General Counsel Exhibit Numbers 2, 3, 4, 5, 6, 7, 8, 9 and 10**
24 **Marked for Identification)**
25 JUDGE LAWS: So go ahead and offer those if you would

1 like.

2 MS. PEREDA: Thank you, Your Honor. Your Honor, General

3 Counsel Exhibit 2 and I would like just to say that all of

4 these documents, Exhibits 2 through 10 were documents that were

5 provided to the General Counsel in response to the subpoena

6 that was served on Respondent. Counsel General 2 is -- are

7 personnel records pertaining to employee Ruben Munoz, who is

8 alleged as being unlawfully disciplined by Respondent.

9 JUDGE LAWS: Okay. Is there any objection to General

10 Counsel 2?

11 MR. WILSON: No, Your Honor.

12 JUDGE LAWS: Okay. And I'm going to assume no objection

13 from the Union unless you speak up.

14 MS. SANCHEZ: Yes. Thank you, Your Honor.

15 JUDGE LAWS: Okay. Thank you. General Counsel 2 is

16 admitted.

17 **(General Counsel Exhibit Number 2 Received into Evidence)**

18 MS. PEREDA: Thank you, Your Honor. General Counsel 3 is

19 a copy of a verbal counseling record that was issued to

20 employee Rolando Lopez, who was also named in the complaint as

21 being unlawfully disciplined by Respondent.

22 JUDGE LAWS: Okay. Any objection?

23 MR. WILSON: No objection.

24 JUDGE LAWS: General Counsel 3 is admitted.

25 **(General Counsel Exhibit Number 3 Received into Evidence)**

1 MS. PEREDA: General Counsel 4 were documents that were
2 provided to General Counsel in response to the subpoena as
3 employees who have been similarly disciplined. Give me one
4 second, Your Honor.
5 JUDGE LAWS: Sure. Take your time.
6 MS. PEREDA: Your Honor, yes. General Counsel 4 are
7 documents showing disciplinary actions that were issued to
8 employees for the same or similar reasons for which Respondent
9 disciplined Rolando Lopez, Ruben Munoz, and Alberto Rodriguez.
10 JUDGE LAWS: Okay. Any objection to GC Exhibit 4?
11 MR. WILSON: No objection.
12 JUDGE LAWS: Okay. General Counsel Exhibit 4 is admitted.
13 And I just want to make sure with the longer documents, to make
14 sure we have everything. Everybody has a 27-page document?
15 MS. SANCHEZ: Yes, Your Honor.
16 MR. WILSON: Yes, Your Honor.
17 JUDGE LAWS: Okay. General Counsel 4 is admitted.
18 **(General Counsel Exhibit Number 4 Received into Evidence)**
19 MS. PEREDA: Your Honor, General Counsel 5 is a document
20 that was produced by Respondent pertaining to the budget for
21 Respondent as of last year, October. And Scott -- excuse me,
22 counsel for Respondent, I know it only has October, but my
23 understanding is this is October 2017?
24 MR. WILSON: Yes.
25 MS. PEREDA: Your Honor, and this is relevant because one

1 of the obligations in the General Counsel's complaint is that
2 Respondent refused to hire certain employees, and this goes to
3 show that Respondent had the authority and the budget to hire
4 for this warehouse position.
5 JUDGE LAWS: Okay. Any objection to General Counsel
6 Exhibit 5?
7 MR. WILSON: No objection.
8 MS. PEREDA: Again I -- Your Honor, General Counsel 6,
9 again, goes to the applicants who applied for work with
10 Respondent.
11 JUDGE LAWS: And this is a 21-page document; is there any
12 objection to General Counsel 6?
13 MR. WILSON: No objection.
14 JUDGE LAWS: General Counsel 6 is admitted.
15 **(General Counsel Exhibit Number 6 Received into Evidence)**
16 JUDGE LAWS: Did I saw the magic words that General
17 Counsel 5 -- yeah, it's admitted?
18 MR. WILSON: No.
19 JUDGE LAWS: General Counsel 5 is now admitted.
20 **(General Counsel Exhibit Number 5 Received into Evidence)**
21 JUDGE LAWS: And if I missed any others, they are also
22 admitted. Now, we're on 7.
23 MS. PEREDA: Okay. So 6 was just admitted, correct?
24 JUDGE LAWS: 6 was just admitted, as was 5.
25 MS. PEREDA: All right, General Exhibit 6 -- I'm sorry.

1 General Counsel Exhibit 7 pertains to communications that
2 Respondent -- internal communications that Respondent had with
3 regards to the applicants.
4 JUDGE LAWS: Okay. And I have that as an 11-page
5 document. And just going forward, when -- whenever there is a
6 document where the pages have been made as the exhibit, but
7 also have organic markings on them, let's go by the exhibit
8 number if you're directing a witness to the page. So for
9 example, 11 has a three in the middle, but it's obviously not
10 page 3 of the exhibit, it's page 11 of the exhibit. So that's
11 just to be consistent, that's the numbering system I'd like to
12 use when we're pointing out certain pages for the record. Any
13 objection?
14 MR. WILSON: No objection.
15 JUDGE LAWS: General Counsel 7 is admitted.
16 **(General Counsel Exhibit Number 7 Received into Evidence)**
17 MS. PEREDA: General Counsel 8, 9, and 10, these are the
18 labor and service agreements that Respondent entered into with
19 the staffing agency mentioned in that particular contract which
20 again, were some of the temp agencies that supplied workers to
21 Respondent and some of the temp agencies that the employees
22 sought to return to work -- back to Respondent.
23 JUDGE LAWS: Any objection to 8?
24 MR. WILSON: No objection.
25 JUDGE LAWS: General Counsel 8 is admitted.

1 **(General Counsel Exhibit Number 8 Received into Evidence)**
2 JUDGE LAWS: Moving onto 9, any objection? Any objection
3 to 9?
4 MR. WILSON: No objection.
5 JUDGE LAWS: And then 10?
6 MR. WILSON: No objection to 10.
7 JUDGE LAWS: 8,9, and 10 are all hereby admitted.
8 **(General Counsel Exhibit Numbers 8, 9 and 10 Received into**
9 **Evidence)**
10 MS. PEREDA: Your Honor, can we go off the record again
11 for two minutes?
12 JUDGE LAWS: Sure. Let's go off the record.
13 (Off the record at 11:13 a.m.)
14 JUDGE LAWS: Let's go back on the record. So the parties
15 and myself have been provided with what have been marked for
16 identification as General Counsel's 11 through 16.
17 **(General Counsel Exhibit Numbers 11, 12, 13, 14, 15 and 16**
18 **Marked for Identification)**
19 MS. PEREDA: Thank you, Your Honor. GC-11 is a job
20 description of the assembler, which my understanding is that
21 that's synonymous with a warehouse worker. At this point, I
22 would like to move that -- GC-11 into evidence.
23 MR. WILSON: No objection.
24 JUDGE LAWS: General Counsel 11 is admitted.
25 **(General Counsel Exhibit Number 11 Received into Evidence)**

1 MS. PEREDA: GC-12 pertains to various employees'
2 statements or other documents pertaining to the
3 suspension/termination of discriminatee, Alberto Rodriguez. At
4 this point, I would like to admit this into evidence.
5 MR. WILSON: No objection.
6 JUDGE LAWS: General Counsel 12 is admitted.
7 **(General Counsel Exhibit Number 12 Received into Evidence)**
8 MS. PEREDA: GC-13 pertains to a list of employees who
9 were directly hired by Respondent, so meaning they were not
10 rolled over or converted. I'm sorry -- can I actually --
11 that's what the tab says on my -- from the documents they sent
12 us -- to Respondent, but I'm not sure, actually looking at the
13 document, that that is correct. Is there a -- Respondent,
14 maybe you can answer this for me. Is there any difference
15 between employees who are listed in GC-13 and GC-14?
16 MR. WILSON: I would have to ask -- check with the company
17 on that. I can't answer that off the top of my head.
18 MS. PEREDA: Your Honor, if I can just hold off on -- I
19 know -- I will move in at this point, GC-13, 14, and 15.
20 JUDGE LAWS: Okay. Just hold off on them, they're marked
21 for identification only.
22 **(General Counsel Exhibit Number 13, 14, 15 Marked for**
23 **Identification)**
24 MS. PEREDA: Yes.
25 JUDGE LAWS: At this point.

1 MS. PEREDA: Yes. And so we'll move on to GC-16. And
2 this is a 44-page document, and this pertains to communications
3 -- internal Respondent communications regarding applicants for
4 the warehouse worker position.
5 JUDGE LAWS: Any objection to GC-16?
6 MR. WILSON: No objections.
7 JUDGE LAWS: All right. General Counsel 16 is admitted.
8 **(General Counsel Exhibit Number 16 Received into Evidence)**
9 MR. WILSON: So 14 and 15 are open?
10 MS. PEREDA: 13, 14, and 15.
11 JUDGE LAWS: 13, 14 and 15 are only marked for
12 identification purposes at this point and not admitted yet.
13 MS. PEREDA: Your Honor, with regards to the documents
14 that I will be moving into evidence from the temp agencies.
15 I'm going to do that later today or possibly tomorrow so that
16 we can move onto a witness.
17 JUDGE LAWS: All right, that sounds good. All right, so
18 it's -- we're moving in now on 11:30; is there time to get a
19 witness in before lunch?
20 MR. RIMBACH: I believe the next witness will take
21 probably about one hour.
22 JUDGE LAWS: Okay. Well, why don't we try to get that
23 done, if we can. I don't have a strong preference, so --
24 MS. PEREDA: Okay.
25 MR. RIMBACH: Since -- should we go ahead and call our

1 first witness?

2 JUDGE LAWS: Why don't we go ahead and do that?

3 MR. RIMBACH: I'd like to call Mr. Carlos Quinonez to the

4 stand.

5 JUDGE LAWS: Can you please raise your right hand?

6 Whereupon,

7 **CARLOS QUINONEZ**

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

9 examined and testified as follows:

10 JUDGE LAWS: Please have a seat. And when you're ready

11 state and spell your name for the court reporter.

12 THE WITNESS: Name's Carlos Quinonez. It's C-A-R-L-O-S,

13 and my last name's Q-U-I-N-O-N-E-Z.

14 JUDGE LAWS: Thank you, Mr. Quinonez. Just a couple brief

15 instructions before I turn things over to the lawyers to ask

16 you questions. The first is, if you don't know the answer to a

17 question, please say, I don't know. Only guess if one of the

18 attorneys or myself ask you to take a guess.

19 THE WITNESS: Okay.

20 JUDGE LAWS: If you don't understand a question, just say

21 you don't understand the question, and it will be asking a way

22 that's hopefully more clear. And then finally, our court

23 reporter to your left, has to take down everything that is said

24 in here when we're on the record. And because of this, it's

25 important to make sure you don't start answering a question

1 until the person who is asking it is finished talking. It's --
2 we jump in before the question's finished more than we think
3 and by we, I include myself. I do it too, and I'll probably do
4 it on this record because it's hard. But just try as best you
5 can.
6 THE WITNESS: Yes.
7 JUDGE LAWS: Thanks. Okay. Whenever you're ready.
8 **DIRECT EXAMINATION**
9 Q BY MR. RIMBACH: Good morning, Mr. Quinonez.
10 A Good morning.
11 Q Who is your current employer?
12 A It's Teamsters Local 630.
13 Q When did you start working for Local 630?
14 A It's April 2017.
15 Q Where is your office?
16 A Downtown L.A.
17 Q What is your current position with the Union?
18 A Organizer.
19 Q What are you job duties as an organizer?
20 A Organizer -- we talk to actual employees that would want
21 to unionize, and recognize leaders, activists, you know, and
22 guide them through the process of becoming union.
23 Q When you refer to talking to employees, what employees are
24 you referring to?
25 A Warehouse workers, anybody that we have -- drivers,

1 warehouse workers, production. We have various industries that
2 we represent.
3 Q Where do those employees generally work? What kind of
4 companies?
5 A Warehouses. It -- it's mainly food -- food deliveries.
6 Q What did you do before you were an employee with the
7 Union?
8 A I was a member for Local 630 for 21 years, employed by
9 Vons Distribution Center.
10 Q Were you involved with the Union while you were an
11 employee at Vons?
12 A Yes. I was a -- a shop steward for almost five years
13 while employed. And also, for four years I volunteered time
14 for organizing.
15 Q And when were you a volunteer for the Union?
16 A Four years prior to getting hired.
17 Q Are you familiar with a company called Wismettac Asian
18 Foods?
19 A Yes. I am.
20 Q When did you first hear about this company?
21 A It was in May of 2017.
22 Q Who did you hear from?
23 A The employees themselves. We had five employees contact
24 us, wanting our guidance on how they can become union.
25 Q Where's the Wismettac facility?

1 A In Santa Fe Springs.
2 Q Do you know what kind of work is performed there?
3 A Yes. They specialize in Asian food for delivery for
4 restaurants.
5 Q And you mentioned that an employee -- employees contacted
6 you about the union. Were you involved in any union organizing
7 at that facility?
8 A Yes.
9 Q How are you involved? Or were you involved?
10 A I got hired a month prior to -- to this. So they gave me
11 the -- this was my first account to help them, with the help of
12 Oscar Ruiz, which is the other organizer.
13 Q And what kind of things would you do as part of the Union
14 organizing effort?
15 A Talk to every single employee and see where they stand --
16 if they would like to join the effort of becoming union. Also
17 house -- house call them, if we had the right addresses and all
18 that to contact them. And also, also talk to the positive
19 Union members to talk to their coworkers and see if they would
20 like to talk to me about it.
21 Q How were Wismettac employees themselves involved in the
22 union-organizing campaign?
23 A Well, we -- first, we -- we start with the organize --
24 organizing. We form a committee, and the committee is
25 organized by employees themselves. I guide them, and they

1 guide the rest of the employees. And they give me the
2 information back of who those people are, if they would like to
3 talk to me, and we go from there.
4 Q When -- do you recall when the union-organizing committee
5 was formed?
6 A At the end of July.
7 Q How often does the committee meet?
8 A Well, we -- we meet once every two weeks. But we -- we
9 are in contact with them by phone almost every day.
10 Q Does the union committee meet in person?
11 A Yes. Once every two weeks.
12 Q Oh, that's in person? Okay.
13 A Yes.
14 Q Where does the union committee meet?
15 A We chose Carl's Jr., which is right at -- two blocks away
16 from the Wismettac facility because it was easier for them.
17 Q About how many employees are on the committee?
18 A Ten.
19 Q Do you recall, specifically, who was on the committee?
20 A Yes. We have Luis -- Luis Lopez, Rolando Lopez, Ronald
21 Mena, Thao Ho. We have Fanor Zamora, Alberta Rodriguez, John
22 Long, Yader Alvarado, and one more that I can't recall at the
23 moment.
24 Q So about how many employees total?
25 A 10.

1 Q Is the union committee still active currently?
2 A Yes. Not all of them.
3 Q Do you distribute any union material to employees?
4 A Yes, we do.
5 Q What kind of material?
6 A Employee rights, labor rights, to know that, you know,
7 it's their -- it's their right if they want to unionize.
8 MR. WILSON: Your Honor, can we get a clarification,
9 because we're shifting from past tense to present tense? It's
10 a little confusing about --
11 JUDGE LAWS: Are you talking about now, or yeah, why don't
12 we put a -- put the timeframe on.
13 MR. RIMBACH: Sure.
14 Q BY MR. RIMBACH: During the organizing campaign initially,
15 around when it first started --
16 A Um-hum.
17 Q -- you said July 2017?
18 A Yes.
19 Q Around that time, do you distribute any union material to
20 employees?
21 A Yes.
22 Q And these employee rights and labor rights, what form did
23 these materials -- what kind of materials exactly are you
24 talking about?
25 A Paper flyers.

1 Q Did you distribute any other type of union paraphernalia
2 to employees around that time? Any products?
3 A Before -- before August, we gave them shirts. We gave
4 them t-shirts -- Teamster t-shirts.
5 Q Can you describe those t-shirts?
6 A It's a -- it -- it says, "Teamsters Local 630" printed on
7 black t-shirts, the date when the Local 630 was formed. It has
8 the Teamsters logo, which is the horses and the -- the
9 brotherhood of Teamsters on it.
10 Q About how many t-shirts did you distribute?
11 A About 70.
12 Q Where did you distribute them?
13 A We actually had employees ask -- ask for them. So we
14 asked their size, and then I would go down to Carl's Jr. right
15 next -- in city of -- in Santa Fe Springs and distribute to
16 them individual or -- or a couple of the committee leaders
17 would have three or four names and sizes. All the t-shirts
18 were -- were given a -- a label. So everybody that got a t-
19 shirt would sign -- sign their name and that they received the
20 shirt.
21 Q Just to get the timeframe clear, was that before the first
22 union election or --
23 A Yes.
24 Q -- after the first union election?
25 A Before the -- before the first election.

1 Q About how long before the first union election?
2 A A month before, which was in August.
3 Q Do you recall distributing any other material?
4 A Yes. The drivers, they use uniform t-shirts, and they
5 cannot use the Teamster shirts. So they asked for buttons with
6 the union logo, and they said "Respect is in a union contract".
7 Q How large were these buttons?
8 A Two inches in diameter, circle.
9 Q And about how many of those buttons did you distribute?
10 A About 28. There's 32 drivers.
11 Q Do you recall what period of time you distributed these
12 buttons?
13 A Right before -- right before the -- right before -- it was
14 right before August 21st, because they figured that they needed
15 a button to show instead of a t-shirt.
16 Q Do you know how many shifts there are at Wismettac?
17 A Two.
18 Q And what shifts are those?
19 A Morning and swing shift.
20 Q Okay. For the morning shift, is that the same as the day
21 shift?
22 A Yes.
23 Q Did you regularly communicate with any particular
24 employees on the day shift?
25 A Yes.

1 Q Do you recall specifically who?
2 A Luis Lopez, Rolando Lopez, Yader Alvarado, Fanor Zamora,
3 Ronald Mena, Thao -- Thao Ho. Oh, and Carlos Katayama. That's
4 the other name that was on the committee.
5 Q Do you regularly communicate with any particular employees
6 on the swing shift?
7 A Yes.
8 Q And is the swing shift also referred to as the "night
9 shift" or --
10 A Yes. They're referred as "night shift". Starts between 5
11 and 6, and then it ends in the morning -- early mornings.
12 Q And do you recall specifically who you communicated
13 with -- any employees that worked that night shift?
14 A Alberto -- Alberto Rodriguez was my guy to go at night.
15 Q Do you know who Ruben Munoz is?
16 A Yes.
17 Q Who is he?
18 A He was an employee -- he was a lead employee when I --
19 when I met him. We talked -- we talked to him about if he
20 would like to be union, and he said yes. And he also came to a
21 couple of the meetings that we had.
22 Q When did you speak to him personally, if you did?
23 A I don't recall the first time I talked to him.
24 Q Do you know who Pedro Hernandez is?
25 A Yes.

1 Q And who is he?
2 A He's a -- a employee -- a warehouse employee. I -- I met
3 him at a -- at a restaurant to talk to him about the union
4 after I got Alberto Rodriguez to say that it was okay for me to
5 talk to him.
6 Q Do you recall about when you met with him?
7 A I don't recall.
8 Q Do you recall whether it was before the first election or
9 after the first election in September 2017?
10 A It was before -- it was before the first election.
11 Q Do you remember where you met him?
12 A At that Habit Burgers (sic) in Santa Fe Springs.
13 Q You mentioned Alberto Rodriguez. You stated that he was
14 on the union committee, is that right?
15 A Yes.
16 Q So you know him personally?
17 A Yes.
18 Q He's also an employee of Wismettac?
19 A He was. No, he's no -- no longer there.
20 Q Did you have communications with him directly?
21 A Yes.
22 Q When did you speak to him and how often?
23 A Every day. I talked to him every day to see what was
24 going on at nights, see if he had any other names that I can
25 talk to. If he needed to see me personally, I would -- I would

1 go.
2 Q What timeframe were you in contact with him, if you
3 remember?
4 A It was -- it's the -- like, beginning of the year, in
5 January of 2000 -- no. Let's see. It was four months before
6 the second election when -- so second election. So about right
7 after the first -- the first election is when I got -- I -- I
8 was told that he was the one to go to at nights.
9 Q I believe you also mentioned Fanor Zamora?
10 A Yes.
11 Q Was he on the union committee?
12 A Yes, he was.
13 Q Did you personally speak to him?
14 A Yes.
15 Q How often did you speak to him?
16 A As much as needed. It's what I -- I bug these guys every
17 day.
18 Q And do you recall over what period of time you spoke to
19 him?
20 A I spoke to him right before the first election. Was
21 brought to my attention that he was the leader, so I went and
22 approached him with it.
23 Q How did you communicate with these employees in general?
24 A Through the phone -- phone calls.
25 Q Do you know who Jeremiah Zermeno is?

1 A Yes.
2 Q Who is he?
3 A He's also a warehouse employee, worked at Wismettac, and I
4 did the same procedure. Somebody gave him -- somebody gave me
5 his information, and I proceeded to meet with him. He signed
6 the card, and he -- he wore a Teamster shirt all the time.
7 Q About how many times did you speak to him personally?
8 A Not as much as the committee, but I talked to him over the
9 phone maybe about four or five times.
10 Q Do you recall whether you spoke to him before the first
11 election or after the first election?
12 A It was after -- it was after the -- after the first
13 election. I -- I met him before the first election --
14 Q Okay.
15 A -- and he was on board. You know, what I mean "on board"
16 is he was pro-union. And then after that, I continued to call
17 him once in a while to see if he knew anybody that wanted to
18 talk to me. And that's the procedure that -- that we as
19 organizers do. You know, once we -- you know, somebody is pro-
20 union, we -- we call them, and we ask them, like, you have
21 friends there that would -- would like to talk to me or are
22 open to talk to me and -- you know. So that's -- that's why we
23 make a lot of phone calls.
24 Q Before the union election on September 19th, 2017, did the
25 union file a petition for representation with the NLRB?

1 A Yes.
2 Q Do you recall when the union filed that?
3 A August 21st, 2017.
4 Q Were you involved in filing that petition?
5 A I was aware of it. Lou Villalvazo, which is the
6 secretary/treasurer of Local 630 and also Oscar Ruiz, which is
7 the other organizer, are the ones that physically went to get
8 the petition and --
9 Q Do you know whether the union made a request to Wismettac
10 for voluntary recognition before it filed that petition?
11 A Yes. The same day, in the morning. They went straight
12 from Wismettac refusing to do that to file.
13 Q Can you describe how the union went about requesting
14 voluntary recognition that morning?
15 A We met with the night -- night crew, about 14 people, and
16 this was close to the company. And we went to the company.
17 When we went to the company, we did union chants. And then
18 everybody that's pro-union came to -- to where we were. And
19 then we went to -- proceeded to go and ask for recognition.
20 Q When you said "we met with employees", who were you
21 talking about?
22 A Union representatives; Lou Villalvazo, which is
23 secretary/treasurer; Oscar Ruiz, which is the other organizer.
24 We had a volunteer member, which is Danny Lima; and myself,
25 Carlos Quinonez.

1 Q Where did you meet with employees outside the facility
2 originally?
3 A At Starbucks, right in the corner by the facility, walking
4 distance.
5 Q And then you said you went into the facility together?
6 A Yes.
7 Q Where did you go inside the facility exactly?
8 A Inside the warehouse -- warehouse entrance in the back,
9 where the shipping -- the shipping docks are.
10 Q After you went inside, into the facility, can you describe
11 what happened when you were inside in more detail?
12 A Yes. We started chanting, you know, Teamsters. And then
13 all the warehouse -- all the -- all the warehouse people
14 were -- were coming out of the -- the warehouse, and also the
15 drivers that were loading up. They -- they came towards us.
16 And then we just asked who we can speak to, you know, regarding
17 that. And they -- they told us to go to the front.
18 Q When employees inside the warehouse joined you from the
19 warehouse and the drivers, how many employees was that?
20 A Over 60.
21 Q And then what happened after you met with all the
22 employees inside the warehouse?
23 A We were told that we were supposed to talk to Nishimoto
24 (phonetic) and that he was in the front offices. So we
25 proceeded -- we followed a couple of employees going through

1 the long hallways past the kitchen and -- and where the office
2 cubicles are.
3 Q Do you know Nishimoto's full name?
4 A I don't recall at the moment.
5 Q Do you know his job title?
6 A Yeah, he's the -- the CEO of the -- of the L.A. branch.
7 Q Were you able to meet with him?
8 A Yes.
9 Q Who spoke to him?
10 A Lou Villalvazo.
11 Q What did he say?
12 A He actually told them that, you know, look at your
13 employees. They want to be represented by a union. You know,
14 if -- if you would acknowledge them now as -- as a union, you
15 would save a lot of money, a lot of heartache. And to sign.
16 Q How did Nishimoto respond?
17 A He was -- he was surprised, and he asked for the -- for
18 his -- one of his office people to call the office manager
19 to -- to come and talk to us.
20 Q Then what happened?
21 A His name's Ron (phonetic) -- I don't recall his last
22 name -- came and proceeded to tell Lou and -- and all the
23 employees that -- you know, that that was the wrong way of
24 doing it and to actually please leave the building.
25 Q Then what happened?

1 A Since he refused to sign, we just walked back to the
2 warehouse, told everybody to go back to work, and we proceeded
3 to walk out with the -- with the night crew people that came
4 with us. And Oscar and Lou left to go file, and then I stayed
5 there and made sure all the night people got back in their cars
6 and left.
7 Q During the conversation with Nishimoto and Ron, did the
8 warehouse employees -- where were they?
9 A Right behind us. They were all -- the cubicles are set in
10 rows, and there's open space around the wall. So we were
11 speaking to him in a corner, and all the employees were around
12 the wall, with the cubicles in the middle.
13 Q So they were all present for that conversation?
14 A Yes.
15 Q About how long was the conversation between the union and
16 Nishimoto and Ron?
17 A About seven minutes.
18 Q Let's see. You said the first election was September
19 19th, 2017?
20 A Yes. That was the first election.
21 Q And when was the second election?
22 A February 6th, 2018.
23 Q Do you recall when Region 21 of the National Labor
24 Relations Board scheduled that second election?
25 A It was mid-December, probably December 15th.

1 Q Okay.
2 A The -- the first -- the second election was set for
3 January 9th, which was canceled and then rescheduled for
4 February 6th.
5 MR. RIMBACH: Switching focus, Your Honor, I'd like to
6 approach the witness with GC Exhibit 17.
7 JUDGE LAWS: Okay. Thank you.
8 Q BY MR. RIMBACH: Can you please take a minute and review
9 this document?
10 MR. RIMBACH: Just for the record, we redacted the
11 signature and name at the bottom to protect the privacy of the
12 person who signed it, but I do have an unredacted version if
13 either party or Your Honor would like to review it.
14 MR. WILSON: I don't need the unredacted.
15 MR. RIMBACH: Okay.
16 JUDGE LAWS: This is fine --
17 MR. RIMBACH: Okay.
18 JUDGE LAWS: -- presuming I am anticipating correctly what
19 you're offering it for.
20 Q BY MR. RIMBACH: Do you recognize this letter?
21 A Yes.
22 Q When did you receive it?
23 A So right corner, it's March 22nd, 2018.
24 Q Did an employee at Wismettac send this to you?
25 A Yes.

1 Q Have you communicated with this employee after you
2 received this letter?
3 A No.
4 Q Did you speak to this employee before you received this
5 letter about revoking a union authorization card?
6 A No.
7 Q Did you ever receive other similar letters from any
8 employees?
9 A Yes.
10 MR. RIMBACH: Your Honor, I'd like to move to have GC 17
11 admitted into evidence.
12 JUDGE LAWS: Any objection?
13 MR. RIMBACH: No, Judge.
14 JUDGE LAWS: All right. General Counsel 17 is admitted.
15 **(General Counsel Exhibit Number 17 Received into Evidence)**
16 MR. RIMBACH: I'd like to approach the witness with GC
17 Exhibit -- sorry. 18.
18 JUDGE LAWS: Okay.
19 Q BY MR. RIMBACH: Could you please take a moment to review
20 this letter?
21 A Same letter.
22 Q Do you recognize this one?
23 A Yes.
24 Q Is the letter you're referring to when you testified that
25 you received a similar letter?

1 A Um-hum. Yes.
2 Q Did an employee at Wismettac send this letter to you?
3 A Yes.
4 Q When did you receive it?
5 A March 28th, 2018.
6 Q Have you communicated with the employee who sent this
7 letter after you received it?
8 A No.
9 Q Did you speak to this employee before you received the
10 letter about revoking a union authorization card?
11 A No.
12 MR. RIMBACH: Your Honor, I'd like to offer this exhibit,
13 GC 18, into evidence.
14 MR. WILSON: No objection.
15 JUDGE LAWS: General Counsel 18 is admitted.
16 **(General Counsel Exhibit Number 18 Received into Evidence)**
17 MR. RIMBACH: No further questions, Your Honor.
18 JUDGE LAWS: All right. Does the charging party have any
19 additional questions for this witness?
20 MS. SANCHEZ: I have a few questions.
21 JUDGE LAWS: Okay. And I'm to understand these'll pertain
22 to the --
23 MS. SANCHEZ: To this line of questioning.
24 JUDGE LAWS: -- the -- yeah. Okay. Perfect.
25 MS. SANCHEZ: Yeah. The Union intends to recall this

1 witness for their -- our case. Thank --
2 JUDGE LAWS: That's what I figured.
3 MS. SANCHEZ: Thank you, Your Honor.
4 JUDGE LAWS: Okay. Okay.
5 **CROSS EXAMINATION**
6 Q BY MS. SANCHEZ: Carlos, you testified regarding the
7 action that occurred at the facility for the -- for
8 recognition?
9 A Yes.
10 Q I want to ask you just a couple of clarifying questions
11 about that. You had said when you entered through the dock
12 area, the warehouse --
13 A Yes.
14 Q -- that "they told us to go speak to Nishimoto". Who told
15 you?
16 A There was a -- a manager -- a manager there, the warehouse
17 manager. I don't --
18 Q Okay.
19 A -- recall his -- his name. He's no longer there.
20 Q Okay. Thank you. And then after you spoke to Nishimoto,
21 you said that you were asked to leave. And my question is, did
22 you leave as soon as you were asked to leave?
23 A Yes.
24 Q And you also said that you stuck around when Oscar Ruiz
25 and Lou Villalvazo went to file their petition and that you

1 made sure that the night employees went to their cars. When
2 you made sure of that, where in -- where were you at?
3 A We were at the Starbucks in the corner.
4 MS. SANCHEZ: Okay. Thank you. No further questions.
5 JUDGE LAWS: All right.
6 MR. WILSON: And Counsel, you are going to recall this
7 witness?
8 MS. SANCHEZ: Yes.
9 MR. WILSON: Okay. Just one or two and probably more
10 examination later.
11 JUDGE LAWS: Okay.
12 **REDIRECT EXAMINATION**
13 Q BY MR. WILSON: So Mr. Quinonez, is my understanding your
14 testimony regarding the buttons and the t-shirts that buttons
15 referencing the Teamsters were given to the driver employees?
16 A Yes.
17 Q Okay, do you know why they were given buttons, not t-
18 shirts?
19 A They were given t-shirts, but since they have a -- a
20 shirt -- uniform shirt that they have to use over, they could
21 not show that they were union. So they asked us if they -- if
22 they had anything else they can wear, and we told them they can
23 wear union buttons.
24 Q And did they ever complain that they were told to take the
25 buttons off?

1 A I don't recall right now. I don't recall anybody asking
2 that.
3 Q Okay. And you said there were 32 drivers, is -- I
4 believe.
5 A At the time, yes.
6 Q Okay. And you gave out 28 buttons, correct?
7 A Yes.
8 Q And to your knowledge, did all 28 drivers who received the
9 button wear those buttons at work?
10 A If they would like to. Yes.
11 Q Okay. But to your knowledge, did they wear them?
12 A Yes.
13 Q Okay. And you said you gave out 70 t-shirts?
14 A Yes.
15 Q Okay. And --
16 A About.
17 Q -- about.
18 A Yeah.
19 Q And those 70 t-shirts then were given to the warehouse
20 nondriver employees?
21 A Both, warehouse and drivers.
22 Q Okay. But only the -- but the drivers couldn't wear them.
23 Okay. To your knowledge, did all the warehouse employees who
24 received a t-shirt wear those t-shirts?
25 A Most of them.

1 Q Okay.
2 A Because I would ask, you know, through phone calls, and
3 they would say that they would want to wear them on Tuesdays,
4 and some of them said that they would want to wear them on
5 Fridays. So we have specific days that people would
6 communicate to them to wear them that day.
7 Q Okay. Did you keep a running log of how many people were
8 wearing t-shirts?
9 A Verbally, yes.
10 Q Okay. So you don't have that in writing or anything?
11 A No, because I would ask, you know, so-and-so wear his t-
12 shirt? They would tell me yes, you know. And then whoever got
13 a t-shirt and wouldn't be wearing it, I would just, you know,
14 ask -- ask them, like, okay, so why do you want a shirt?
15 Q Okay.
16 A You know.
17 Q But to your knowledge, a whole lot of people then wore the
18 t-shirts, correct?
19 A Yes.
20 Q Okay. And since you're going to come back, I won't ask
21 you about serving the petition, but -- so let me -- you have
22 Exhibits, okay, 17 --
23 A Yes.
24 Q -- and 18 in front of you. Let's just go with 17. Okay.
25 How is it you received this document, Exhibit 17?

1 A It was sent to the union hall.
2 Q Okay. And who gave it you?
3 A The front -- the -- the front ladies that, you know, open
4 the mail and staff. They know that I was in charge of
5 Wismettac, so they gave it to me.
6 Q Okay, when you say "sent", meaning it came by mail?
7 A Yes.
8 Q Okay. Okay, now the name is redacted on here, so we don't
9 know who it is. But did you check your records to determine
10 whether the person who signed Exhibit 17 had in fact signed an
11 authorization card?
12 A Actually, the authorization cards were at the NLRB,
13 because we -- when we file for an election, we have to turn in
14 the NLRB -- the cards go up to them.
15 Q But don't you keep copies of who gave you the cards --
16 A I --
17 Q -- before you give them to the NLRB?
18 A -- some -- yeah, most of the time we do.
19 Q Okay. So you would have had a copy of this person's card,
20 correct?
21 A Yes.
22 Q Okay. Now did you ever contact this person indicating
23 that you would send back his authorization card or at least
24 what you had a copy of?
25 A No. I -- what I did was, I communicated to my committee

1 that I was receiving -- I received the -- the letter. And if
2 he wanted it back, we would have to wait until we get it back
3 from the NLRB.
4 Q Did you ask the NLRB to return it?
5 A No.
6 Q Okay. Why not?
7 A I figured when all this was over, we'll return it to him
8 if he wanted it.
9 Q Well, obviously, when he sent the letter that you received
10 on March 22nd, he wanted it returned, did he not?
11 A Yeah, I didn't ask the NLRB.
12 Q Okay. Why not?
13 A This was my first election, so I didn't know that's the
14 way you're supposed to do it. So, I mean, it was out of my
15 knowledge, I guess.
16 Q Well, actually, by then, you'd had two elections, correct?
17 A Yes.
18 Q Okay.
19 A But one card.
20 Q One card. Okay. So no attempt was ever made to grant the
21 wishes of this employee and return the authorization --
22 MS. SANCHEZ: Objection. Asked and answered.
23 MR. RIMBACH: Objection. Relevance. Asked and answered.
24 MR. WILSON: Okay. That's fine.
25 JUDGE LAWS: Okay.

1 Q BY MR. WILSON: You said that you started with the
2 Teamsters in April of 2017?
3 A Yes.
4 Q And you were hired to be an organizer?
5 A Yes.
6 Q Okay. What sort of training were you given?
7 A I was -- I was given four years -- four years before then,
8 since I was a volunteer. The IBT has trainings for volunteers,
9 and -- and I was given three sets of trainings and also sent to
10 Iowa to volunteer to know how -- what it -- what it is to be an
11 organizer.
12 Q Okay. So when you were contacted by the five employees
13 from Wismettac, you had some training as to how to proceed,
14 correct?
15 A Yes.
16 Q Thank you.
17 A I had already helped in different -- in different
18 campaigns but not as a lead.
19 Q Okay. Since you're coming back, I have no further
20 questions.
21 JUDGE LAWS: All right. Any follow-up from General
22 Counsel?
23 MR. RIMBACH: No, Your Honor.
24 JUDGE LAWS: Okay. Any follow-up from the union?
25 MS. SANCHEZ: No, Your Honor.

1 JUDGE LAWS: Okay. Thank you for providing your
2 testimony. You heard me give the instruction about the
3 sequestration rule, but just reminding you, please don't
4 discuss your testimony --
5 THE WITNESS: Yes.
6 JUDGE LAWS: -- with any witnesses or any potential
7 witnesses.
8 THE WITNESS: Yes.
9 JUDGE LAWS: Okay. Why don't we -- it's just after noon.
10 Why don't we take a lunch break and come back at 1:00? Does
11 that give everyone enough time?
12 MR. WILSON: Would 1:15 be okay?
13 JUDGE LAWS: 1:15 is fine.
14 MS. SANCHEZ: Thank you, Your Honor.
15 JUDGE LAWS: 1:15.
16 MR. RIMBACH: Thank you --
17 JUDGE LAWS: Perfect.
18 MR. RIMBACH: -- Your Honor.
19 (Off the record at 12:03 p.m.)
20 JUDGE LAWS: And we have the next witness in the room.
21 And this is the witness for the R case that we are taking out
22 of order.
23 I'm going to ask you to please raise your right hand.
24 Whereupon,
25 **ISIDRO GARCIA**

1 having been duly sworn, was called as a witness herein and was
2 examined and testified as follows:
3 JUDGE LAWS: Can you please have a seat?
4 And if you could state and spell your name?
5 THE WITNESS: Isidro Garcia. I-S-I-D-R-O. Garcia,
6 G-A-R-C-I-A.
7 JUDGE LAWS: Thank you, Mr. Garcia.
8 Before I turn things over for the lawyers to ask you
9 questions, I just want to go over a couple simple things.
10 First is if you're asked a question and you don't know the
11 answer, just say I don't know. Only guess if one of the
12 attorneys or I ask you to take a guess.
13 If you don't understand a question, that's fine. Just say
14 I don't understand what you're asking me and it will be re-
15 asked.
16 And then finally, as best you can, try to make sure you
17 don't start in with your answer until you're completely sure
18 the question is done being asked. Thanks.
19 Whenever you're ready.
20 MS. SANCHEZ: Thank you, Your Honor.
21 **DIRECT EXAMINATION**
22 Q BY MS. SANCHEZ: Good morning.
23 A Good morning.
24 Q May I call you Isidro?
25 A Yes.

1 Q Or maybe Mr. Garcia as well. Are either okay, I'm
2 assuming? Okay, great.
3 Can you please tell me -- tell us where you are currently
4 employed?
5 A Wismettac Asian Foods.
6 Q And how long have you been employed there?
7 A Thirteen years.
8 Q So since approximately what year, 2000 --
9 A Around late August, 2005.
10 Q Thank you. And what position were you hired into when you
11 first started in --
12 A Warehouse worker.
13 Q Okay. And how long did you work as a warehouse worker?
14 A Approximately two to three years.
15 Q Do you still work as a warehouse worker?
16 A No.
17 Q Okay. Can you please briefly describe your duties as a
18 warehouse worker?
19 A Putting orders, taking them in front of the docks for the
20 drivers to load them out the next day.
21 Q And as a warehouse worker, did you work alongside any
22 other categories of employees?
23 A Drivers, cooler assemblers, and freezer assemblers.
24 Q Okay. And how long did you work as a warehouse worker?
25 A About two to three years.

1 Q Can you please describe the physical layout of the
2 facility, if you know?
3 A Well, there's two main entrances; the front lobby, where
4 usually all the office personnel comes in through, and then
5 there's a warehouse entrance, where most of the warehouse
6 employees come in through.
7 Q And where do the drivers go in through?
8 A Through the warehouse entrance.
9 Q Okay. And you said where that front entrance is where
10 most of the office people --
11 A Office. Yes.
12 Q And when you say "office people", who are you referring
13 to?
14 A Data entry, HR, anybody that works in the main office.
15 Q Where is the main office located in the facility?
16 A Through the main entrance.
17 Q Okay. Is there like a front and a back? Or do you know
18 where the main entrance is located?
19 A It's in the front.
20 Q Are there any -- are there -- is a there a single floor or
21 multiple floors?
22 A Two floors.
23 Q And are there two floors throughout the facility?
24 A No. Only the main office.
25 Q Do you -- as a warehouse worker, where did you park?

1 A Warehouse side.
2 Q And do you know generally where warehouse workers park?
3 A They usually park on the warehouse side of the building.
4 Q And what about the drivers?
5 A On the warehouse side.
6 Q And as you referred to them, what about the front office
7 employees?
8 A There's some that are parked on the warehouse side, but
9 mostly through the front entrance.
10 Q So mostly they park in the front?
11 A Yes.
12 Q As a warehouse employee, did you wear a uniform?
13 A No.
14 Q Did anybody else in the facility wear a uniform, if you
15 know?
16 A No. Not up to now.
17 Q Okay. What about drivers, do they?
18 A Now they do.
19 Q When you say "now", at some point did they not?
20 A Yes.
21 Q When did they start wearing a uniform; if you know?
22 A About I would say three, four years ago.
23 Q Are the front office employees required to wear any
24 uniforms?
25 A No.

1 Q Do you know how many offices are located in the front
2 office?
3 A Only one.
4 Q Do you know if there are cubicles there?
5 A Yes.
6 Q Do you know how many?
7 A No.
8 Q Do you know which classifications work in the front
9 offices and the upstairs area?
10 A It's mostly headquarters -- associates, accounting.
11 There's HR, upper management and administrative assistants.
12 Q And same question regarding the classifications of
13 employees, if you know, who work in the front office on the
14 first floor?
15 A The ones I'm familiar with are the data entry, restaurant
16 sales reps and market sales reps and their supervisors.
17 Q Okay. Do you know if warehouse workers have any office
18 space at the front office?
19 A No.
20 Q Or cubicle space?
21 A No.
22 Q Same question for drivers. Do you know if drivers have
23 any cubicle spaces space in the front offices?
24 A No. Repeat that first question?
25 Q Yeah. Do drivers have any space in the front offices?

1 A No.
2 Q Okay. Did you hold any other position after you served as
3 a warehouse worker?
4 A Yes, I did.
5 Q What was your next position?
6 A Freezer supervisor.
7 Q And when you say "freezer", where was that at?
8 A Towards the back of the warehouse.
9 Q Okay. So you were in the warehouse?
10 A Yes.
11 Q Okay. And what were your duties as a freezer supervisor?
12 A Coordinate the assemblers to assemble truck routes,
13 recheck the merchandise and then sorting control.
14 MR. WILSON: Objection. Vague as to time.
15 THE WITNESS: What was that?
16 JUDGE LAWS: When was this?
17 THE WITNESS: Oh. Like two, three years after a warehouse
18 worker.
19 JUDGE LAWS: Approximate year?
20 THE WITNESS: 2009.
21 JUDGE LAWS: Okay. Thank you.
22 Q BY MS. SANCHEZ: Was your first job after warehouse worker
23 freezer supervisor?
24 A Yes.
25 Q And how long did you hold that position?

1 A About two to three years.
2 Q Okay. And did you hold any other position after that?
3 A I was an export associate.
4 Q For how long?
5 A That one was for about a year.
6 Q And did you move into any other position after that?
7 A Yes. Assistant warehouse manager.
8 Q Was that a promotion?
9 A Yes.
10 Q Can you tell us briefly what your duties were as the
11 assistant warehouse manager?
12 MR. WILSON: Once again, vague as to time.
13 JUDGE LAWS: Do -- when, roughly, did that start?
14 THE WITNESS: About 2011.
15 JUDGE LAWS: Okay. Thank you.
16 Q BY MS. SANCHEZ: So that was -- you said you were the
17 export associate for one year. We had the timeline up until
18 then. Then you were an export associate, and then you became
19 the warehouse manager.
20 A Yes.
21 Q Assistant warehouse manager.
22 And did you have any supervision over employees when you
23 became the assistant --
24 A Yes.
25 Q Okay. Let me finish my question first.

1 A Oh, sorry.
2 Q Which employees did you supervise as the assistant
3 warehouse manager?
4 A Mostly warehouse employees, cooler employees, freezer
5 employees and some drivers.
6 Q What about the folks who worked in the front offices,
7 either top or bottom floors?
8 A No.
9 Q No supervision of those folks?
10 A No.
11 Q Did you hold any other position after you were a freezer
12 supervisor – oh, I'm -- I withdraw the question.
13 So in total, you've been at Wismettac for about 13 years?
14 A Yes. A little more over.
15 Q What was your next position?
16 A Now it's headquarters associate.
17 Q When did you enter into that position?
18 A Effective January 22nd.
19 Q And where do you work in the facility?
20 A Second floor.
21 Q In the front office?
22 A Main office.
23 Q Why did you change from your assistant warehouse manager
24 position to your new position?
25 A It wasn't my choice. I had asked for a demotion. And

1 eventually, I was suspended.
2 Q Okay. Let's take that piece by piece.
3 Did you say it was not by your choice?
4 A No.
5 Q Okay. And you -- who did you ask -- when did you ask for
6 a demotion?
7 JUDGE LAWS: I want to clarify, because the way the
8 question was asked and answered, it's going to be unclear.
9 Did you say that was not by your choice? No. Which --
10 MS. SANCHEZ: Thank you, Your Honor.
11 JUDGE LAWS: Let's ask it in a way that isn't going to be
12 ambiguous when I get the transcript.
13 MS. SANCHEZ: Yeah. I would also ask you to just speak up
14 a little bit. I was having trouble hearing you.
15 Q BY MS. SANCHEZ: Why -- I asked you why did you change
16 positions? And your answer was what?
17 A It was not my choice.
18 Q Okay. Can you tell me approximately when you asked for a
19 demotion?
20 A Late November, early December.
21 Q Of what year?
22 A 2017.
23 Q And who did you ask for a demotion?
24 A I had asked my manager at the time, Jose Vasquez.
25 Q And what was his answer?

1 A That he was going to talk to Frank Matheu.
2 Q Who is Frank Matheu?
3 A The active deputy general manager.
4 Q And so December -- late November, early December, 2017,
5 this was after the first union election?
6 A Yes.
7 Q Were you aware that there was a union-organizing campaign
8 happening at the time?
9 A Yes.
10 Q Why did you ask for a demotion?
11 A I wanted to spend more time with my family. My wife was
12 due pretty soon. I just wanted to spend more time with them.
13 Q Okay. And did you ever talk to Frank Matheu, or was it
14 only Mr. Vasquez that talked to --
15 A I talked to Mr. Vasquez first. And then about a week
16 later, I talked to Matheu, Frank Matheu, because Vasquez had
17 spoken to him.
18 Q Had you specified what kind of demotion you wanted?
19 A Just a regular employee, warehouse employee.
20 Q You wanted to work in the warehouse?
21 A Yes.
22 Q When you spoke to Mr. Matheu and told him you wanted this
23 demotion, what was his reaction?
24 A Well, he said he was going to try to do whatever he can to
25 get me that position.

1 Q Was he surprised?
2 A Yes.
3 Q Were you -- would you say you were friendly with the union
4 organizers?
5 A I was friendly with everybody.
6 Q Okay. So is that a yes?
7 A Yes.
8 Q Let me ask you this; a moment -- when I first asked you
9 the question you said that you were also -- you asked for the
10 demotion, but that you were eventually suspended.
11 A Yes.
12 Q Can you tell me about your suspension? When were you
13 suspended?
14 A December 26, I was called to HR.
15 Q Of 2017?
16 A 2017.
17 Q Who called you to HR?
18 A Jose Vasquez escorted me upstairs to HR.
19 Q Who did he escort you to meet, if anyone?
20 A HR manager, Hikari Konishi, and another HR. I just know
21 him as Atsushi.
22 Q Was Frank Matheu there?
23 A Only TV conference. A TV.
24 Q He was on the TV?
25 A Yes.

1 Q So he participated in the meeting?
2 A Yes.
3 Q This suspension meeting occurred after you asked for the
4 demotion?
5 A Yes.
6 Q Why were you suspended? Why were you told you were being
7 suspended?
8 A According to what I understood from Frank, I was
9 apparently showing favoritism to employees.
10 Q Did he elaborate on that?
11 A No.
12 Q When you were in the position of freezer supervisor, had
13 you ever been disciplined before?
14 A No.
15 Q When you were in the position of assistant warehouse
16 manager, had you ever been disciplined?
17 A No.
18 Q So this was the first time you had ever been disciplined
19 in all of those years?
20 A Yes.
21 Q Did you agree with the discipline?
22 A No.
23 MR. WILSON: Your Honor, I'm going to object on relevance
24 grounds. I don't see how this goes to anything in the
25 objections and/or the General Counsel's complaint.

1 MS. SANCHEZ: I'm about to move on to a different line of
2 questioning, Your Honor.
3 JUDGE LAWS: Okay. All right. So I guess since we're
4 moving along, we'll move along.
5 Q BY MS. SANCHEZ: Based on your -- I want to ask you about
6 a very specific category of -- or not category, excuse me -- I
7 want to ask you about 13 employees and whether you knew them in
8 your capacity as the assistant warehouse manager.
9 A Okay.
10 Q Did you know somebody by the name of Yukihiko Amanuma?
11 A I know him as Yuki. I just know who he is. I have no
12 idea what he used to do.
13 Q Does he work at Wismettac?
14 A Yes.
15 Q Okay. Do you know what position he works in?
16 A I've seen him in the receiving area.
17 Q Do you -- as an assistant warehouse manager, did you work
18 alongside of people who were categorized as warehouse clerks?
19 A Yes.
20 Q And are those folks also identified sometimes as logistics
21 office clerks?
22 A Yes.
23 Q Okay. So do you use those interchangeably?
24 A Yes.
25 Q Was Yuki a logistics office clerk?

1 A No.
2 Q Okay. What about Ryan Prewitt? Do you know who that is?
3 A No.
4 Q Do you know Ryan Prewitt as a logistics office clerk?
5 A No.
6 Q What about Senllacett Gonzalez Guardado?
7 A No.
8 Q Was that person a logistics office clerk?
9 A No.
10 Q Okay. What about Kaori Juichiya?
11 A No.
12 Q Was that person a logistic office clerk?
13 A No.
14 Q Okay. Do you know who Stephany -- that's Stephany with a
15 "Y" at the end -- Manjarrez is?
16 A No.
17 Q Do you know them as a logistics office clerk?
18 A No.
19 Q Okay. What about Shun Man Yung?
20 A No.
21 Q Do you know that person as a logistics office clerk?
22 A No.
23 Q Do you know somebody by the name of Suguru Onaka?
24 A Yes.
25 Q Okay. How do you know that person?

1 A He works in the warehouse office.
2 Q And when you say "warehouse office", where is that office
3 located?
4 A On the first floor by the warehouse.
5 Q By the warehouse or in the warehouse?
6 A In the warehouse. Sorry.
7 Q And what was Suguru's position?
8 A A logistics clerk.
9 Q Do you know somebody by the name of Mamoru Tagai?
10 A Yes.
11 Q Who was that person?
12 A Warehouse clerk as well.
13 Q In the same office?
14 A Yes.
15 Q Do you know somebody by the name of Rinco Tunabe (phonetic
16 throughout)?
17 A Yes.
18 Q Who was that person?
19 A She's no longer working there. She used to work in the
20 warehouse office as well.
21 Q What about Wesley Chang? Does that person work in the
22 warehouse office?
23 A No.
24 Q Is their position warehouse office clerk?
25 A No.

1 Q Or logistics office clerk?
2 A No.
3 Q Excuse me. Do you know who Masae Inagaki is?
4 A No.
5 Q And what about Thao Nguyen?
6 A No.
7 Q Do either Masae or Thao work in the warehouse office?
8 A No. Not to my knowledge.
9 Q Or did they when you worked there?
10 MR. WILSON: Objection. Lack of foundation. He stated he
11 didn't know who they were.
12 Q BY MS. SANCHEZ: Do you know who worked in the logistics
13 office in the warehouse?
14 A It's only about three or four personnels.
15 Q Okay. And just a moment ago the three that you said
16 worked there were Suguru Onaka, Mamoru Tagai, and Rinco Tunabe;
17 is that correct?
18 A Yes.
19 Q Thank you. Do you know who Kayoko Nishikawa is?
20 A No.
21 Q Have you ever known them to work in that office?
22 A No.
23 Q Do you know if that person's job is logistics office
24 clerk?
25 A No.

1 Q Okay.
2 MR. WILSON: Objection. Once again, he's stated he didn't
3 know who it is. There's no foundation.
4 JUDGE LAWS: Did you know that they weren't a logistics
5 office clerk?
6 THE WITNESS: No.
7 JUDGE LAWS: You don't -- do you know one way or the
8 other?
9 THE WITNESS: No.
10 Q BY MS. SANCHEZ: As the assistant warehouse manager -- let
11 me back up.
12 How long were you the assistant warehouse manager?
13 A About six, seven years.
14 Q Okay. In those six to seven years supervising and
15 managing all of the warehouse employees that you described that
16 you supervised, was it part of your job to know who those folks
17 interacted with?
18 A No.
19 Q It was not part of your job to know who the warehouse
20 people interacted with?
21 A Oh, sorry. Yes.
22 Q Okay. And was it also part of your job to manage the
23 logistics office clerks in the warehouse office?
24 A Yes.
25 Q So is it fair to say then you know who does and does not

1 work in that office?
2 A Yes.
3 Q Is it also fair to say that you know who is or is not a
4 warehouse office clerk?
5 A Yes.
6 Q Thank you.
7 JUDGE LAWS: And you asked in the present tense, so are we
8 taking that to mean now or during the time when he was working
9 there?
10 MS. SANCHEZ: Thank you for the clarification, Your Honor.
11 Q BY MS. SANCHEZ: I'm assuming you knew -- the question is
12 with regard to when you last worked as the assistant warehouse
13 supervisor, which was December, 2017; is that correct?
14 A Yes.
15 Q Thank you.
16 MS. SANCHEZ: I would like to offer into evidence Union
17 Exhibit 1.
18 Your Honor, there are two pages that are stapled together
19 and a loose page. They're all one exhibit.
20 JUDGE LAWS: Okay.
21 MS. SANCHEZ: May I approach?
22 JUDGE LAWS: Yes. I don't have a copy.
23 MS. SANCHEZ: I apologize.
24 JUDGE LAWS: Thank you.
25 MS. SANCHEZ: Thank you.

1 Q BY MS. SANCHEZ: Mr. Garcia, does this document look
2 familiar to you?
3 A Yes.
4 Q How is this document familiar to you?
5 A It's a seating chart of all the employees in the office --
6 main office.
7 Q And the loose page, what is that document?
8 A The employees -- office clerks for warehouse.
9 Q The warehouse office you were describing earlier, is this
10 a seating chart for that office?
11 A Back then it was.
12 Q Thank you for the clarification.
13 The stapled document says 1F and 2F; do you know what
14 those refer to?
15 A First floor and second floor.
16 MR. WILSON: I'm going to object. There's no foundation
17 as to the authenticity of these documents, where they came
18 from, how he knows that they say what they say.
19 MS. SANCHEZ: If I may, Your Honor?
20 JUDGE LAWS: Okay. Yeah, okay. Go ahead and establish
21 that.
22 Q BY MS. SANCHEZ: Have you ever received these documents
23 personally?
24 A Yes.
25 Q How did you receive this document?

1 A By email.
2 Q Okay. Who emailed it to you?
3 A Administrative assistant.
4 Q And do you know if this document was emailed to anybody
5 else?
6 A That I know of, it's shared file and shared with the L.A.
7 office.
8 Q When was this emailed to you?
9 A It gets updated frequently.
10 Q Okay.
11 MS. SANCHEZ: Your Honor, we'd like to offer this as Union
12 Exhibit 1.
13 JUDGE LAWS: Okay. Any objection?
14 MR. WILSON: Yes, Your Honor. I don't think the
15 document's been authenticated.
16 We simply have a vague reference to an administrative
17 assistant who sent him a document, that there's no date on the
18 document as to how recent it is.
19 MS. SANCHEZ: Your Honor, the date is on the first page of
20 the stapled document on the bottom. It's January 18, 2018.
21 JUDGE LAWS: Is -- when did you get these documents?
22 THE WITNESS: I don't recall, but it gets updated
23 frequently, and that's a shared file.
24 MS. SANCHEZ: Your Honor, this witness testified that he
25 began working in the second floor of the upstairs office in

1 early 2018.

2 JUDGE LAWS: Well, let's get it from the witness, not from

3 counsel. I'm not going to assume when it was emailed to him,

4 so.

5 MS. SANCHEZ: May I ask questions?

6 JUDGE LAWS: Yes. Please do.

7 Q BY MS. SANCHEZ: Mr. Garcia, when did you begin working in

8 the front offices?

9 A Approximately January 22nd. That's when it was official.

10 I didn't start work until about the first week of February.

11 Q Of what year?

12 A 2018.

13 Q Do you recall -- based on when you started working in the

14 office, does it refresh your memory about when was this emailed

15 to you?

16 A I'm going to say on January 18.

17 Q January 18 of what year?

18 A 2018.

19 Q When -- before you started working in the office?

20 A Yes.

21 Q Okay. So was this emailed to you in your capacity as the

22 assistant warehouse manager?

23 A Yes.

24 Q Okay.

25 JUDGE LAWS: And in what -- who did you -- did you request

1 it, or it was it just sent to you?
2 THE WITNESS: No, no. It just sent to all the warehouse
3 employees -- well, office employees.
4 Q BY MS. SANCHEZ: So you're saying that this was sent to
5 all of the office employees. But at that time, you weren't an
6 office employee, so --
7 A It also gets emailed to warehouse office employees.
8 Q Warehouse office employees. And those were the same
9 employees you said a moment ago that you managed, correct?
10 A Yes.
11 Q Okay.
12 MS. SANCHEZ: Your Honor, we'd like to offer it again.
13 MR. WILSON: Your Honor, I object again. He received this
14 document when he was a management employee.
15 And apparently, he's taken the document and turned it over
16 to the Union and, you know, we object to that. He has no
17 authority to do this.
18 If he received his document when he was a manager, then it
19 should be stricken. And the Union should not even have talked
20 to him about the time that he was a manager. Ethically, they
21 would have to go through us, his counsel.
22 MS. SANCHEZ: We disagree, Your Honor. There was no --
23 Q BY MS. SANCHEZ: Was there any prohibition placed on this
24 document when you received it?
25 A No. Not to my knowledge.

1 JUDGE LAWS: All right. I will allow it.

2 **(Union Exhibit Number 1 Received into Evidence)**

3 JUDGE LAWS: And really, I agree with Respondent counsel.

4 There aren't many specifics about how or when was it received,

5 and that will just go to its weight and its probative value.

6 MS. PEREDA: Your Honor, can we just number these page --

7 what's 1?

8 JUDGE LAWS: I don't know.

9 MS. PEREDA: Union counsel, can you just clarify which is

10 Union 1 -- the page -- the order of the documents?

11 MS. SANCHEZ: Sure. Union 1 would be --

12 JUDGE LAWS: Well, Union 1's the whole name of the

13 exhibit, so page one of Union 1.

14 MS. SANCHEZ: Page 1 of Union 1 is the warehouse. And I

15 apologize again that it's not stapled with the others.

16 And then 2 would be the document the top of the stapled

17 document that has a 1F in the left-hand corner.

18 And 3 would be the one that has a 2F on the bottom of

19 left-hand corner.

20 JUDGE LAWS: Okay. Let's just make sure the court

21 reporter's exhibit reflects that pagination.

22 MS. SANCHEZ: Okay.

23 Q BY MS. SANCHEZ: Mr. Garcia, you testified a moment ago

24 that in December, 2017, after the first election but before the

25 second election, that there were three warehouse office clerks

1 otherwise known as logistics office clerks; is that correct?
2 A Yes.
3 Q Okay. Do you know that the Employer later contended that
4 there were 27 additional warehouse office clerks?
5 MR. WILSON: Objection. Leading questions.
6 JUDGE LAWS: Sustained.
7 Q BY MS. SANCHEZ: I would like to ask you about a number of
8 other employees by name and whether you ever worked with them
9 as logistics office clerks in your capacity as assistant
10 warehouse manager as late as December of 2018 -- I'm sorry --
11 as late as December, 2017.
12 Do you somebody by the name of Kumiko Estrada?
13 A Yes.
14 Q How do you know that person?
15 A When I was working that one year in export, I would have
16 frequent communication with her.
17 Q Why would you have frequent communication with her?
18 A We used to communicate about orders going out of the
19 country.
20 Q Do you know where she worked?
21 A On the first floor, main office.
22 Q Do you know what her position was?
23 A I know her as an export personnel.
24 Q When did you know her as an export personnel?
25 A I would say about 2010.

1 Q Do you know if in 2017 she worked in the export
2 department?
3 A Not that I'm aware of.
4 Q Do you know where she works now?
5 A I'm assuming the same one -- same place.
6 Q Well, I don't want you to assume. I'm asking if you know
7 where she works now.
8 A No.
9 Q Okay. On the seating chart that's in front of you, for
10 page 2 of Union Exhibit 1, the page that is of the first floor
11 layout, there is -- there are three -- there are many rows.
12 There's a row with an icon of the female icon and the male
13 icon. Do you see that icon on the right-hand side?
14 A Yes.
15 Q If you go all the way down that row, do you see the word
16 Narimoto?
17 A Yes.
18 Q I see right above there Kumiko. Do you know if that's
19 where Kumiko Estrada sits?
20 A I think so, yes.
21 Q Thank you.
22 JUDGE LAWS: Well, I want to get that a little more clear
23 because you said I think so.
24 Do you know or do you not know?
25 THE WITNESS: Well, yes.

1 JUDGE LAWS: You do? Okay.
2 THE WITNESS: Sorry.
3 Q BY MS. SANCHEZ: In the 13 years that you worked in the
4 warehouse, was Kumiko ever a logistics office clerk?
5 A No.
6 Q Do you know if somebody by the name of Stacey Imoto was
7 ever a logistics office clerk?
8 A No.
9 JUDGE LAWS: You know don't if she was, or you know that
10 she was not?
11 THE WITNESS: I know that she was not.
12 JUDGE LAWS: Okay. Thanks.
13 Q BY MS. SANCHEZ: What about Maho Kobayashi? Do you -- was
14 that person ever a logistics office clerk during your time?
15 A No.
16 Q Somebody by the name of Sachie Liu, was that person ever
17 in the person of logistics office clerk?
18 A No.
19 Q And again, this is the time frame of when you were
20 assistant warehouse manager.
21 Francis Maring, does that name sound familiar to you?
22 A Yes.
23 Q Do you know if Francis Maring ever worked in the position
24 of logistics office clerk?
25 A No, they didn't.

1 Q No, you -- they did or they did not?
2 A They didn't.
3 Q Do you know if Francis Maring is -- currently works on the
4 second floor of the main office?
5 A No, I do not.
6 Q Looking at the floor plan of the offices that's been
7 placed in front of you, do you know why there -- some of these
8 employees are highlighted in blue or yellow, for example?
9 A No.
10 Q You don't?
11 A Not specifics.
12 Q Do you know if the office is laid out in any particular
13 way with regard to job categories?
14 A Yes.
15 Q You do know?
16 A Yes.
17 Q What do you know?
18 A I know that a certain area is for the second floor. It's
19 for accounting.
20 Q What area is for accounting?
21 A The red one, red -- on the top left?
22 A Yes.
23 Q Or on the far left. And what else do you know about the
24 areas?
25 A That's about it. Everybody else is scattered.

1 Q Okay. And then there's a table. On the second floor,
2 there's a table in these different colors. Does that table --
3 are you familiar with that table?
4 A No.
5 Q Okay. So you don't -- do you know one way or the other
6 whether the jobs are associated with that table?
7 A No.
8 Q Okay. What about for the first floor? Do you know
9 anything about the categories of employees in the way that
10 they're seated in this chart?
11 A Yes.
12 Q What do you know?
13 A I know the top left hand corner are data entry. The
14 middle towards the bottom is restaurant sales reps. And at the
15 back bottom, it's grocery sales reps.
16 Q The back bottom. You mean on the right hand side?
17 A Yes.
18 Q In the dark blue?
19 A Yes.
20 Q Those are the grocery sales reps? Okay. I want to ask
21 you about certain employees, as I was before. Do you know
22 somebody by the name of Fumi Meza?
23 A Yes.
24 Q Did you know that person as an assistant warehouse
25 manager?

1 A No.
2 Q Okay. How do you know that person?
3 A I used to have contact with her on -- when I was in export
4 department.
5 Q Okay. Do you know what department Fumi Meza works in?
6 A Not now, but I know she was in export.
7 Q All right. On the first floor layout, Union Exhibit 1,
8 page two, there is a Fumi under the dark blue. Are you aware
9 whether that is the same Fumi Meza as the one you were
10 referring to?
11 A Yes.
12 Q You are aware?
13 A Yes.
14 Q That is the same Fumi?
15 A Yes.
16 Q Do you know if Fumi Meza ever held the position of
17 logistics office clerk?
18 A No, she did not.
19 Q Do you know if Kristie Mizobe ever held the position of
20 logistics office clerk?
21 A No, she did not.
22 Q And this is, again, during your time as assistant
23 warehouse manager --
24 A Correct.
25 Q -- as late as December of 2017? I asked you -- strike

1 that. There are two Stephanies on this list that the company
2 has argued are logistics office clerks. Did you ever know any
3 Steffanie --
4 A No.
5 Q -- as a logistics office clerk?
6 A No, I did not.
7 MS. SANCHEZ: For the record, one Stephanie spells her
8 name with a Y a the end and the other one with two Fs, just to
9 keep us guessing.
10 Q BY MS. SANCHEZ: The -- on the seating chart in front of
11 you on page 2, which would be the first floor of the front
12 office, there's a Stephany with a Y and the other one with the
13 2 FFs -- do you know whether -- do you know these Stephanies at
14 all?
15 A No, I do not.
16 Q What area of the office with regard to job category is
17 that again?
18 A I have no idea.
19 Q Oh. I thought you just testified to knowing what area
20 the -- what category of employees worked in that area.
21 A It was only the top.
22 Q The left.
23 A The left, not the right.
24 Q Okay. Do you know if Shuji Ohta ever worked as a
25 logistics office clerk?

1 A No, I do not.
2 Q Do you know who Shuji --
3 JUDGE LAWS: Again. The way you're asking the question is
4 to ask his knowledge whether or not and the answer isn't, I
5 don't think getting -- is -- the only answer he's giving is
6 yeah, I know whether or not she worked there, so --
7 Q BY MS. SANCHEZ: Did Shuji Ohta ever work as a logistics
8 office clerk?
9 A Not to my knowledge.
10 Q Do you know who Shuji Ohta is?
11 A Now I do.
12 Q Okay. And how do you know Shuji Ohta?
13 A I just see him doing the -- delivery mails to the other
14 main office employees.
15 Q Okay. He delivers the mail to the main office employees?
16 A That I know of.
17 Q And that's current?
18 A Yes.
19 Q Okay. When you -- but when you were an assistant
20 warehouse manager, was Shuji Ohta a logistics office clerk?
21 A Not to my knowledge.
22 Q And did he work in the downstairs warehouse office?
23 A No.
24 Q Was Wakako Park ever a logistics office clerk?
25 A Not to my knowledge.

1 Q What about somebody by the name of Domingo Pliego?
2 A No. He was a food safety coordinator.
3 Q I'm sorry. You said food safety coordinator?
4 A Yes.
5 Q When did you know Domingo Pliego as a food safety
6 coordinator?
7 A Late 2017.
8 Q And do you know where Domingo Pliego sits in that
9 facility?
10 A He's no longer working there.
11 Q Okay. Thank you. Do you know whether Salvacion Rivera
12 was ever employed as logistics office clerk?
13 A No, she was not.
14 Q Was Keiko Takeda ever employed as a logistics office
15 clerk?
16 A No, he was not.
17 Q Do you know who Michelle Thai is?
18 A Yes.
19 Q Who is Michelle Thai?
20 A She works on the first floor main office as data entry.
21 Q How do you know that?
22 A Because I used to have contact with her when I was
23 assistant manager.
24 Q Okay. Did Michelle Thai work as a logistics office clerk
25 when you were an assistant manager?

1 A No.
2 Q Did Michelle Thai ever work directly with warehouse
3 employees?
4 A No.
5 Q Do you know who Stacey Umemoto is?
6 A No, I do not.
7 Q Do you know if Stacey Umemoto ever worked as a logistics
8 office clerk?
9 A Not to my knowledge.
10 Q Okay. I'm sorry. I asked that. Let me strike that. Did
11 Stacey Umemoto ever work as a logistics office clerk?
12 A No, she did not.
13 Q Thank you. What about Karen Mariko Yamamoto? Did Karen
14 Mariko Yamamoto ever work as a logistics office clerk?
15 A No.
16 Q Same question for Chiaki Yamashita.
17 A No, not to my knowledge.
18 Q There is a Chiaki on page 2 of Union Exhibit 1, which is
19 the first floor. We had a moment ago looked at Fumi Meza. Are
20 you aware whether Chiaki Yamashita sits next to Fumi Meza?
21 A Yes.
22 Q Is this the same Chiaki as the one I just asked you about?
23 A Yes, but she no longer working there.
24 Q Do you know if Yasuhiro Yamashita ever worked as a
25 logistics office clerk when you were the assistant manager?

1 A Not to my knowledge.
2 Q As a warehouse worker, did you ever have any regular
3 interaction with GPO distribution coordinators?
4 A No.
5 Q As an assistant warehouse manager, did warehouse workers
6 ever have any interaction with GPO distribution coordinators?
7 A No.
8 Q What about drivers?
9 A No.
10 Q No, they did not?
11 A They did not.
12 Q As a warehouse worker, did you ever have any interaction
13 with GPO central purchase clerks?
14 A No, I did not.
15 Q As an assistant warehouse manager, did the warehouse
16 employees ever have any interact with GPO central purchase
17 clerks?
18 A No, they didn't.
19 Q What about drivers?
20 A No.
21 Q Same question with regard to central purchase clerks.
22 A No.
23 Q Same question with regard to warehouse employees.
24 A No.
25 Q And drivers?

1 A No.
2 Q No. Thank you. Okay. What about -- we've talked a
3 little bit about logistics office clerks. So same question.
4 As a warehouse worker, did you ever work with any logistics
5 office clerks?
6 A Yes.
7 Q How many at the time that you were a warehouse worker?
8 A When I was a warehouse worker, I think there was one or
9 two.
10 Q Okay. When you were an assistant warehouse manager, you
11 advised that there were three and that they worked in that
12 downstairs office, correct?
13 A Correct.
14 Q And when you were assistant warehouse manager, did the
15 warehouse employees have any interaction with those logistics
16 office clerks?
17 A Yes, they did.
18 Q And when I say those logistics office clerks, I'm speaking
19 of the ones that were in that office.
20 A Yes.
21 Q Did you know of them having any interaction with any other
22 warehouse clerks working outside of that office?
23 A Not to my knowledge.
24 Q Thank you. Did your pay change when you moved to your new
25 office job?

1 A Yes.
2 Q How so?
3 A It dropped.
4 Q It dropped. Was that because you were a supervisor
5 before?
6 A Assistant manager.
7 Q Excuse me. Yes. Thank you. Do you know if it's higher
8 or lower than the warehouse employees currently make?
9 A It's higher.
10 Q And what about the drivers?
11 A It's higher.
12 Q Okay. I'd like to ask you a few questions about key
13 cards. As an employee of Wismettac, are you issued a key card?
14 A Yes, but we consider it a badge.
15 Q Oh, badge. What does that badge do?
16 A It allows us to clock in and out for our time. We also
17 have access to certain parts of the building.
18 Q When you say access, what do you mean?
19 A I mean locked door. Most of the doors are kind of locked.
20 Q What do you mean, kind of locked?
21 A Well, they're locked.
22 Q Okay.
23 A So you would scan the badge and if it turns green, that
24 allows you to go.
25 Q What doors does your badge currently allow you to go

1 through?
2 A Upstairs and through the warehouse entrance.
3 Q Upstairs and through where?
4 A Warehouse entrance.
5 Q What about the front entrance?
6 A Yes.
7 Q Do you know if that badge allows warehouse employees to go
8 through the front entrance?
9 A Not to my knowledge.
10 Q I apologize. You described the facility before, but how
11 many doors are there at the front of the facility?
12 A About two, three.
13 Q Okay. Can you describe where those three doors -- where
14 do they lead to?
15 A As soon as you go in, to your left, there's a door that
16 leads into the first floor office. And there's another door
17 that will lead up to upstairs.
18 Q When you said there's another door leading up to the
19 upstairs, you used your right hand and you used a gesture.
20 A Yes. To the right side.
21 Q The other door was --
22 A Yes.
23 Q -- to the right side? Thank you. Is there a reception
24 area of any sort?
25 A Yes.

1 Q Okay. And those doors are locked?
2 A Yes.
3 Q And the door that you described to the left and the door
4 you described to the right, is that off of the reception or
5 different from the reception?
6 A It's in front of the reception, by the reception.
7 Q Okay. So just to make the record clear. There's a front
8 off -- a front door of the facility and --
9 A Yes.
10 Q -- then there's the lobby and then there's those two doors
11 you just described?
12 A Yes.
13 Q Is that correct?
14 A Yes.
15 Q All right. Do you punch a time clock?
16 A Yes.
17 Q You use that badge you just described?
18 A Yes.
19 Q Can you tell me where the time clock is that you currently
20 use?
21 A The one I use is upstairs.
22 Q In the front office?
23 A Yes.
24 Q Do you know if there are any other time clocks besides the
25 one that you use?

1 A Yes. There's three total.

2 Q Where are they located?

3 A One is in the warehouse. One's in the kitchen, and one is

4 upstairs.

5 Q And is there any reason why you use the one that's

6 upstairs?

7 A No. I could use whichever one.

8 Q Okay. All right.

9 MS. SANCHEZ: We don't have any further questions at this

10 time.

11 JUDGE LAWS: All right. Are you ready for --

12 MR. WILSON: Did this employee provide a statement to the

13 Region?

14 MS. PEREDA: No, he did not.

15 JUDGE LAWS: Do you want a couple minutes to prepare?

16 MR. WILSON: Yes.

17 JUDGE LAWS: Okay. Why don't we go off the record?

18 Let's -- five to ten-minute break.

19 (Off the record at 2:01 p.m.)

20 JUDGE LAWS: Ready. Okay.

21 **CROSS-EXAMINATION**

22 Q BY MR. WILSON: Good afternoon, Mr. Garcia. My name is

23 Scott Wilson. I'm attorney for the Respondent.

24 A Yes.

25 Q So I'm going to ask you about Union Exhibit Number 1. You

1 said you were provided that by a Wismettac employee. Is that
2 correct?
3 A Yes, administrative assistant.
4 Q Okay. And when did they provide you this document?
5 A I would say January 18.
6 Q Okay. And did you request them to provide --
7 A No.
8 Q -- you the document?
9 A It's automatically -- well, it's not automatically, but
10 it's emailed to all L.A. office personnel.
11 Q Okay. So it was emailed to you in the regular course of
12 your business, correct?
13 A Yeah. Since I was first assistant manager.
14 Q So I'm a little unclear on that. Were you still the
15 assistant manager --
16 A No. They --
17 Q -- when you received this document?
18 A No. This one was -- I was suspended at the time.
19 Q Okay.
20 A But my email was still active.
21 Q Okay. So when did you return from suspension?
22 A About February 5th.
23 Q Okay. Of 2018?
24 A Yes.
25 Q Okay. Now, when you testified today about Union Exhibit 2

1 and all the names on Union Exhibit 2 --
2 JUDGE LAWS: 1. I'm going to correct you.
3 Q BY MR. WILSON: 1. I'm sorry. Excuse me. Exhibit 1. As
4 I understood that testimony, that was based upon knowledge you
5 had gained as the assistant manager.
6 A Yes.
7 Q Is that correct?
8 A Correct.
9 Q Okay. Now, did you -- prior to your testimony today, did
10 you meet with anyone from the Teamsters Union about this
11 testimony?
12 A Only once.
13 Q Okay. And when did you meet?
14 A Last week.
15 Q Okay. And did you discuss Union Exhibit 1?
16 A Yes.
17 Q Okay. And you reviewed Union Exhibit 1 with them?
18 A Yes.
19 Q Okay. Which was based upon knowledge you had obtained as
20 the assistant manager --
21 A Yes.
22 Q -- correct?
23 A Yes.
24 Q Okay.
25 MR. WILSON: Your Honor, this document should be stricken.

1 I mean, he was interviewed about things he did as the assistant
2 manager when we -- counsel or the company should have been
3 approached about if they were going to have those discussions.
4 If they want to bring him down here and ask him questions about
5 what he did and subpoena him, that's fine. But meeting with
6 him to ask him questions about what he did when was a
7 supervisor is entirely improper and this document came from
8 that meeting.
9 It should be stricken and all of his testimony stricken to
10 the extent it relates upon anything, any knowledge he gained
11 about these job positions as an assistant manager.
12 MS. SANCHEZ: Your Honor, if I may. We vehemently object.
13 This document has already been admitted for -- with the caveat,
14 for what it's worth and you know, for whatever weight it's
15 worth. But this document has been authenticated. There was no
16 prohibition on the distribution of this document. This
17 document received -- was received, sure, in the regular course
18 of business, but there is -- it should absolutely be admitted
19 and it's clearly relevant, which is why the Employer wants to
20 keep it out.
21 MR. WILSON: Your Honor --
22 JUDGE LAWS: I guess I'm unclear. It's not clear to me
23 what his status was when he received it. He was a suspended
24 employee, so I think it's ambiguous.
25 MR. WILSON: No, no. That's not the point we're making.

1 He was suspended when he received it.
2 JUDGE LAWS: Yes.
3 MR. WILSON: And it was sent to him, because his email was
4 accurate. We agree with that. Where our problem is is that he
5 met with counsel for the Union prior to his testimony and
6 discussed this document, which is based upon his knowledge as
7 an assistant general manager, so the --
8 MS. SANCHEZ: He also testified it was based on his
9 knowledge as somebody who is currently an office employee as
10 well.
11 MR. WILSON: Your Honor, he testified primarily that it
12 was based upon -- he was repeatedly asked by counsel for the
13 Union, is this based upon your knowledge as a general manager.
14 So the mean --
15 MS. SANCHEZ: That misstates the testimony, Your Honor.
16 JUDGE LAWS: Hold on. He was asked if he knew various of
17 these individuals, when he used to work as an assistant
18 manager. And that testimony is part of the record. You know,
19 it was not objected to at the time. Again --
20 MR. WILSON: Well, Your Honor, it wasn't object --
21 JUDGE LAWS: -- I've admitted the document. Let's move
22 on.
23 MR. WILSON: Well Your Honor, just to clarify.
24 JUDGE LAWS: Yeah.
25 MR. WILSON: It wasn't objected to at the time, because we

1 weren't cross-examining him and he hadn't admitted that he had
2 met with the Union to discuss it. Once he admitted that, then
3 everything changes.
4 MS. SANCHEZ: Your Honor, counsel is confusing the record.
5 The reference to this document was about particular employees.
6 The questioning of him regarding all of those other employees
7 was not in reference to this document. And I -- and we would,
8 again note that this document has already been admitted.
9 MR. WILSON: Your Honor, it was admitted over objection
10 without the facts that have come forward now that he discussed
11 his testimony relating to this document that was based upon
12 when he was a manager and an employee. They shouldn't have
13 been talking to him about that without our permission and they
14 shouldn't have been talking to him about that document without
15 our permission.
16 He has no authority to come down here and talk about a
17 document that is based upon knowledge that he received when he
18 was a management employee when we were giving no opportunity or
19 notice that they planned on interviewing him. And that was
20 improper.
21 MS. SANCHEZ: He was subpoenaed to -- just to be clear, to
22 be here today.
23 MR. WILSON: I don't care about his testimony today. I'm
24 talking about meeting outside of today when he was asked
25 questions about his duties as a general manager. And that's

1 improper. And this document came directly from that and it
2 should be excluded.
3 JUDGE LAWS: Well again, I have admitted the document. I
4 will certainly -- I don't want to delay things here. I will
5 allow counsel to argue in brief why I should disregard. I
6 mean, we don't have a jury. I can figure this stuff out
7 without causing any particular harm. So you know, I'd want to
8 see the legal arguments. And we can do that. I mean, I've
9 seen the document. The bell has been rung, and argue that it
10 should be excluded and stricken and I will consider that. But
11 for now, we're moving forward.
12 MR. WILSON: Okay.
13 Q BY MR. WILSON: So Mr. Garcia, just to make it clear.
14 When you met with Teamsters, you did discuss Union Exhibit 1,
15 correct?
16 A Yes.
17 Q Okay. And did they ask you to produce Union Exhibit 1 to
18 them?
19 A No.
20 Q Okay. You did that on your own volition?
21 A Yes.
22 Q Okay. And how did you know that you should take that and
23 give it to the Teamsters Union?
24 A I did it just in case.
25 Q Okay. And how many conversations did you have with them

1 for your testimony here today?
2 A Just once.
3 Q Okay. And that was a week ago?
4 A Yes.
5 Q And did you ask -- so a week ago today, you were employed
6 at Wismettac, correct?
7 A I'm still employed there, yes.
8 Q Okay. That's right. Okay. And before you met with the
9 Union and gave them that document, did you ask anyone's
10 permission --
11 A No.
12 Q -- at Wismettac? And why is that?
13 A Well, I was no longer part of management.
14 Q Okay. But even though you're part -- not part of
15 management, do you believe you can take internal documents and
16 give those to outside parties?
17 MS. SANCHEZ: I'm just going to object to this line of
18 questioning. We've already gone over this and I believe it's
19 irrelevant at this point.
20 MR. WILSON: Well, it's not irrelevant and I think we
21 should be able to ask him, if we're going to be able to argue
22 this, you know, why the document was released and what the
23 circumstances were.
24 JUDGE LAWS: Sure. I will allow it. You know -- and
25 again, it's -- I will hear argument. I think there's a lot of

1 ambiguity, because he was suspended at the time. It's unclear
2 what his capacity, to me was. But go ahead.
3 Q BY MR. WILSON: So during the time you worked Wismettac,
4 are you familiar with the fact that they had an employee
5 handbook?
6 A Yes.
7 Q Okay. And did you have to know most of the content of
8 that handbook as your role as a manager?
9 A No.
10 Q Okay. So you never read -- you're saying you never read
11 the handbook?
12 A Honestly, no.
13 Q Okay. So if I quoted the handbook, which says that you're
14 not to release confidential information --
15 MS. SANCHEZ: Objection. Argumentative. He already
16 advised --
17 JUDGE LAWS: Let him -- he hasn't finished the question.
18 Q BY MR. WILSON: So if I were to quote from you the
19 handbook, the section referred to as confidential information,
20 which prohibits divulging information to outside parties about
21 employees, are you saying you had no knowledge of that?
22 A No.
23 MS. SANCHEZ: Objection. Argumentative. Objection.
24 Vague as to confidential information. The document is also not
25 in evidence or before the witness, so it's vague in that regard

1 as well.

2 MR. WILSON: Your Honor, we can put the document -- we

3 just printed out the one page. I don't have the entire --

4 JUDGE LAWS: And I don't want the entire handbook, I can

5 tell you that. This isn't a handbook case thankfully, by and

6 large, but you know, if you want to identify the provision.

7 Does counsel for the General Counsel and Union have a copy of

8 the handbook?

9 MS. SANCHEZ: No, Your Honor.

10 MR. RIMBACH: No, Your Honor.

11 JUDGE LAWS: All right. Why don't we show it?

12 MR. WILSON: Your Honor, the General Counsel has a copy of

13 that handbook. It was given to them on at least three

14 occasions as part of an investigation. It was in response to

15 their subpoena.

16 JUDGE LAWS: They just may not have it here, so why don't

17 we take a --

18 MS. PEREDA: I don't have it here.

19 JUDGE LAWS: Yeah.

20 MR. WILSON: Okay.

21 JUDGE LAWS: So if you can just let them -- let's go off

22 the record, take five minutes, take a look at it and --

23 (Off the record at 2:20 p.m.)

24 MR. RIMBACH: Well --

25 JUDGE LAWS: -- if you want to compare it against what was

1 provided.

2 MS. PEREDA: You can just give me the date. The -- well,

3 the Union counsel, I don't know if she has it, but you can give

4 us the --

5 MR. WILSON: Well, if -- since the witness is saying he

6 doesn't know what was in it, we'll simply, as part of our case,

7 put the handbook in. That's fine, because --

8 JUDGE LAWS: Or the provi -- yeah. The provision. I

9 probably don't need the whole thing.

10 MR. WILSON: Because like you say, he just testified, so

11 reading him the language isn't going to make any difference,

12 because he's going to say he didn't know it anyway. Okay.

13 JUDGE LAWS: Presumably, yes. All right.

14 MR. WILSON: Okay. In that case, I have -- so if Your

15 Honor's not going to strike the document or the testimony and

16 we're going to argue that as part of our post-hearing briefs, I

17 presume, then I have no more questions.

18 JUDGE LAWS: Okay. All right. Any follow up from the

19 Union?

20 MS. SANCHEZ: No. Thank you, Your Honor.

21 JUDGE LAWS: All right. Well, thank you for providing

22 your testimony. Please don't discuss what you testified here

23 about with any witnesses or any potential witnesses. Okay.

24 Off the record.

25 (Off the record at 2:21 p.m.)

1 JUDGE LAWS: I'm going to go ahead and swear the witness
2 and the Interpreter. I'll start with the Interpreter.
3 Whereupon,
4 **KEILA RODRIGUEZ-GRANADOS**
5 the interpreter, having been duly sworn, translated from
6 Spanish to English, as follows:
7 JUDGE LAWS: All right. Now I'm going to go ahead and
8 swear the witness. Can you raise your right hand?
9 Whereupon,
10 **LUIS ARMANDO LOPEZ FERNANDEZ**
11 having been duly sworn, was called as a witness herein and was
12 examined and testified, by and through an interpreter as
13 follows:
14 JUDGE LAWS: Thank you. Can you please state and spell
15 your name for the record?
16 THE WITNESS: Yes. Luis Armando Lopez Fernandez, with an
17 F as in Frank.
18 JUDGE LAWS: Thank you.
19 THE WITNESS: You're welcome.
20 JUDGE LAWS: Just a couple of instructions before the
21 lawyers ask you questions. If you don't know the answer to a
22 question, just say I don't know. Only guess if you're asked to
23 guess.
24 THE WITNESS: That's fine.
25 JUDGE LAWS: And if you don't understand a question, just

1 say you don't understand the question and it will be re-asked.
2 THE WITNESS: That's fine.
3 JUDGE LAWS: Thank you.
4 THE WITNESS: You're welcome.
5 MS. PEREDA: Thank you, Your Honor.
6 **DIRECT EXAMINATION**
7 Q BY MS. PEREDA: Good afternoon, Mr. Lopez.
8 A Good afternoon.
9 Q Mr. Lopez, who do you work for?
10 A Wismettac Asian Foods.
11 Q How long have you worked for this company?
12 A About 11 years.
13 Q And currently what's your job title?
14 A Driver.
15 Q And how long have you worked as a driver for the company?
16 A Eleven years.
17 Q And briefly, can you tell us what you do as a driver?
18 A Yes. When I arrive at the company, we get everything
19 that's a product to be shipped to the restaurants. We load the
20 truck, and we go out to do delivery for everything that's
21 markets and restaurants.
22 Q Who do you report to?
23 A Anthony Vasquez (phonetic) or -- or Anthony Vasquez.
24 Q Is Anthony Vasquez the same person as Jose Vasquez?
25 A Yes. Same person.

1 Q And currently, do you know what's his job title?
2 A Right now he's the assistant manager.
3 Q Do you know Teamsters Local 630?
4 A Yes.
5 Q And how do you know this Local?
6 A At the end of November of 2016, some problems happened
7 with the previous manager that was there and the company was
8 doing some changes, so some employees came, including the
9 employees who had been there for longer, the Class A ones. And
10 we wanted to seek outside help to help with the problems that
11 the company was causing us, the workers. So Carlos Orellana
12 contacted other workers from another company to ask about a
13 local so that we could then have the help of Local 630.
14 Q You mentioned Carlos Orellana. Who is Carlos Orellana?
15 A Carlos Orellana is a driver, a coworker of ours, also.
16 Q Mr. Lopez, what if any was your role in communicating with
17 Local 630?
18 A Okay, when Carlos Orellana got the number that he was
19 given, he called the local, but he didn't get an answer, so he
20 gave me the number and I called him and Oscar Ruiz answered me.
21 Oscar Ruiz is an organizer for Local 630. And that's the way I
22 met this Local 630.
23 Q Mr. Lopez, are you aware that Local 630 has been trying to
24 organize and represent the warehouse workers and drivers from
25 Wismettac?

1 A I didn't understand the question.
2 Q Are you aware that Teamsters 630 has been trying to
3 organize the drivers and the warehouse workers?
4 A Yes. I am aware of that.
5 Q What, if any, has been your participation with this Union
6 during the organizing drive?
7 A My role is that I'm part of the committee. I've had a lot
8 more problems with the company previously, and I've known how
9 to solve these problems, so many of my workers trust me and
10 they help me, so that we can continue and so that we could
11 unite, so that the company doesn't continue to violate our
12 rights. And my principal role is that I'm part of the
13 committee.
14 Q Mr. Lopez, what is the committee?
15 A The committee is a group of persons, and we are in charge
16 of letting the rest of the coworkers know how the whole
17 organizing situation is working to educate ourselves to find
18 out how the company not to violate our rights.
19 Q When was the committee formed?
20 A It was February or March of 2017.
21 Q How many employees are members of the committee?
22 A Between 10 to 12 persons.
23 Q Does the committee hold meetings?
24 A Yes.
25 Q And where do these meetings take place?

1 A It could be at the Local 630. It could be within the
2 company, in the parking lot. It could be at a restaurant. The
3 committee itself plans it all to see where it could be held.
4 Q How often does the committee meet?
5 A It could be two or three times a month.
6 Q You mentioned that sometimes these meetings happen at
7 Wismettac in the parking lot. After the fir --
8 MR. WILSON: Your Honor, I'm going to object. Once again
9 the same issue before about the time. Are we talking about
10 subsequent to March 1st, 2018 or prior to that?
11 JUDGE LAWS: And I'm going to jump in and ask a question
12 to hopefully clarify that. Has the location of the meetings
13 changed over time?
14 THE WITNESS: No.
15 JUDGE LAWS: Has the frequency of the meeting changed over
16 time?
17 THE WITNESS: Yes. Within the company, yes.
18 JUDGE LAWS: All right. And I'm going to turn it over to
19 you to get the clarification, counsel.
20 Q BY MS. PEREDA: Mr. Lopez, do you recall when the first
21 union election took place?
22 A Yes. September 19th of 2017.
23 Q After the first election, do you recall if the committee
24 held the meetings at Wismettac?
25 A Yes.

1 Q How many?
2 A We had about two or three.
3 Q Let's talk about the first meeting first. Do you remember
4 when that first meeting took place? Like around what date and
5 month?
6 A It was about the end of October, between the 20th, 28th,
7 more or less.
8 Q And that's of 2017?
9 A Yes, 2017.
10 Q And who was present for this meeting?
11 A The majority of the drivers were present, some from the
12 warehouse, including myself.
13 Q How many employees total were at this meeting?
14 A Approximately between 20 and 30.
15 Q Do you recall the names of any of the employees who were
16 present at this meeting?
17 A Yes, I remember some.
18 Q Can you tell us the names of the people that you remember
19 who were present at this meeting?
20 A Ruben Munoz was there. Fanor Zamora. Yes. Jeremiah.
21 But I don't know the last name of Jeremiah. Pedro was also
22 there. I don't know his last name, either. Javed Alvarado,
23 Rolando Lopez, Ronald Mena, Carlos Orellana, amongst others.
24 Q At -- where in Wismettac did this meeting take place?
25 A At the parking lot.

1 Q Can you describe for us the location of the parking lot in
2 relation to the warehouse?
3 A Yes. First, the parking -- where all the employees park
4 is there. About 20 or 15 feet away is the dock for the trucks
5 and then it's the warehouse.
6 Q If you are -- if you park in the parking lot, how do you
7 access the warehouse?
8 A There is a direct entrance access to the warehouse.
9 Q There's an entrance from the parking lot to the warehouse
10 entrance?
11 A Yes. Not just one. There's several.
12 Q Okay. Let's go back to this committee, this meeting at
13 the parking lot. What was said at this meeting and who said
14 it?
15 A At this meeting, I began to speak, to give them updates
16 about the elections that had happened September 19th.
17 THE INTERPRETER: Excuse me, but I'm going to verify the
18 date.
19 THE WITNESS: 19th of September. Thank you, that we had
20 won the elections, but that there were objections to the
21 election and mostly, it was an update about what happened, what
22 was going to happen, what was happening.
23 Q BY MS. PEREDA: Can you tell us, what was the distance
24 between the group of employees and the warehouse entrance?
25 A It was between 15 and 20 feet.

1 Q And around what time was this meeting held?
2 A Between 5:30 and 7:00, but I want to clear something up.
3 During that time, it wasn't the 30 employees, because some were
4 arriving. They would get the news and they would go home.
5 Q Now, when you were having this meeting in the parking lot,
6 were there any managers or supervisors in the area?
7 A Right where we were at, no, but some were -- that were
8 showing up at the doors or the window of the dock of the
9 trucks.
10 Q Okay. Let's break this up. You mentioned that somewhere
11 showing by the door. Who did you see by the door?
12 A I saw Anthony or Jose Vasquez, Narimoto. Fran was also.
13 Q You mentioned that you saw Vasquez. How far was he from
14 the group?
15 A The same. About 15 to 20 feet.
16 Q And what, if anything, did Frank -- I'm sorry. What, if
17 anything, did Vasquez do when he was by the door?
18 A He just showed up through the window to see who was
19 outside.
20 MR. WILSON: Objection. Lack of foundation. He doesn't
21 know why he showed up at the window or --
22 JUDGE LAWS: Sustained. I would take that as --
23 MS. PEREDA: Well, let me ask --
24 JUDGE LAWS: -- I would take that as his speculation.
25 Q BY MS. PEREDA: Mr. Lopez, you mentioned a window. Where

1 is this window?
2 A Okay. There's the parking for the trucks, there's a big
3 door that you open when you're going to load the truck, but
4 that door has a window of approximately two and a half feet in
5 length and about one-foot width.
6 Q And what is the distance between that window and where the
7 employees were standing when you guys were having your meeting?
8 A Could you repeat the question, please?
9 Q What is the distance between that window that you just
10 described and the employees that were in the parking lot?
11 A Well, the same, 15 to 20 feet.
12 Q So who did you see behind that window?
13 A Vasquez was there, Jose Vasquez. I want to clear
14 something up. When we were in the meeting, a driver came out.
15 His name is Jaime Martinez and he told all of us, because he
16 also came to the meeting or where we were and said for us to be
17 careful, because through the window of those doors, we were
18 being watched. And when he came to tell us and I looked
19 towards the window, Fran (sic) Matheus and Jose Vasquez were
20 there, including Narimoto.
21 Q So just to clarify, Mr. Lopez. Behind that window, you
22 saw Frank Matheu, Jose Vasquez and Mr. Narimoto?
23 A Yes.
24 Q Okay. And did you notice for how long they were standing
25 behind the window?

1 A About five minutes maybe.
2 Q Now, you mentioned that someone else came by the door.
3 Who was -- who came to the door?
4 A When you speak about who came to the door, are you talking
5 about the person that I mentioned? The driver?
6 Q Let me clarify. In addition to those three people that
7 you saw behind the window, did you see any other managers or
8 supervisors near the area where you guys were having your
9 meeting?
10 A Well, there was also a time when -- that Narimoto came out
11 to smoke and he spent time outside smoking his cigarette. And
12 when we would look at him, he would be looking at us.
13 Q What was the distance between the group of employees and
14 Mr. Narimoto?
15 A Where he was smoking?
16 Q Yeah. When he was outside.
17 A Maybe eight to ten feet.
18 Q And for how long was he outside?
19 A Between 10 and 15 minutes.
20 Q I'm going to change topics a bit.
21 A That's fine.
22 Q So you mentioned that there was an election on September
23 19.
24 A Correct.
25 Q Before that election, did you attend any meetings at

1 Wismettac where the Union or the election was mentioned?
2 A Yes.
3 Q How many meetings did you attend before the September 19
4 election where the Union or the election was mentioned?
5 A Three.
6 Q Okay. So let's talk about the first meeting first. Do
7 you recall when that first meeting took place?
8 A Yes, it was about September 8th.
9 Q And where was this meeting held?
10 A They took us inside to an office that said room meeting.
11 That's what it said.
12 Q Who from the company was present at this meeting?
13 A Fran was there.
14 MS. PEREDA: I'm sorry. I believe the witness is saying
15 Frank.
16 THE INTERPRETER: Excuse the Interpreter. I'll verify.
17 THE INTERPRETER: Frank. Excuse the Interpreter.
18 Q BY MS. PEREDA: Okay. I'm sorry. You said Frank. Who
19 else was at this meeting?
20 A Gustavo (phonetic).
21 Q Who is -- and this is Frank Matheu?
22 A Yes, correct.
23 Q Who is Frank Matheu?
24 A Frank Matheu is the general manager from the Florida side.
25 Q And you mentioned Gustavo. Do you know his last name?

1 A Flores.
2 Q Do you know his title?
3 A Well, back then, because he's no longer there, he was a
4 junior basting -- or anti-union. Something like that,
5 according to what I understand.
6 Q Okay. Which employees were present at this meeting?
7 A Just my brother and myself.
8 Q Who's your brother?
9 A Rolando Lopez.
10 Q So this meeting, it was only the four of you -- Frank,
11 Gustavo, your brother, Rolando, and you?
12 A Yes. Correct.
13 Q Who spoke at this meeting?
14 A Frank Matheu began speaking.
15 Q Was this meeting in Spanish or English?
16 A Spanish.
17 Q Frank Matheu speaks Spanish?
18 A Yes.
19 Q And what about Gustavo Flores? Does he speak Spanish?
20 A Yes. He also speaks Spanish.
21 Q What do you recall Frank Matheu saying at this meeting?
22 A Well, in the morning when we arrived to work, Isidro
23 Garcia --
24 MR. WILSON: Objection. Nonresponsive.
25 JUDGE LAWS: Go ahead and repeat the question.

1 MS. PEREDA: Oh, I'm sorry.
2 Q BY MS. PEREDA: Mr. Lopez, what do you recall Frank Matheu
3 saying at this meeting?
4 A Well, when we began the meeting, Frank Matheu said that he
5 was meeting with my brother and myself, that he was going to be
6 careful with what he said and that's why he had Gustavo Flores
7 present at that moment. But since we already knew what was
8 happening, that he was going to be very concrete in what he
9 wanted to say.
10 So he said that the owner had given him a green light to
11 do the improvements and the changes within the company, but he
12 was going to do it as long as there wasn't a third party. And
13 my brother asked him what did he refer to when he said third
14 party. And he answered that the Union wouldn't come in. And
15 if the Union came in, he couldn't make those improvements or
16 those changes.
17 I remember that Gustavo Flores said that we were taking
18 this as a revenge. So then I asked him why did he think that
19 we were doing a revenge and that he was accusing us directly.
20 So I said to Gustavo that the way he thought, that first he had
21 to realize everything the company had done to us.
22 MR. WILSON: Okay. I'm going to object now that it's
23 nonresponsive.
24 JUDGE LAWS: You did specifically ask what Mr. Matheu
25 said, so --

1 MS. PEREDA: Yeah, Your Honor, but he's testified to what
2 was said at a meeting --
3 JUDGE LAWS: Yeah.
4 MS. PEREDA: -- and this is the -- he's saying what the
5 Employer's labor consultant said at this meeting, so I don't
6 understand how this is nonresponsive.
7 MR. WILSON: Because what he just said then was that he
8 the witness is telling them you have to understand what you've
9 done to us. That's not -- that's what he said back, not what
10 they said to him.
11 JUDGE LAWS: It -- I mean, we'll get there one way or the
12 other, but the question was what did Mr. Matheu say. And he
13 answered that.
14 MS. PEREDA: Well, if I just asked him --
15 JUDGE LAWS: What was --
16 MS. PEREDA: -- what did you say next --
17 JUDGE LAWS: Yeah.
18 Q BY MS. SANCHEZ: Mr. Lopez, what did you say next?
19 A After Matheus said about the revenge?
20 Q You were testifying about what the labor consultant said
21 and then you were testifying -- you started to testify about
22 what you said in response to that. Do you remember that
23 testimony?
24 A Yes.
25 Q So you can continue. What it is it that you said to the

1 labor consultant, Mr. Gustavo?
2 A So I told Mr. Gustavo that he -- what he was doing --
3 THE INTERPRETER: Excuse the Interpreter. I'm going to
4 verify.
5 A I told him that he was doing an accusation against us.
6 And he immediately said for us not to take it that way, that
7 maybe he didn't use the correct word. So then my brother just
8 began to laugh and said to him, "That's exactly what you're
9 doing." So then I said to him to continue with what he had to
10 say, because we had to get back to work.
11 Q BY MS. PEREDA: Mr. Lopez, you testified that Mr. Gustavo
12 used -- said something like taking this as a revenge. Do you
13 remember when you said that statement?
14 A Yes.
15 Q Do you know what he was referring to when he said this as
16 a revenge?
17 A I imagine that he used it, because in the past --
18 MR. WILSON: Objection. Nonresponsive.
19 JUDGE LAWS: Okay. You asked him if he knew. You can ask
20 him to speculate, but the question was, do you know?
21 Q BY MS. PEREDA: Do you know when he said the word revenge
22 what he was referring to?
23 A Yes. I do know.
24 Q What was he referring to?
25 A He was referring to that in 2013, we had tried to organize

1 ourselves as a union with a different local. The company made
2 a lot of promises to us. We believed the promises and they
3 didn't fulfill them. So he was referring exactly to that.
4 Q Mr. Lopez, how long did this meeting with Frank Matheu and
5 Gustavo Flores last?
6 A Approximately 30 minutes.
7 Q Okay. So now let's move on to the second meeting. Do you
8 recall when that second meeting took place?
9 A I don't remember exactly, but it was just six people that
10 went.
11 Q Okay. So let's talk about the third meeting. When was
12 that third meeting that you attended at the company where the
13 election or the Union were mentioned or discussed?
14 A It was September 18th, one -- a previous day to the
15 election.
16 Q Where was this meeting held?
17 A In the cafeteria.
18 Q And what time?
19 A At 5:30 in the morning.
20 Q Who from the company was present at this meeting?
21 A Frank Matheu was present, Narimoto, Robert. I believe
22 he's the owner of the company.
23 Q Which employees were -- were there employees present at
24 this meeting?
25 A Yes.

1 Q Which employees?
2 A All the drivers. All the drivers.
3 Q Do you remember about how many drivers were at that
4 meeting?
5 A About 30.
6 Q Who spoke at this meeting?
7 A Frank Matheu, Narimoto and Robert.
8 Q Was this meeting in Spanish or English?
9 A In English.
10 Q At this meeting, did they have any translators or
11 interpreters for the people who needed it?
12 A Yes. We had some headphones and someone was translating
13 for us.
14 Q Did you use the headphones?
15 A Yes.
16 Q How did this meeting start?
17 A Frank Matheus began speaking, saying that his father had
18 taught him something, which was respect, respect of others and
19 respect of one's self. And that he was not in agreement with
20 the decision -- excuse me -- with the action that we took on
21 August the 21st, because to him, that was a lack of respect.
22 And he again said, when I say again, it's because he had
23 already told us that at a previous meeting, that the owner was
24 there, present at that moment and that he had given him the
25 green light to do improvements or changes in the company, but

1 that he could do it as long as we didn't allow a third party.
2 And that we had to vote no for the Union in order to see those
3 changes.
4 Q For how long did Mr. Frank Matheu speak at this meeting?
5 A Maybe a little bit over five minutes.
6 Q Did employees ask questions or make comments at this
7 meeting?
8 MS. PEREDA: Excuse the Interpreter. Could you repeat
9 that question?
10 Q BY MS. PEREDA: Did employees present at the meeting ask
11 questions or make comments?
12 A They didn't allow questions. They said that if we wanted
13 to ask something, to do it afterwards, after the meeting was
14 over, but that we had to look for the people that were in
15 charge of that.
16 Q Mr. Lopez, in addition to the two meetings you just
17 testified to, before the September 19 election, do you recall
18 speaking with any manager or supervisor about the upcoming
19 election?
20 A Yes.
21 Q Who did you speak to?
22 A With Frank Matheus.
23 Q And when did that conversation take place?
24 A It was about September, the beginning of September.
25 Q So was this conversation with Frank Matheu before the

1 meeting that you and your brother had with him and Gustavo
2 Flores?
3 A Yes, correct.
4 Q And where did you speak with Frank?
5 A It was at the warehouse. I was loading my truck. When he
6 approached me and asked me if I needed help, I said no. So he
7 said to me he just wanted to tell me something. He told me to
8 think about it well, what we were doing to give the company the
9 opportunity, because he had all the power that the owner had
10 especially given to him to make the changes at the company,
11 that he knew that the company had taken away the bonuses and
12 they had not paid us the retro pay. And that all of that, he
13 was going to bring it back.
14 Q What, if anything, did you say to Frank during this
15 conversation?
16 A I told Frank that I no longer believed in the promise and
17 I wanted to continue working, because he had already come like
18 in January of the same year, 2017. I don't remember what
19 problem happened with the previous manager, but he came to take
20 him out. And when I say take him out, because many of us saw
21 that he fired the manager from the company. He took him out
22 and he promised that it was going to improve in the company.
23 JUDGE LAWS: And I'm going to jump in here, because I need
24 to know if this is still what was being conveyed in the
25 conversation in early September.

1 THE WITNESS: Yes, after the first meeting that I had with
2 my brother.
3 JUDGE LAWS: So I think we need to clarify.
4 Q BY MS. PEREDA: I'm sorry, Mr. Lopez. Let me go back.
5 What, if anything, did you say to Mr. Frank Matheu at this
6 meeting that you had with him before the election? This
7 conversation between the two of you?
8 A What I said to him?
9 Q Yeah. What did you say to him when he -- what did you say
10 to him during this meeting?
11 A That I didn't believe in those promises.
12 Q Did the topic of third parties come up during this
13 conversation?
14 A Yes. We --
15 Q What was said about third parties during this
16 conversation?
17 A He said that he was not going to allow for a third party
18 to come to make a sort of contract when we, as employees, could
19 do the contract directly with the company.
20 Q And what, if anything, did you say in response to that
21 comment that he said, that he made?
22 A I don't remember exactly right now.
23 Q This conversation with Frank Matheu, how long did it last?
24 A About 10 to 15 minutes.
25 Q And was this conversation in Spanish or English?

1 A In Spanish.
2 Q Was there anyone else who was present for this
3 conversation?
4 A No.
5 MS. PEREDA: Nothing further, Your Honor.
6 JUDGE LAWS: Does the Union have any additional questions?
7 MS. SANCHEZ: Not with regard to the CA case.
8 JUDGE LAWS: No. Okay.
9 MR. WILSON: Can I get the statement before --
10 JUDGE LAWS: All right. Let's -- we'll go off the record,
11 see how long the statement is and figure out how much time you
12 need from there.
13 (Off the record at 3:05 p.m.)
14 JUDGE LAWS: Let's go back on the record.
15 **CROSS-EXAMINATION**
16 Q BY MR. WILSON: Good afternoon, Mr. Lopez. My name is
17 Scott Wilson. I'm the attorney for Wismettac.
18 A Good afternoon.
19 Q Okay. And I want to ask you just a few questions about
20 your testimony. Okay. Now, you testified earlier about a
21 number of meetings that were held with your committee.
22 A That's fine.
23 Q Yeah. And as I understand it, some of these meetings were
24 on company property in the parking lot, correct?
25 A Yes, correct.

1 Q And those meetings happened around the time of the first
2 election and continued after that, correct?
3 A After the first election, correct.
4 Q Okay. Now, when you had the meetings in the parking lot,
5 was it just the members of your committee who came or were
6 other employees also there?
7 A Sometimes it was the committee and sometimes it was the
8 employees.
9 Q Okay. And when employees attended the meetings, normally
10 how many of them would attend? How many would show up?
11 MS. PEREDA: Objection. Relevance.
12 JUDGE LAWS: Overruled.
13 THE WITNESS: Can you repeat the question?
14 Q BY MR. WILSON: Okay. So as I understand, sometimes you
15 just met with the committee. Other times employees would come
16 to the meetings. I'm just asking on average, how many
17 employees would normally attend the meetings?
18 A From the employees, maybe two or three.
19 Q Okay. And your super -- your direct supervisor when you
20 were having these meetings was Anthony Vasquez, correct?
21 A Yes, correct.
22 Q Did you ever invite Mr. Vasquez to attend any of these
23 meetings?
24 A No.
25 Q Did you ever invite any other supervisor to attend any of

1 these meetings?
2 A No.
3 Q Okay. And you testified about a September 8th meeting
4 between you, Mr. Matheu, Gustavo and your brother. Do you
5 recall that?
6 A Yes.
7 Q Okay. And then you testified about another meeting prior
8 to that when frank approached you and you were loading your
9 truck. Do you recall that?
10 A Yes. It was a conversation.
11 Q Okay. How many -- do you recall how many days you had
12 this one on one meeting with Frank prior to the September 8th
13 meeting?
14 A I don't remember how many days it was.
15 Q Are you certain it was before the September 18th meeting,
16 or could it have been after the September 8th meeting?
17 A It was after the meeting of the 8th.
18 Q Okay. Do you recall how many days after the meeting it
19 was?
20 A No, I don't remember.
21 Q Do you think it was three days?
22 A I don't remember.
23 Q Okay. Do you think it was more than a week?
24 A I don't remember.
25 Q Okay. I have no further questions.

1 JUDGE LAWS: All right. Any follow up from General
2 Counsel?
3 MS. PEREDA: Just one second, Your Honor. Nothing
4 further, Your Honor.
5 JUDGE LAWS: All right. Thank you for providing your
6 testimony. Please don't discuss what you testified about here
7 today with any other witnesses or potential witnesses.
8 THE WITNESS: I have a question. Are you going to need me
9 anymore today?
10 JUDGE LAWS: We'll go off the record and then we can have
11 conversation off the record.
12 (Off the record at 3:23 p.m.)
13 JUDGE LAWS: Okay. On the record.
14 Whereupon,
15 **FANOR ZAMORA**
16 having been duly sworn, was called as a witness herein and was
17 examined and testified, by and through an interpreter as
18 follows:
19 JUDGE LAWS: Can you please state and spell your name for
20 the record?
21 THE WITNESS: My name is Fanor Zamora. F-A-N-O-R
22 Z-A-M-O-R-A.
23 JUDGE LAWS: Thank you. A couple of instructions before
24 the lawyers ask you questions. The first is, if you don't know
25 the answer to a question, just say you don't know. Only guess

1 if you're asked to guess. And if you don't understand a
2 question, just say you don't understand the question and it
3 will be clarified for you. Thank you.
4 THE WITNESS: Okay.
5 MS. PEREDA: Thank you, Your Honor.
6 **DIRECT EXAMINATION**
7 Q BY MS. PEREDA: Good afternoon, Mr. Zamora.
8 A Good afternoon.
9 Q Mr. Zamora, are you familiar with Randstad?
10 A Yes. It's a temporary work agency.
11 Q Did you work for Randstad?
12 A Yes.
13 Q When did you last work for Randstad?
14 A October 31st.
15 Q And when did that assignment start?
16 A April 11th.
17 Q Of 2017?
18 A Of 2017.
19 Q And where were you being sent to work during that period
20 of time?
21 A They sent me to work at this Wismettac.
22 Q In addition to Wismettac, were you being sent anywhere
23 else by Ramstad during that period of time?
24 A No.
25 Q Currently are you still working for Wismettac?

1 A No.
2 Q What was your -- what did you do at Wismettac? What were
3 your responsibilities at Wismettac?
4 A I was an order puller in the warehouse.
5 Q When you last worked for Wismettac, how many shifts were
6 there?
7 A Two.
8 Q And what shift did you work?
9 A Daytime. Day shift.
10 Q How many days a week did you work at Wismettac?
11 A Five days, from Monday through Friday.
12 Q And how many hours a week was that?
13 A From 10 to 12 hours a day.
14 Q When you worked at Wismettac, who supervised your work?
15 A Mr. Vasquez.
16 Q Is that Jose Vasquez?
17 A Yes.
18 Q And he's also -- he's the same person as Anthony Vasquez,
19 correct?
20 A Correct.
21 Q Are you familiar with Teamsters 630?
22 A Yes.
23 Q And what, if any, was your participation with this Local
24 when you were working at Wismettac?
25 A I was part of the committee.

1 Q What is the committee?
2 A It's a group of employees that worked there at Ramstad and
3 we were part of the Local 630 committee.
4 Q But what was the purpose of the committee? What did the
5 committee do?
6 A We would speak with our coworkers about what the union
7 was?
8 Q When did you become a member of the committee?
9 A It was a little bit -- I'm not sure, but it was before the
10 election.
11 Q And you're talking about before the first election?
12 A Yes.
13 Q How many employees in addition to you were a member of --
14 were part of this committee?
15 A About eight or ten.
16 Q And did the committee hold meetings?
17 A Yes.
18 Q Where did these meetings take place?
19 A We would have the meetings at Local 630.
20 Q In addition to having meetings at the Local, do you recall
21 if the committee held meetings anywhere else?
22 A Yes. We had a meeting there at the company.
23 Q That meeting that you guys had at the company, do you
24 recall when the meeting took place?
25 A It was a week before I was laid off.

1 Q When were you laid off? What date?
2 A It was October 31st.
3 Q Of 2017?
4 A Of 2017, yes.
5 Q And around what time was this meeting held?
6 A It was about 5:00, after work hours.
7 Q Who was present at this meeting?
8 A Those of us who were members of the committee were present
9 and the employees from the first shift that were coming out and
10 the ones from the second shift, who were coming in.
11 Q And about how many employees total were at the meeting?
12 A About 15, depending, because they would come and go.
13 Q How far -- what was the distance between the group of
14 employees and the entrance to the warehouse?
15 A About 30 feet.
16 Q Do you recall the names of any specific employees who were
17 at this meeting?
18 A Mr. Ruben was there. Luis was there. Rolando --
19 THE INTERPRETER: Excuse the Interpreter. The last one.
20 Yader. It was practically those of the committee and the rest
21 of the employees that were in the morning shift and in the
22 afternoon shift.
23 Q BY MS. PEREDA: Who spoke at this meet -- what was said at
24 this meeting?
25 A We did that meeting in order to talk about the case of Mr.

1 Ruben, what was happening with him and answering any questions
2 the other employees had about what was happening with the
3 election.
4 Q Was the meeting in Spanish or English?
5 A It was in Spanish.
6 Q Do you recall the names of any other employees from the
7 day shift?
8 A From the day shift, several people -- of us that work for
9 the agencies. I don't know the names of everyone. The only
10 thing I remember is that when we were doing the meeting, Mr.
11 Joshua came out and was watching us, those of us --
12 MR. WILSON: Objection. Nonresponsive.
13 JUDGE LAWS: You asked who was at the meeting.
14 MS. PEREDA: Yes.
15 Q BY MS. PEREDA: Let me -- Mr. Zamora, let's clarify. Let
16 me go back to my question. At this meeting that took place in
17 the parking lot, in addition to you, do you recall if there
18 were any other Ramstad employees present?
19 A Yes. Jeremiahs was also there.
20 Q Do you recall -- do you know Jeremiahs last name?
21 A I don't know his last name.
22 Q Do you recall if Pedro was at this meeting?
23 A I don't remember.
24 Q While this meeting was taking place in the parking lot, do
25 you recall, were there any managers or supervisors in the area?

1 A Just the one I mentioned previously, that Mr. Joshua came
2 out. And after that, he went back inside after about 10 or 15
3 minutes. And after that, his supervisor, the one in charge of
4 the evening shift came out, Isidro. He was just standing there
5 for about five minutes. And then he went back into the
6 company.
7 Q The name of the person that you mentioned first, I think
8 you're saying -- I don't know if I heard it correct. You're
9 saying Joshua?
10 A Yes.
11 Q Is that a first name or a last name?
12 A I don't know. I just know that he's the person in charge
13 there of the company.
14 Q Are you referring to Mr. Yoshi Narimoto?
15 THE INTERPRETER: Excuse the Interpreter. Again, the
16 name.
17 MS. PEREDA: Narimoto?
18 THE WITNESS: Yes, that's correct.
19 Q BY MS. PEREDA: Okay. When Mr. Yoshi Narimoto came
20 outside, what was the distance between the employees and Mr.
21 Narimoto?
22 A About 20 feet.
23 Q And I'm sorry.
24 MS. PEREDA: I'm saying Narimoto with an N.
25 THE INTERPRETER: Thank you.

1 Q BY MS. PEREDA: And what was he saying -- what was he
2 doing when he came outside?
3 A He was just watching us and he was smoking.
4 Q Now, you mentioned that you also saw the supervisor,
5 Isidro. What, if anything, did he -- what was -- and again,
6 what was the distance between Mr. -- the employees and Mr.
7 Isidro?
8 A 20 feet also.
9 Q And what, if anything -- what was Isidro doing when he
10 came outside?
11 A Nothing. He just came out and he was standing there
12 outside.
13 Q Did Mr. Narimoto and Isidro come separately or together?
14 A First Mr. Narimoto came. When he went back into the
15 company, they were watching us through a window.
16 MR. WILSON: Objection. No foundation. Speculation.
17 THE WITNESS: (Speaking Spanish).
18 JUDGE LAWS: Wait. Wait. Hold on. Let's redirect him to
19 the question, because it really was just about timing, about
20 who came out first.
21 MS. PEREDA: Okay.
22 Q BY MS. PEREDA: So Mr. Zamora, just answer the question
23 and then I'll ask you a follow up question about other stuff.
24 Did Yoshi and Isidro come together or separately?
25 A Separate.

1 JUDGE LAWS: Can you instruct him to wait until you're
2 finished translating, because it's making it very hard to
3 distinguish.
4 THE WITNESS: Okay.
5 Q BY MS. PEREDA: Mr. Zamora, in addition to Mr. Yoshi
6 Narimoto and Isidro coming outside, did you observe any other
7 managers or supervisors in the area while you guys were having
8 your meeting in the parking lot?
9 A It was just them two.
10 Q I'm just talking about the area in general, not
11 necessarily outside.
12 A Those that were watching us through the windows were
13 there.
14 Q Who was behind the window?
15 A Mr. Narimoto. After he went in, Mr. Vasquez came there
16 and another person came down from the offices.
17 Q And can you describe this window for us? The dimensions
18 of the window.
19 A All the running doors at the company have those windows.
20 They're visible for us to be able to see if there's someone
21 looking at us or looking out.
22 Q And what is the dimension of the window -- of these
23 windows?
24 A I don't know exactly the dimensions.
25 Q How long did you notice that these managers or supervisors

1 were looking at the group of employees in the parking lot?
2 MR. WILSON: Objection. Lack of foundation.
3 JUDGE LAWS: As to looking at or was it the --
4 MR. WILSON: Looking at. I mean, if they're behind the
5 windows, fine. I don't know that you can say what they were
6 doing.
7 Q BY MS. PEREDA: What were these individuals behind the
8 window doing?
9 A They were watching us.
10 Q And what is the distance between the employees and the
11 window?
12 A About 30 feet.
13 Q And for how long did you notice that they were standing
14 behind the window?
15 A About ten minutes.
16 Q Mr. Zamora, you testified that you participated -- that
17 you were a member of this committee. In what other ways did
18 you participate -- were you active with the Union while you
19 were working at Wismettac?
20 A I would speak with my coworkers a little bit more with
21 those of that worked for the agency. They felt a little bit
22 more comfortable coming to speak with me that I also worked for
23 an agency.
24 Q How often would you have these conversations with your
25 coworkers?

1 A Very often.
2 Q And where would these conversations take place?
3 A We would always do it during break times or our hours off.
4 Q And what would you talk about during these conversations
5 with your coworkers?
6 A We would talk about what was happening with the elections
7 And if they had questions, they would make those questions to
8 me (sic) and I would communicate those to the Local 630 and I
9 would give them the answer.
10 Q While you were working at Wismettac, did you ever wear any
11 union insignia to work?
12 A Yes. I used a --
13 THE INTERPRETER: Excuse the Interpreter. I'm going to
14 verify the color.
15 THE INTERPRETER: A black t-shirt.
16 Q BY MS. PEREDA: Can you describe this black t-shirt for
17 us?
18 A Yes. It's a t-shirt that has the logo for Local 630 on
19 the back and then a small logo in the front.
20 Q Did you wear your -- this black t-shirt to work?
21 A Yes. Generally, we would use it on Fridays.
22 Q Do you remember when you first started wearing the Union
23 t-shirt to work?
24 A Yes. I started using it before the first election.
25 Q And do you recall about how many times you wore your Union

1 t-shirt to work?
2 A I used it the entire time that I was working there, about
3 four or five months.
4 Q And when you wore your Union t-shirt to work, was there
5 anything covering your Union t-shirt?
6 A No.
7 Q Do you recall the Union election?
8 A The first election.
9 Q Do you recall when that election took place?
10 A It was 19th of September of 2017.
11 Q Before that election, do you recall attending any meetings
12 at Wismettac, where the upcoming election or Union was
13 mentioned or discussed?
14 A Yes.
15 Q How many meetings did you attend before the election?
16 Again, where the election or Union was mentioned or discussed?
17 A We had constant meetings with the persons that the company
18 hired to speak with us about the union.
19 Q Do you recall attending any meetings where Frank Matheu
20 spoke?
21 A Yes.
22 Q How many meetings?
23 A It was one meeting, one day before the election.
24 Q So that would have been September 18th, correct?
25 A Correct.

1 Q Where was this meeting held?
2 A In the cafeteria.
3 Q And about what time was the meeting held?
4 A About 5:00.
5 Q Who for the company was present at this meeting?
6 A It is the employees and the persons in charge,
7 Mr. Vasquez, Mr. Frank, from the company.
8 Q And which employees were present at this meeting?
9 A Those of us who were from the day shift and the evening
10 shift from the warehouse.
11 Q Do you recall if there were any drivers at this meeting?
12 A No.
13 Q Okay. So this meeting was just for the warehouse
14 employees?
15 A Correct.
16 Q Was this meeting in Spanish or in English?
17 A It was in English, but they gave us a device in order to
18 interpret.
19 Q What kind of device?
20 A It was like a Bluetooth.
21 Q Did you use the Bluetooth?
22 A Yes.
23 Q Who spoke at this meeting?
24 A Mr. Frank, and the owner of the company.
25 Q And when you say Frank, you're referring to Frank Matheu?

1 A Correct.
2 Q Do you remember what Frank Matheu said at this meeting?
3 A Yes. He said that for us to give him another opportunity,
4 that he was going to do a lot of changes, and for us to give
5 him the opportunity to do his job.
6 Q When Frank Matheu spoke about the changes, did he specify
7 what changes he was going to make?
8 A He didn't specify what changes. The only thing he said
9 was that he had the authority to make any changes. And the
10 owner of the Company supported him and said yes.
11 Q How many employees were present at this meeting?
12 A I think it was the day shift and the afternoon shift. I
13 don't know how many approximately, but we were all there.
14 Q For how long did Frank speak at this meeting?
15 A About ten minutes, because he began the meeting and he
16 ended the meeting.
17 Q You testified earlier that you stopped working at
18 Wismettac on October 31st, 2017. Why did you stop working at
19 Wismettac?
20 A Because Mr. Vasquez and Mr. Frank took us to a meeting and
21 informed us that the contract with the agency was over.
22 Q Was there a -- when was this meeting held?
23 A It was October 31st.
24 Q And where was this meeting held?
25 A At one of the offices at the company on the lower floor.

1 Q And you mentioned that -- I'm sorry. Who for the company
2 was present at this meeting?
3 A Mr. Jose Vasquez and Frank Matheu.
4 Q And which employees were present at this meeting?
5 A Those of us workers who were there through the agency,
6 Randstad.
7 Q How many employees were at that meeting?
8 A About 12, 14 people.
9 Q Did this meeting include the daytime and the nighttime
10 Randstad employees? What languages --
11 JUDGE LAWS: Hold on. She wasn't finished --
12 MS. PEREDA: I'm sorry.
13 JUDGE LAWS: -- translating.
14 THE WITNESS: Yes.
15 JUDGE LAWS: So let's everybody take a pause and slow down.
16 THE INTERPRETER: Excuse the interpreter. His reply was,
17 "Yes. Correct."
18 Q BY MS. PEREDA: Was this meeting in Spanish or English?
19 A It was in Spanish.
20 Q What was said at this meeting -- I'm sorry. Who spoke at
21 this meeting?
22 A Mr. Frank.
23 Q Did Frank speak in -- only in Spanish?
24 A He spoke in Spanish and English, because there were people
25 that spoke English there.

1 Q Do you understand spoken English?
2 A Yes.
3 Q And about what percentage do you understand spoken
4 English?
5 A About an 80 percent.
6 Q What --
7 MR. WILSON: Your Honor, if he understands 80 percent
8 English, do we need an interpreter?
9 JUDGE LAWS: Well, for the other 20 percent, I guess he
10 wouldn't understand.
11 MR. WILSON: Okay. All right. That's fine.
12 Q BY MS. PEREDA: Mr. Zamora, at this meeting with Frank and
13 Vasquez, do you remember what was said at this meeting?
14 A Yes. Mr. Frank told us that he had two news for us; one
15 good and one bad. The good news is that we could apply to work
16 directly with the company. The bad news is that we were laid
17 off because the contract was over with the agency. But I told
18 Mr. Frank that I already had applied directly with the company
19 a long time ago, and why was he telling us to apply if I had
20 already applied and I hadn't had any reply.
21 Q Did Mr. Frank Matheu give you -- respond to your comment?
22 A The only thing that Mr. Frank said was, apply. That's all
23 I can tell you is apply. So I commented that if the problem
24 was because of the agency, could we go and apply at a different
25 agency so we could go -- come back to work the following day?

1 Q Did Mr. Frank respond to your question?
2 A Yes. He told me that he couldn't give us that advice,
3 that it was our decision. So I told him that if the problem
4 was the agency, we could go apply at a different agency that
5 was working with them in order to get our job back, because the
6 positions were open.
7 Q And again, did Mr. Frank Matheu respond to your comment
8 that you just testified to?
9 A He just closed with that he couldn't give us details, and
10 the only thing he could tell us was to apply.
11 Q What else do you recall being said at this meeting?
12 A The employee, Jeremias (sic) made a comment that he had
13 rejected some job opportunities because Mr. Frank had promises
14 us that he was going to get us for the company. Mr. Frank was
15 upset and he was replying a bit strong to us when they were
16 laying us off without a motive.
17 Q Do you remember during this meeting the topic of the
18 Randstad nighttime employees came up?
19 THE INTERPRETER: Excuse the interpreter. Could you repeat
20 the question, please?
21 Q BY MS. PEREDA: Do you remember whether the topic of the
22 nighttime employees came up?
23 A Yes. The day employees, we asked if we were getting all
24 laid off, and he said, no, that it was just the day ones, and
25 the night ones were going to continue working until the

1 contract ended. Which I asked, if we work for the same agency,
2 why are some getting laid off and some are not? And he said
3 that he could not give me details.
4 Q Do you recall anything else from this meeting?
5 A Well, the only thing I remember about this meeting is that
6 the majority of the employees that were there were new
7 employees. We were practically just the day ones. It was just
8 two of us that have been there for a while, but the rest of
9 them were new employees. There was about four other ones.
10 Q And when you say two employees, who's the other employee
11 that you're referring to?
12 A For the day, I'm talking about myself and Jeremias.
13 Q What happened -- how long did this meeting last?
14 A About 30 minutes.
15 Q And what happened after this meeting ended? What did you
16 do next?
17 A After the meeting finished, I went to finish an order that
18 I hadn't complete. I finished it, and then I went home.
19 Q When you were working at Wismettac, were you ever
20 disciplined?
21 A Never.
22 Q While you were working at Wismettac, were you ever told
23 that there were issues with your work performance?
24 A No. They would even give me people to train them.
25 Q Did you apply for work directly with Wismettac?

1 A Yes. I applied three times. Twice when I worked, and one
2 time when we were laid off.
3 Q Okay. Let's talk about the first time that you applied.
4 Do you remember when you submitted the first application?
5 A I submitted my first work application before what happened
6 with the Union happened.
7 Q And what are you referring to? I'm sorry. Is there a
8 specific event that you're referring to when you say "before"?
9 I'm sorry. I'm just unclear as to when -- when did you submit
10 the first job application?
11 A Before the people from the Union showed up there that were
12 going to represent the workers.
13 Q And how did you submit this first job application?
14 A Mr. Vasquez filled out all my information on a computer.
15 The only thing he told me was to verify if the information is
16 correct.
17 Q Were you standing -- how was Mr. Vasquez filling out the
18 application? Was it a paper application, an online
19 application? Can you tell us -- can you describe that for us?
20 A It was just on the computer, a page that they have. He
21 just asked me for my personal information and told me to check
22 if the information was correct.
23 Q Were you with Mr. Vasquez when he was filling out this
24 application?
25 A Yes.

1 Q And for what position were you applying?
2 A For a warehouse worker. Pull -- order puller.
3 Q What happened to that first job application that you
4 submitted?
5 A They didn't give me any reply, and Mr. Frank told me to
6 apply a second time.
7 Q When did you speak with Frank where he told you to submit
8 a second application? When did that happen?
9 A It was after the election was over. At the end of
10 September 2017.
11 Q And how was this job application submitted?
12 A It was through a paper. I filled it out.
13 Q And what did you do after you completed -- after you
14 filled that paper out?
15 A I turned it in to Mr. Frank, in his hands.
16 Q And again, for what position were you applying?
17 A The same position; order puller in the warehouse.
18 Q Did either Vasquez or Frank Matheu tell -- give you any --
19 or give you any information as to what happened to that first
20 application that you submitted?
21 A Yes. Mr. Vasquez told me that the application had gotten
22 lost. And Mr. Frank told me that there had been a problem with
23 the background check. So then I told them they were giving me
24 two different versions. So then Mr. Frank told me that he had
25 already put in the second application, and that he was going to

1 work with that and that he was going to take care of my
2 application personally.
3 MS. PEREDA: I'm sorry, Your Honor. I'm looking for a
4 document --
5 JUDGE LAWS: Sure.
6 MS. PEREDA: -- that I need to show it to the witness.
7 Q BY MS. PEREDA: Now, Mr. Zamora, regarding the third job
8 application, how did you submit that third job -- that third
9 job application?
10 A I did it on the Internet.
11 MS. PEREDA: Mr. Court reporter, will you be able to hand
12 the witness GC-6?
13 Q BY MS. PEREDA: Mr. Fanor Zamora, you have in front of you
14 General Counsel Exhibit 6. Can you turn to page 18? The pages
15 are at the bottom of the right-hand corner. Are you on page
16 18, Mr. Zamora?
17 A Yes.
18 Q Is that the third job application that you submitted?
19 A Yes.
20 Q Okay. You can put that document away for now. Thank you.
21 Now, after you stopped working at Wismettac, what happened
22 next? Did you contact any other staffing agencies?
23 A Yes. I communicated with two work agencies that were
24 sending people to work at Wismettac.
25 Q Which agencies did you communicate with?

1 A I communicated with CornerStone and --
2 Q Okay.
3 THE INTERPRETER: Excuse the interpreter.
4 The second one Horizon?
5 "Horizon."
6 Q BY MS. PEREDA: Okay. Let's talk about CornerStone first.
7 Do you recall when you first contacted CornerStone?
8 A Yes. About three days after I was laid off.
9 Q And how did you contact them? Was this in person, over
10 the phone, online? What method did you use to contact
11 CornerStone?
12 A I did it over the phone.
13 Q Do you remember who from CornerStone you spoke with?
14 A I don't remember their name, but it was a woman.
15 Q Did you speak to this woman in Spanish or English?
16 A In English.
17 Q And what was said during this phone conversation with this
18 woman?
19 A I asked her if they were hiring people, if they could send
20 me to Wismettac, that I had worked there and that I had
21 experience.
22 Q And what, if anything, did she tell you?
23 A She told me that I had to call the company first, and to
24 call her that same day in the afternoon.
25 Q Did you call her back that afternoon?

1 A I called her, but she told me that she had not gotten a
2 reply from the company, and to call her back the next day.
3 Q Did you call her back the following day?
4 A Yes, I called her.
5 Q And what was said during this -- well, I'm sorry. What
6 was said during this telephone conversation?
7 MR. WILSON: Objection. Hearsay.
8 JUDGE LAWS: And consistent with Board precedent, I will
9 only consider hearsay for the truth of the matter asserted if
10 it is corroborated by other evidence or otherwise bears indicia
11 of reliability.
12 MS. PEREDA: So yes, Your Honor. The -- can we go off the
13 record for a second, because that brings me back to some
14 documents that Respondent has not produced related to this?
15 JUDGE LAWS: Oh, okay.
16 (Off the record at 4:08 p.m.)
17 JUDGE LAWS: Back on the record.
18 MS. PEREDA: Thank you, Your Honor. And I will repeat my
19 question because I'm not sure if the witness got to answer the
20 question.
21 **RESUMED DIRECT EXAMINATION**
22 Q BY MS. PEREDA: When you called the CornerStone employee
23 back the following day, what did she tell you during this phone
24 call?
25 A She told me that she had spoken with the company, and that

1 the company had replied that they did not want any of the
2 employees that they had laid off back again.
3 Q Did this woman specify who at Wismettac she had
4 communicated with?
5 A She told me with the company. She didn't give me a
6 specific name.
7 Q And during this phone call when she said that Wismettac
8 had told her that they didn't want any of the employees they
9 had laid off back, did she specify which employees?
10 A She said -- she only said the employees they had laid off.
11 She didn't give specific names.
12 Q Did CornerStone ever send you to work at Wismettac?
13 A No.
14 Q You mentioned that you also contacted Horizon. When did
15 you contact Horizon?
16 A The following day after I had spoken with CornerStone.
17 Q And how did you communicate with Horizon?
18 A I went to their offices that are in Huntington Park to
19 submit an application.
20 Q And when you were at the Horizon office, do you remember
21 who you spoke with?
22 A I don't remember the name, but it was a woman. I filled
23 out my application, and they gave me the interview right away.
24 Q How did you fill out the job application?
25 A It was a paper application.

1 Q And what, if anything, did you tell them with regards to
2 Wismettac?
3 A I commented that I wanted to be sent to work at Wismettac
4 because I used to work there and there had been a problem with
5 my agency, and I wanted to be sent to work there, that there
6 had been no problem with me.
7 Q And what, if anything, did they tell you in response?
8 A The person told me that she was going to call the company
9 because it wasn't the first person who came like that, and they
10 wanted to know what was happening because they weren't going to
11 take on a problem from another agency for -- for themselves.
12 Q Did you communicate -- did you communicate with Horizon
13 after you went to their office?
14 A Yes.
15 Q And when was that?
16 A It was the following day.
17 Q And how did you communicate with them?
18 A Over the phone.
19 Q Do you remember who you spoke with?
20 A I spoke with a girl, and I asked if they had a response to
21 my application to send me to work at Wismettac, and she said,
22 no. So I came back the following day.
23 Q When you say, "I came back," did you go in person?
24 A I went in person.
25 Q And who did you speak to this -- a second time that you

1 were there in person?
2 A I spoke with a man.
3 Q And what was said during this second visit to Horizon?
4 A I asked if there was a response from the company so that I
5 could go back to work, and he told me, no, that the company
6 didn't want us back.
7 Q Did this person give you an explanation as to why the
8 company didn't want you back?
9 A No.
10 Q Did Horizon ever send you to work to Wismettac?
11 A No.
12 Q Now, regarding that third job application that you
13 submitted, did you ever speak with anyone from Wismettac
14 regarding the third job application that you submitted?
15 A Yes. I called human resources.
16 Q Do you remember when you called human resources?
17 A I don't remember the exact day, but it was about two days
18 after having spoken to Horizon.
19 Q Do you remember who you spoke with?
20 A It was a woman. I don't remember her name.
21 Q What was said during -- was this conversation in Spanish
22 or English?
23 A It was in English.
24 Q What was said during this conversation? And I'm sorry.
25 Who did you call at Wismettac, what department or -- do you

1 remember what department you called?
2 A It was the human resources department.
3 Q What was said during this call with someone from human
4 resources?
5 A I asked them what the status of my application was. And I
6 commented that I had worked there with them through Randstad,
7 that there was a problem with the agency, and was there a
8 problem if I could apply with a different agency so I can come
9 back to work. And she told me that there -- no, there was no
10 problem. So I responded that if there was no problem, could I
11 show up the following day because I had already submitted an
12 application at Horizon? And she told me, no, that I had to
13 speak with the person who was in charge of hiring personnel.
14 Q After you submitted the third job application, did anyone
15 from Wismettac call you back?
16 A No. They just sent me an email.
17 Q Mr. Zamora, do you recognize the document that I handed
18 you that's been marked as GC Exhibit 19?
19 A Yes. That was the email they sent to me.
20 Q And you received this email on about the date noted here,
21 February 13, 2018?
22 A Correct, that was the date.
23 MS. PEREDA: Your Honor, at this moment, I would like to
24 move GC-19 into evidence.
25 JUDGE LAWS: Okay. Any objection?

1 MR. WILSON: Wait. Just here --
2 Your Honor, there is no authentication this came from the
3 company.
4 JUDGE LAWS: Well, he said he received it. I can --
5 MS. PEREDA: It has the company's --
6 JUDGE LAWS: Yeah.
7 MS. PEREDA: -- email address.
8 MR. WILSON: But --
9 JUDGE LAWS: If -- he received it from this address. If
10 you want to call that into question, you're absolutely free to
11 do that on cross-examination. But I will take it at face
12 value --
13 MR. WILSON: Okay.
14 JUDGE LAWS: -- and admit General Counsel Exhibit 19.
15 **(General Counsel Exhibit Number 19 Received into Evidence)**
16 Q BY MS. PEREDA: Mr. Zamora, I want to follow up. The
17 email that is noted here, fanorzamora@23@gmail.com, is that
18 your email account?
19 A Yes, that's my email address.
20 Q And was this document emailed to your email account?
21 A Yes.
22 MS. PEREDA: Your Honor, no further questions.
23 JUDGE LAWS: All right. Does the Union have any questions
24 for this witness?
25 MS. SANCHEZ: Yes, I think -- no, Your Honor. Thank you.

1 JUDGE LAWS: All right.

2 MR. WILSON: We just need his statements.

3 JUDGE LAWS: Let's go off the record.

4 (Off the record at 4:19 p.m.)

5 JUDGE LAWS: Whenever you're ready.

6 MR. WILSON: Okay.

7 **CROSS-EXAMINATION**

8 Q BY MR. WILSON: Mr. Zamora, good afternoon. My name's
9 Scott Wilson. I'm an attorney for Wismettac. And I appreciate
10 you coming here today. I want to ask you just a few questions
11 about your testimony.

12 Now, you mentioned there was a meeting about a week before
13 you were laid off involving a large group of employees in the
14 company parking lot? Do you recall that testimony?

15 A Correct.

16 Q And about how many employees were at that meeting?

17 A Like I said previously, it was at the end of the day, and
18 there were employees that were arriving for the second shift
19 and there were employees that were leaving from the first
20 shift.

21 Q Okay. So would you say there were 25, 30 employees?

22 A Between 15 and 20 employees. Some were coming, some were
23 going.

24 Q Okay. And how long did the meeting last?

25 A About 30 minutes.

1 Q 30 minutes. Okay. And as I understand it, you were part
2 of a committee that was at this meeting?
3 A Yes.
4 Q Okay. And do you recall the names of the committee
5 members who were there?
6 A Could you repeat the question?
7 Q Well, as I understand it, there was a committee formed at
8 the company to help organize the Union; is that correct?
9 A I don't understand the question.
10 Q Okay. Did you previously offer testimony that there was a
11 committee of employees at the company that you were a part of?
12 A We were a committee for Local 630.
13 Q Correct. And that's what I'm referring to.
14 So the meeting that we're talking about and your testimony,
15 how many members of the committee were at that meeting?
16 A There were -- I don't remember how many exactly from the
17 committee, but it was almost all of us from the committee,
18 between four and six people.
19 Q Okay. And can you give me the names of the committee
20 members who were at that meeting?
21 MS. PEREDA: Objection. Relevance.
22 JUDGE LAWS: Overruled on relevance grounds. I mean, I
23 know there are Berbiglia (phonetic) concerns often, but I
24 believe the committee has been discussed and members
25 identified. So I guess what I would say is --

1 MR. WILSON: I just want to ask one question about --
2 JUDGE LAWS: Okay.
3 MR. WILSON: -- which ones were there. Yeah.
4 JUDGE LAWS: To the extent it's something the General
5 Counsel's asked about already. I just don't want -- I want to
6 make sure we don't run afoul of protected activity among
7 employees that hasn't already been disclosed to the Employer.
8 MR. WILSON: Okay.
9 Q BY MR. WILSON: So can you tell me which members of the
10 committee were at that meeting?
11 A Luis was there.
12 Q Luis. What's his last name?
13 A There's a lot of us employees. I don't know all of the
14 last names.
15 Q Okay. So Luis. And who else?
16 A Yader was there, Rolando, two other people, but I don't
17 remember their names. Sorry.
18 Q That's okay. So to your knowledge, does Luis still work
19 at Wismettac?
20 MS. PEREDA: Objection. Relevance.
21 JUDGE LAWS: Overruled.
22 THE WITNESS: Could you repeat the question, please?
23 Q BY MR. WILSON: Well, you referred to a Luis who was at
24 the meeting. I wanted to ask, to your knowledge, is Luis still
25 employed at Wismettac?

1 MS. SANCHEZ: The Union --
2 THE WITNESS: Wismettac?
3 MS. SANCHEZ: -- will also offer an objection that it calls
4 for speculation.
5 JUDGE LAWS: Answer only if you know.
6 MR. WILSON: If he knows.
7 THE WITNESS: Yes.
8 Q BY MR. WILSON: Okay. And to your knowledge, is Rolando
9 still employed at Wismettac?
10 MS. SANCHEZ: Same objection.
11 MS. PEREDA: Same objection.
12 JUDGE LAWS: And it's overruled.
13 Go ahead and answer.
14 THE WITNESS: Yes.
15 Q BY MR. WILSON: And to your knowledge, is Yader still
16 employed at Wismettac?
17 MS. PEREDA: Same objection.
18 MS. SANCHEZ: Same objection.
19 THE WITNESS: Yes.
20 Q BY MR. WILSON: And to your knowledge, are the two other
21 employees that you can't remember their names still employed at
22 Wismettac?
23 MS. SANCHEZ: Same objection.
24 THE WITNESS: I'm not sure.
25 Q BY MR. WILSON: Okay. And how long before the election,

1 did you start wearing your union T-shirt?
2 A I'm sorry. Could you repeat the question, please?
3 Q Okay. So you recall that there was an election on
4 September 19th, 2017, correct? Okay. And you --
5 A Correct.
6 Q And you testified earlier that you were wearing a union T-
7 shirt some days at work. Do you recall that testimony?
8 A Yes.
9 Q Okay. So my question is, how long before the election did
10 you begin wearing the Teamster T-shirt?
11 A Before the election, I think it was twice. I'm not sure.
12 I think it was twice.
13 Q Didn't you testify that you wore the T-shirt every Friday?
14 A Correct.
15 Q Okay. So you're saying you only wore it two Fridays prior
16 to the election?
17 A Correct. After I was part of the union --
18 Q Okay.
19 A -- of the committee.
20 Q Who gave you the T-shirt?
21 A Someone from the committee.
22 Q Okay. And do you recall when they gave it to you?
23 A I don't remember.
24 Q Do you recall if it was in August 2017?
25 A I don't remember.

1 Q Okay. Now, you referred to a telephone -- excuse me -- a
2 conversation with Frank in the end of September or early
3 October where Frank told you to apply with the company again,
4 correct?
5 A He told me personally. Not over the phone.
6 Q He told you personally to apply, though, correct?
7 A Correct.
8 Q And he told you he would personally assist you in
9 submitting an application, correct?
10 A He told me he was going to be in -- taking care of the
11 process.
12 Q Okay. And did this conversation take place after the
13 election?
14 A Yes.
15 Q Okay. And I want to direct your attention then to the
16 October 31st meeting where you were informed that the Randstad
17 employees were being laid off. Do you recall that testimony?
18 A Yes.
19 Q Okay. So who was at that meeting? Yeah, from the
20 company. Excuse me?
21 A The company? Mr. Jose Vasquez was there and Mr. Frank.
22 Q Okay. And was Isidro Garcia at that meeting?
23 A No.
24 Q Okay. And which employees -- which Randstad employees
25 were there besides yourself?

1 A Those who were in the second shift, and the rest from the
2 first shift.
3 Q And how many people was that -- were in the room, if you
4 recall?
5 A As I said, there were several new people. I wouldn't be
6 able to say what the total was.
7 Q Okay. And when you say, "new people," what do you mean by
8 that?
9 A People who had been working for less than a week.
10 Q Okay. And how did you know they'd been working less than
11 a week?
12 A Because I worked there.
13 Q Okay. That's fine. And so is it your testimony that the
14 day shift Randstad employees were laid off?
15 A Yes, we were laid off.
16 Q And how many employees were laid off from the day shift?
17 A The day shift, it was Jeremias (sic), myself, and about
18 four other people.
19 Q Okay. And you don't know the names of the four other
20 people?
21 A No.
22 Q Okay.
23 MR. WILSON: Okay. I have no further questions.
24 JUDGE LAWS: All right. Any redirect?
25 MS. PEREDA: I just have two follow-up questions,

1 Your Honor.

2 **REDIRECT EXAMINATION**

3 Q BY MS. PEREDA: Mr. Zamora, after the union election, did
4 you continue to wear your union T-shirt to work?
5 A All the time that I was working at the company.
6 Q And just to clarify, you would wear your T-shirt on what
7 days of the week?
8 A Generally we use it on Fridays, but there was one weekday
9 that we used it on a Wednesday.
10 Q And so you wore your union T-shirt up until you were let
11 go?
12 A Correct.
13 Q After you submitted your job -- the second job application
14 to work directly for Wismettac, were you ever offered a
15 permanent position by the company?
16 A Yes. Mr. Frank told me that they were going to hire me
17 through the Company.
18 Q But did that ever happen? Were you ever hired by the --
19 by Wismettac directly?
20 A No, I wasn't. Not that I was hired.
21 MS. PEREDA: Nothing further, Your Honor.
22 JUDGE LAWS: Okay. Any redirect from --
23 MR. RIMBACH: No.
24 JUDGE LAWS: -- either --
25 MS. SANCHEZ: No thank you.

1 JUDGE LAWS: Okay. And any re-cross?

2 **RECROSS-EXAMINATION**

3 Q BY MR. WILSON: So just to clarify, at the end of
4 September, beginning of October, that's when Frank told you he
5 was going to see to it that you were hired at the company,
6 correct?
7 A It was after the election.
8 Q Okay. And at the time, you were still wearing your union
9 T-shirt, correct?
10 A All the time that I worked during the --
11 THE INTERPRETER: Excuse the interpreter.
12 A All during the time that I worked for the company.
13 MR. WILSON: Okay. I have no more questions.
14 JUDGE LAWS: And thank you for providing your testimony.
15 Please don't discuss what you testified about with any other
16 witnesses or any potential witnesses. Thanks.
17 Off the record.
18 Well, unless we can have a -- do we have a witness who can
19 be on and off the stand in 20 minutes?
20 MR. RIMBACH: Unfortunately, no, Your Honor.
21 MS. PEREDA: Unfortunately.
22 MR. RIMBACH: We did want to bring up just one -- it may
23 become an issue, but --
24 JUDGE LAWS: Okay.
25 MR. RIMBACH: -- hopefully not.

1 JUDGE LAWS: Okay. Let him -- yeah.

2 MR. RIMBACH: We originally thought the Union would present

3 it's RC case, its witnesses along with the CA cases.

4 JUDGE LAWS: Um-hum.

5 MR. RIMBACH: And so we thought the Union would question

6 any pertinent witnesses that we had on the stand after the

7 direct for the CA cases. And so the schedule we laid out for

8 the witnesses are going a little faster than anticipated.

9 JUDGE LAWS: Okay.

10 MR. RIMBACH: So we're going to try to call some witnesses

11 to come in earlier than originally scheduled, and hopefully

12 fill up the whole time. But we just wanted to give you a heads

13 up that --

14 JUDGE LAWS: That if it doesn't happen --

15 MR. RIMBACH: -- we're working on that.

16 JUDGE LAWS: -- we may have -- that's fine.

17 MR. RIMBACH: Yeah. All right. Thank you.

18 JUDGE LAWS: You know, if we do the best we can with

19 scheduling without having a traditional scheduling order of

20 witnesses in these cases -- but --

21 MR. RIMBACH: Thank you, Your Honor.

22 JUDGE LAWS: -- no problem.

23 One of my favorite times when actually that happened was in

24 Hawaii and it was about noon, and it had gone faster, and they

25 said, well, we have them coming at 9:00 tomorrow, but we can

1 try to get them here this afternoon, it's like, no, I think
2 tomorrow's just fine. I've flown all this way. I want a
3 little afternoon in Hawaii.
4 All right.
5 MS. PEREDA: Well, it's not quite Hawaii, but --
6 MS. SANCHEZ: Yeah.
7 MS. PEREDA: -- we do our best.
8 So are we done for today, Your Honor?
9 JUDGE LAWS: I think --
10 MS. PEREDA: Okay.
11 JUDGE LAWS: I think realistically, unless there's somebody
12 we can -- you know, if there was an informational witness that
13 we could get on really quickly, but if not, let's just -- it's
14 a quarter of. Let's plan on being back here at 9:00.
15 MS. SANCHEZ: Thank you, Your Honor.
16 JUDGE LAWS: Thanks.
17 **(Whereupon, the hearing in the above-entitled matter was**
18 **recessed at 4:42 p.m. until Thursday, October 3, 2018 at 9:00**
19 **a.m.)**
20
21
22
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25

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

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978, 21-CA-
5 213978, 21-CA-212285, 21-RC-2047, Wismettac Asian Foods, Inc.
6 and International Brotherhood of Teamsters, Local 630, at the
7 National Labor Relations Board, 888 S. Figueroa Street, Room
8 902, Los Angeles, California 90017, on October 2, 2018, at
9 10:26 a.m. was held according to the record, and that this is
10 the original, complete, and true and accurate transcript that
11 has been compared to the reporting or recording, accomplished
12 at the hearing, that the exhibit files have been checked for
13 completeness and no exhibits received in evidence or in the
14 rejected exhibit files are missing.
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16
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20 _____
TROY RAY
21 Official Reporter
22
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

_____

_____

Place: Los Angeles, California

Dates: October 3, 2018

Pages: 173 through 383

Volume: 2

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of: WISMETTAC ASIAN FOODS, INC., Employer, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union, and ROLANDO LOPEZ, An Individual, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Wednesday, October 3, 2018, at 9:00 a.m.**

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1 **PROCEEDINGS**

2 JUDGE LAWS: And is General Counsel ready with their next
3 witness?
4 MR. RIMBACH: Yes, Your Honor. We would like to call
5 Mr. Javier Robles. If you want to step up here to the witness
6 stand. Yes.
7 (Counsel confer)
8 JUDGE LAWS: You might want to scoot those boxes in a
9 little bit. It's kind of tight. Will you please raise your
10 right hand?
11 Whereupon,
12 **JAVIER ROBLES**
13 having been duly sworn, was called as a witness herein and was
14 examined and testified as follows:
15 JUDGE LAWS: Please have a seat. If you could state and
16 spell your name for the record.
17 THE WITNESS: My name is Javier Robles, J-A-V-I-E-R,
18 Robles, R-O-B-L-E-S.
19 JUDGE LAWS: Thank you. A couple things before I turn
20 things over to the attorneys to ask you questions. First is if
21 you don't know the answer to a question, you're just not sure,
22 just say I don't know or I'm not sure. Only guess if one of
23 the attorneys or myself asks you to take a guess.
24 THE WITNESS: Okay.
25 JUDGE LAWS: Also, if you don't understand a question just

1 say so and it will be cleared up for you.
2 THE WITNESS: Okay.
3 JUDGE LAWS: And then, finally, sitting to your left is
4 our court reporter. He has to take down every word down you
5 say when we're on the record. So as best you can, try to make
6 sure you don't start in with your answer until the person
7 asking the question is completely finished with their question.
8 THE WITNESS: Okay.
9 JUDGE LAWS: Thank you.
10 MR. RIMBACH: All right. Thank you, Your Honor.
11 **DIRECT EXAMINATION**
12 Q BY MR. RIMBACH: Good morning, Mr. Robles. Have you heard
13 of a company called Wismettac Asian Foods?
14 A Yes.
15 Q How have you heard about that company?
16 A I was working -- I was working for the company through my
17 agency, Horizon.
18 Q So you worked for Wismettac through Horizon?
19 A Yes.
20 Q Is that a temporary staffing agency?
21 A Yes.
22 Q When did you first start working for Wismettac?
23 A 2012.
24 Q And did you always work for Wismettac through Horizon?
25 A Well, Wismettac became Wismettac about two years ago. It

1 was Nishimoto back then.
2 Q So the company -- so Wismettac was previously known as
3 Nishimoto?
4 A Yes. So I was -- I was hired through another agency
5 called Personnel Staffing.
6 Q So when you worked for Wismettac through Personnel
7 Staffing, how long were you with Personnel Staffing?
8 A Three years.
9 Q And then you started working for Wismettac through
10 Horizon?
11 A Yes.
12 Q And how long were you with Horizon?
13 A About two -- about three years.
14 Q Were you always at that point on working through Horizon
15 or did you ever work directly for the company?
16 A No. I always worked through the -- through Horizon,
17 through agency.
18 Q Do you still work for Wismettac?
19 A No, sir.
20 Q When did you stop working for the company?
21 A I don't recall the month, but it was this year.
22 Q Do you recall about when this year?
23 A I'll say about four months ago, four months.
24 Q So that's around May or June?
25 A About.

1 Q What was your job title with the company?
2 A I wasn't -- I was in charge of -- you could call that,
3 like, receiver.
4 Q What were your job duties as a receiver?
5 A Well, I was in charge of all the merchandise that was
6 received through receiving department. I had to put it away in
7 the freezer department, that was where I was working at.
8 Q What kind of equipment did you use?
9 A I used the big machine called the -- it's like a cherry
10 picker.
11 Q What were your work hours?
12 A I started working from 5:00 -- I mean, from 5 a.m. and
13 finished at around 5 to 6 p.m.
14 Q What days of the week did you work?
15 A Every day, Monday to Friday.
16 Q So about how many hours total each week did you work?
17 A I was putting in about 60 to 55 hours an hour -- every
18 week.
19 Q Who was your direct supervisor?
20 A Anthony Vasquez.
21 Q Does he also go by Jose Vasquez?
22 A Yes.
23 Q Do you know his job title?
24 A He was the warehouse supervisor.
25 Q Are you familiar with Teamsters, Local 630?

1 A Yes, sir.
2 Q When did you first hear about the Union?
3 A Through the company.
4 Q Do you recall about when you first heard about the Union?
5 A Oh, about what about nine, ten months ago.
6 Q Do you know what a Union authorization card is?
7 A Yes.
8 Q What is it?
9 A It's a card that you authorize the Union to represent you.
10 Q Do you recall attending any meetings at the company where
11 Union authorization cards were discussed?
12 A Yes, sir.
13 Q How many meetings did you attend where Union authorization
14 cards were discussed?
15 A One meeting.
16 Q Do you recall when that meeting was?
17 A Mid March.
18 Q Mid March of what year?
19 A This year.
20 Q 2018?
21 A Yes.
22 Q Okay. Do you recall the specific date?
23 A No, sir.
24 Q Do you recall the time of this meeting?
25 A It was at -- there were three meetings and I attended the

1 one in the afternoon.
2 Q When you say that there were three meetings, you didn't
3 attend all three?
4 A No, sir.
5 Q You only attended one of those?
6 A Yes. There was some in Spanish and some in English.
7 Q The meeting that you went to, what language was that one
8 in?
9 A Spanish.
10 Q Are you fluent in Spanish?
11 A Yes, sir.
12 Q Where was this meeting located?
13 A It was located inside the main building on the conference
14 room.
15 Q Do you recall who was present at the meeting?
16 A There were about seven or eight coworkers. It was Anthony
17 Vasquez, Frank as a region manager. It was Union consultant
18 for the company and Laura Garza, the new HR.
19 Q You mentioned Frank. Do you recall his last name?
20 A No, I don't.
21 Q And what was his job title?
22 A He was a region manager.
23 Q Is he based at the Santa Fe Springs facility.
24 A No, he --
25 Q Do you know where he is based out of?

1 A He -- he was from -- I think he was a supervisor for the
2 Florida, Miami company they had over there and they just -- he
3 came by. He used to come by like every week and then he went
4 back, and he came back, and he was supervising this company.
5 So basically, he was the region manager.
6 Q So he was only periodically at the Santa Fe Springs
7 facility?
8 A Yes.
9 Q You mentioned that there was a labor consultant there or a
10 Union consultant. Do you recall that person's name?
11 A Gustavo.
12 Q Do you recall his last name?
13 A No.
14 Q Is Gustavo -- do you know whether he is an employee of
15 Wismettac?
16 A No, he's not.
17 Q Do you know who he's an employee of?
18 A Well, when he -- whenever -- when I first saw him, he
19 was -- that's when I first attend the meeting. That's when I
20 found out about the Union. So I asked him for a card and he
21 said he couldn't provide me one, so he was one of the
22 consultant because that's what he said, he was one of the Union
23 consultants.
24 Q That was the first time you had ever seen him?
25 A Yes.

1 Q Do you recall who spoke at this meeting?
2 A It was him and another guy. I'm real bad on names. But
3 the other guy, he just -- well, I recognized him because one of
4 them had hair and the other one didn't have hair. So you had
5 one guy that was bald and another guy had hair, and it was both
6 of them. They were the two consultants for the company.
7 Q So Gustavo was the one with hair or without?
8 A With hair, yeah.
9 Q With hair?
10 A With hair, yes.
11 Q What happened at the beginning of the meeting? Who spoke
12 and what did that person say?
13 A What meeting?
14 Q This meeting.
15 A When they first --
16 Q The meeting where they talked about the Union
17 authorization cards.
18 A Oh, okay. Well, they -- they called us to the meeting.
19 And the first thing the consultant for the company said, he
20 introduced the new HR lady, Laura Garza. And then he started
21 talking about stuff that the Union, they were fighting against
22 other companies, and he started telling us about how bad they
23 doing and all this.
24 And after that, he mentioned about the authorization card.
25 He said that a lot of -- or some of the coworkers from the

1 company approached the supervisor or approached them, because
2 they wanted -- they wanted to know how they could get their
3 authorization card back.
4 Q Then what happened when he -- after he said that?
5 A Then he brought some -- he brought like a paper -- he
6 brought a paper and he told us how to -- how we should do it,
7 how to -- how we should fill it out so we could get our
8 authorization card back.
9 He told us that we needed to fill out. I mean, when he
10 just -- because they filled it out for us. They typed it and
11 everything. So we just had to only sign it and put our name,
12 date it. And then he had specified that we had to certify the
13 letter so we could make sure that the Union -- you know, that
14 the Union, they received it.
15 JUDGE LAWS: And when you're saying he, are you referring
16 to the Gustavo or the other consultant without hair?
17 THE WITNESS: I'm talking about Gustavo with the hair.
18 JUDGE LAWS: Okay. Very good. Thank you.
19 MR. RIMBACH: Your Honor, I would like to approach the
20 witness with GC Exhibit 20.
21 **(General Counsel Exhibit Number 20 Marked for Identification)**
22 JUDGE LAWS: Okay.
23 MR. WILSON: Your Honor, can we have a second to read
24 this?
25 JUDGE LAWS: Sure. Take your time. Let counsel know when

1 you're finished.

2 MR. WILSON: Okay.

3 JUDGE LAWS: Okay.

4 Q BY MR. RIMBACH: Do you recognize this document?

5 A No, but this is what he told us. What I'm reading is that

6 number of employees had approached, so no.

7 Q I'd like to introduce -- approach the witness with GC

8 Exhibit 21.

9 JUDGE LAWS: Okay.

10 **(General Counsel Exhibit Number 21 Marked for Identification)**

11 Q BY MR. RIMBACH: I'll give you a minute to review this.

12 Did you review this document?

13 A Yes.

14 Q Do you recognize it?

15 A Yes.

16 Q What is this document?

17 A This was a document that the consultant for the Union, the

18 guy with the hair, Gustavo, showed us that we should send to

19 the Union so we could get our card back.

20 Q So that's the same document that he presented at the

21 meeting to you?

22 A Yes.

23 Q What happened after he presented that meeting -- or that

24 document to you?

25 A What he -- what he did he brought a lot of copies, like a

1 stack of copies, and he mentioned that he couldn't give it to
2 us on our hands because something about they could get in
3 trouble, whatever. That was it. And so he said that if you
4 wanted one, we could grab one from the table. So he placed
5 them on the table.
6 Q Then what happened after that?
7 A Then, well, he asked if anybody wanted -- if anybody had
8 some questions. And one of the coworkers, he was the only one
9 that spoke, he kept asking the same questions at the Union --
10 you know, like -- he sounded like they had prepared these, like
11 they were telling the guy ask the same question, because he
12 asked -- when he told us about it, he specified clearly because
13 he showed us, he said, look, just write your name, sign it.
14 Make sure you all certify your letter.
15 So when the coworker was asking the questions, like, do I
16 need to certify my letter? Do I need to sign my name? You
17 know, like saying the same thing again, like over and -- you
18 know, like, I don't know he sounded like, come on, how many
19 times could they -- if you want your card back, you know, just
20 sign it, send it, and that's it. And he was like, yeah.
21 Q Do you recall the name of that coworker who was asking
22 those questions?
23 A Rudy. I think his name was Rudy.
24 Q Did someone respond to his questions?
25 A The only one that I was speaking to him was the Union

1 consultant.

2 Q The Union consultant Gustavo?

3 A Gustavo, yes.

4 Q And how did Gustavo respond to all those questions?

5 A It was telling him the same thing. Oh, you got to make

6 sure you sign your name. You got to make sure you date it, and

7 you got to make sure, you know -- it's better if you certified

8 your letter.

9 MR. RIMBACH: At this time I'd like to move for the

10 admission of GC Exhibit 21 into evidence.

11 JUDGE LAWS: Okay. Any objection to 21?

12 MR. WILSON: No, Your Honor.

13 JUDGE LAWS: Okay. 21 is admitted.

14 **(General Counsel Exhibit Number 21 Received into Evidence)**

15 Q BY MR. RIMBACH: What happened next after your coworker

16 Rudy was asking questions and those responses?

17 A Well, then it was mentioned that the company was going to

18 provide this document to all the employees, and they were going

19 to place them on the outside, you know, on the working area.

20 They were going to place it in a certain area.

21 That's when Mr. Frank, he said that they were going to

22 place it. He was going to let us know where so if you wanted a

23 card, I mean, one of his letters, you could just grab it and,

24 you know, send it or whatever you want to do.

25 Gustavo said the same thing, that they were going to try

1 to place all the letters on the company -- somewhere in the
2 company so if you wanted a letter, you could grab it.
3 Q Then what happened after that?
4 A After that, the meeting was almost over so we were sitting
5 around the table. I mean, it was a table. We were sitting
6 like a U, kind of like a U. And Mr. Frank placed himself,
7 like, right looking at the way you were going out. And what I
8 noticed is that he had, like, a notepad on his hand and he --
9 he was -- when we were leaving, he was writing down, like, who
10 was getting the paper.
11 MR. WILSON: Objection. Lack of foundation. Speculation.
12 JUDGE LAWS: Let's get -- if he actually saw the writing
13 or if this is just what he presumed was happening.
14 MR. RIMBACH: Sure.
15 Q BY MR. RIMBACH: So as you were leaving the meeting, what
16 exactly did you see Frank do, if anything?
17 A He was just looking at everybody and he was -- to me, to
18 me, he was writing the names of the guys that was getting the
19 paper.
20 Q Could you see --
21 JUDGE LAWS: Could you actually see that?
22 THE WITNESS: No, I didn't, Your Honor.
23 JUDGE LAWS: Okay.
24 Q BY MR. RIMBACH: Where was Frank looking when you were
25 walking out?

1 A He was looking towards the exit when we were leaving out
2 of.
3 Q Did you take one of the forms that was on the table?
4 A No, I didn't.
5 Q Did you see any other employee take one of the documents?
6 A The only one I see taking a document was Rudy.
7 Q About how long was this meeting?
8 A About 20 to 30 minutes.
9 Q After the meeting, did you ever see a copy of that
10 document around at the warehouse?
11 A No, sir.
12 Q Before the meeting, did you ever speak to a supervisor or
13 manager about a Union authorization card?
14 A Nope.
15 Q You mentioned that there were about seven to eight other
16 coworkers at the meeting. In addition to Rudy, do you recall
17 the names of any of those employees?
18 A No, I don't. I think one of them was Oscar, one Rudy, and
19 I do not recall the other guys. I don't.
20 MR. RIMBACH: All right. Thank you. No further
21 questions.
22 JUDGE LAWS: All right. Any questions from the Charging
23 Party?
24 MS. SANCHEZ: No.
25 MR. WILSON: Do you have a statement for him?

1 MR. RIMBACH: Yes.
2 JUDGE LAWS: All right. Why don't we go off the record
3 and we can determine how much time counsel wants to review the
4 Jenks statement and go from there?
5 (Off the record at 9:20 a.m.)
6 JUDGE LAWS: Let's proceed whenever you're ready.
7 **CROSS-EXAMINATION**
8 Q BY MR. WILSON: Good morning, Mr. Lopez (sic) --
9 Mr. Robles, I'm sorry. My name is Scott Wilson. I'm an
10 attorney for Wismettac and I want to thank you for coming here
11 this morning. I just have a couple of questions for you. This
12 won't take very long.
13 A Thank you, sir.
14 Q As I understood your testimony about the meetings or the
15 meeting with Gustavo that there were three meetings scheduled
16 that day. Was that what you testified to?
17 A There were three meetings, because one of them was in
18 Spanish, the other one was in English, and the other one was
19 for the afternoon shift.
20 Q How did you know there were three meetings? Where did you
21 learn that?
22 A Because Mr. Vasquez, he mentioned that. If you wanted to
23 attend -- if you wanted to attend the meeting in Spanish or if
24 you wanted to attend on a meeting in English, or if you wanted
25 to attend the meeting in the afternoon.

1 Q Okay. And you attended the Spanish speaking meeting?
2 A Yes, sir.
3 Q Okay. And the document that's been admitted as Exhibit
4 21, I believe it's in front of you. Can you take a look at
5 that?
6 A Yes, sir, 21. Yes.
7 Q Okay. Was that document presented in Spanish?
8 A It was presented in English.
9 Q Okay. Now, you also testified that Mr. Flores opened the
10 meeting by stating that employees had asked questions --
11 A No.
12 Q -- about revoking their authorization cards?
13 MR. RIMBACH: Objection.
14 THE WITNESS: No.
15 MR. RIMBACH: Sorry, just to clarify. I think he only
16 knew his first name.
17 JUDGE LAWS: Yes.
18 MR. WILSON: You're right.
19 JUDGE LAWS: That's correct.
20 MR. WILSON: Okay.
21 Q BY MR. WILSON: That the consultant you knew as Gustavo,
22 that he opened the meeting by stating that some employees
23 had -- or requested information about revoking authorization
24 cards?
25 A No. What I said that he opened the meeting by introducing

1 the HR lady --
2 Q Okay.
3 A -- Laura Garza.
4 Q That's correct. And did he also say that he had received
5 or the company had received information about employees wanting
6 to revoke their authorization cards?
7 A He did say that. He mentioned that when he show us this
8 letter, Exhibit 21.
9 Q Okay. And you don't recall him handing out Exhibit 20,
10 which is in front of you?
11 A No, sir.
12 Q Okay.
13 A But what I read on this, that's what he told us.
14 Q Okay. So let's go through Exhibit 20 then. Do you have
15 that in front of you?
16 A Yes, sir.
17 Q Okay.
18 JUDGE LAWS: I just do want to note it has not been
19 admitted yet because it hasn't been offered because he
20 didn't --
21 MR. WILSON: Correct.
22 JUDGE LAWS: He said he'd never seen it.
23 MR. WILSON: Right.
24 JUDGE LAWS: So just with that caveat, go ahead.
25 Q BY MR. WILSON: So can you read the first paragraph? You

1 don't have to read it out loud, just to yourself of what -- the
2 first paragraph of Exhibit 20.
3 A Okay.
4 Q So as I understand then in your previous testimony, he did
5 mention that employees had approached the company about having
6 authorization cards returned; is that correct?
7 A Well, according to him, that's why they printed this
8 out --
9 Q Okay.
10 A -- for us.
11 Q And can you read the second paragraph of Exhibit 20?
12 Okay. In that paragraph, it references whether or not the
13 employee wishes to revoke the card being a matter of choice.
14 Did he mention that in his speech?
15 A I don't recall hearing that. What I did recall his saying
16 that if you wanted -- if you wanted your card, you know, you
17 could grab one of those letters. That's all he did. He never
18 said that we have a choice if we want to.
19 The letter was printed out because some of the coworkers,
20 according to him, had approached them about the -- they wanted
21 their card back.
22 Q So as I understand your testimony, he said if you want one
23 of these letters, referring to Exhibit 21, then that was the
24 individual employee's choice, correct?
25 A I guess, yes.

1 Q Did he tell anybody that they had to take Exhibit 21?
2 A No.
3 Q Okay. And can you read the last paragraph of General
4 Counsel Exhibit 20? Do you recall him mentioning -- and in
5 this paragraph it references, employees can contact the
6 National Labor Relations Board or the Right to Work Foundation.
7 Do you know if he mentioned those topics in his speech to you?
8 A No.
9 Q Okay.
10 JUDGE LAWS: No, you don't know? Or, no, you know and he
11 didn't?
12 THE WITNESS: No, he didn't.
13 JUDGE LAWS: Okay.
14 Q BY MR. WILSON: And you have no recollection of Exhibit 20
15 being distributed at the meeting?
16 A No, sir.
17 MR. WILSON: Okay. I have no further questions.
18 JUDGE LAWS: Okay. Any redirect?
19 MR. RIMBACH: Just one, Your Honor.
20 **REDIRECT EXAMINATION**
21 Q BY MR. RIMBACH: Before the meeting that you attended in
22 mid March about revoking the Union authorization cards, do you
23 know whether any of your coworkers had asked anyone from the
24 company about getting their Union authorization cards back?
25 A Can you repeat the question? I just want to make sure --

1 Q Sure.
2 A -- I understand.
3 Q Before mid March, had you heard of any of your coworkers
4 trying to get their Union card -- their Union authorization
5 card back?
6 A No, I -- no, I didn't.
7 Q Do you know whether any of your coworkers had asked the
8 company, oh, I want my Union card back, how do I do that?
9 A No. No, I do not recall that. No.
10 MR. RIMBACH: No further questions, Your Honor.
11 JUDGE LAWS: Any recross?
12 **RECROSS-EXAMINATION**
13 Q BY MR. WILSON: So Mr. Robles, employees could have asked
14 for their Union authorization cards back, you just had no
15 knowledge of it; isn't that correct?
16 A Well, it's like -- I don't have no knowledge if it's true
17 that one of the employees approached the supervisor and told
18 them they wanted their card back. So I really don't know.
19 MR. WILSON: That was my question. Thank you.
20 JUDGE LAWS: All right. Anything else? Okay.
21 Thank you very much for providing your testimony. Please
22 don't discuss what you testified here about with any other
23 witnesses or any potential witnesses at this time.
24 THE WITNESS: Okay.
25 JUDGE LAWS: Thank you. Off the record.

1 (Off the record at 9:35 a.m.)

2 JUDGE LAWS: All right. While we were off the record, the

3 General Counsel shared with myself and the parties some

4 documents, presumably, that she wishes to enter into the

5 record. So we can go through those.

6 **(General Counsel Exhibits Number 22 through 32 Marked for**

7 **Identification)**

8 MS. PEREDA: Yes, thank you, Your Honor. The first

9 document which has been marked as GC-22 is a document that we

10 received from Respondent regarding internal communications

11 pertaining to the termination of the service agreement with

12 Randstad, and the options available to Respondent with regards

13 to the Randstad temp employees that were being let go. At this

14 moment, I would like to offer -- to move GC-22 into evidence.

15 JUDGE LAWS: Any objection?

16 MR. WILSON: No objection as to 22.

17 JUDGE LAWS: Okay.

18 **(General Counsel Exhibit Number 22 Received into Evidence)**

19 MS. PEREDA: The next document, GC-23, again, is a

20 document provided by Respondent regarding the Randstad temp

21 employees supplied to Respondent Nationwide. And the second

22 page pertains to the Randstad employees that were converted to

23 Wismettac employees. At this moment, I would like to move

24 GC-23 into evidence.

25 MR. WILSON: No objection.

1 JUDGE LAWS: GC-22 and 23 are both admitted.

2 **(General Counsel Exhibit Number 23 Received into Evidence)**

3 MS. PEREDA: GC-24, again, it's a document that was

4 provided by Respondent and this is a -- this is a list of the

5 temp employees that were supplied to Respondent in 2017. This

6 list goes through the end of November 2017. I have asked

7 Respondent to verify if there are any updated lists to cover

8 the entirety of the subpoena time period, and I was told that

9 they would see if there was an updated list.

10 But at the moment, I would like to move GC-24 into

11 evidence.

12 MR. WILSON: No objection.

13 JUDGE LAWS: General Counsel 24 is admitted.

14 **(General Counsel Exhibit Number 24 Received into Evidence)**

15 MS. PEREDA: GC-25 is a document that we received from

16 staff agency Horizon which lists the Horizon temp employees

17 that were supplied to Respondent in 2017 going through --

18 through May of 2018. I shared this document with Respondent

19 earlier this week. At this moment, I would like to move GC-25

20 into evidence.

21 JUDGE LAWS: Okay. Any objection?

22 MR. WILSON: Your Honor, no objection to documents that

23 they received from temp agencies with the understanding that we

24 were originally asked to stipulate as to the authenticity of

25 those documents which I'll agree to. I'll accept their

1 representation. But I'm not agreeing to the content of
2 anything in those documents.
3 The documents appear to be self-authenticating. But as to
4 what's stated in there, that's what the temp agency said. So
5 if they want to put that in as terms of the statements that
6 were made, then they need to call the temp agency. I'm not
7 agreeing to the content of the statement.
8 MS. PEREDA: Okay. Well, I mean, technically, Respondent
9 should have all of these records themselves because these
10 pertain to temp employees that were sent to your facility. So
11 if this is not admitted, then I will press you guys on
12 producing a complete list of all of the temp employees that
13 were supplied to you guys that covers the time period of the
14 subpoena.
15 MR. WILSON: Well, I believe that we had supplied a
16 significant amount of the temp employees that we received. All
17 I'm saying is that, it's just a list of names is one thing.
18 But a number of these documents, there's conversations back and
19 forth and I'm not stipulating that everything stated in those
20 conversations is accurate. I'll agree that the temp agencies
21 gave them these documents.
22 JUDGE LAWS: Okay. All right. And I think that's enough.
23 If either party has any question as to the contents, they're
24 certainly welcome to question witnesses on them, you know, and
25 certainly I can make determinations as to whether the documents

1 are self-authenticating or whether there are concerns with
2 reliability should nobody be called to testify about what they
3 say.
4 And, you know, frankly, with things like spreadsheets,
5 sometimes it is apparent what they're saying; sometimes it
6 isn't. So to the extent that there are ambiguities that either
7 party wants to clear up, I encourage them to do so. Otherwise,
8 it's going to be that party's gamble that I'll construe it the
9 way that they construe it.
10 MS. PEREDA: Okay. Thank you, Your Honor.
11 JUDGE LAWS: And with that I'll admit GC-25.
12 **(General Counsel Exhibit Number 25 Received into Evidence)**
13 MS. PEREDA: GC-26, these are communications between temp
14 agency CornerStone and Respondent regarding discriminatees
15 Pedro Hernandez and Andrew Misermeno (phonetic). At this
16 moment, I would like to offer -- move GC-26 into evidence.
17 JUDGE LAWS: Okay. Any objection?
18 MR. WILSON: We'll admit it with the same qualification
19 that --
20 JUDGE LAWS: The same.
21 MR. WILSON: -- we have for Exhibit 25.
22 JUDGE LAWS: All right. I'm going to admit -- with that,
23 I will admit General Counsel 26.
24 **(General Counsel Exhibit Number 26 Received into Evidence)**
25 MS. PEREDA: And I will note that these documents were

1 also subpoenaed from Respondent and we did not receive these
2 documents.
3 MR. WILSON: And I will represent that we have done a
4 search for these documents and to date have not been able to
5 locate them. We're not saying that the conversations didn't
6 exist. We're simply saying they can't find these emails in
7 their system.
8 JUDGE LAWS: All right. And again, you know, to the
9 extent that anything appears to not be self-authenticating
10 and/or there are ambiguities in the contents of the documents,
11 I urge the parties to by testimony --
12 MS. PEREDA: Would Respondent stipulate that the email
13 address WismettacUSA.com is Respondent's email address?
14 MR. WILSON: Which document are you referring to, 26?
15 MS. PEREDA: I'm talking about 26. It's the first email
16 that appears on the --
17 MR. WILSON: Yeah, we'll stipulate to that. Yes, we'll
18 stipulate to that.
19 MS. PEREDA: Thank you.
20 JUDGE LAWS: And I don't know if I said 26 was admitted,
21 but it is. Okay. 27?
22 MS. PEREDA: 27 is a -- hold on one second -- is a
23 document that was received by temp agency CornerStone showing
24 warehouse workers that were referred to Respondent from the
25 time period November 1st, 2017, through March 31st, 2018. The

1 second and third page pertain to the job descriptions that were
2 provided by CornerStone pertaining to the employees that were
3 referred to the Respondent.
4 JUDGE LAWS: And just -- do you know whether the job
5 descriptions came from the temp agency --
6 MS. PEREDA: Those --
7 JUDGE LAWS: -- or the Respondent?
8 MS. PEREDA: Those were provided by the temp agency to us.
9 JUDGE LAWS: Okay.
10 MR. WILSON: I'll agree to it with the same stipulation as
11 to document -- or excuse me, Exhibit 26.
12 JUDGE LAWS: Okay. And with that caveat, GC-27 is
13 admitted.
14 **(General Counsel Exhibit Number 27 Received into Evidence)**
15 MS. PEREDA: GC-28 pertains to the CornerStone employment
16 applications of applicants Jeremiah Zermeno and Pedro
17 Hernandez. At this moment, I would like to move GC-28 into
18 evidence.
19 MR. WILSON: No objection with the same qualifications as
20 to GC-27.
21 JUDGE LAWS: So these are through a temp agency?
22 MS. PEREDA: Correct, yeah.
23 JUDGE LAWS: Okay. Then with that, GC-28 is admitted.
24 **(General Counsel Exhibit Number 28 Received into Evidence)**
25 MS. PEREDA: GC-29 -- one second, Your Honor.

1 JUDGE LAWS: Take your time.

2 MS. PEREDA: These documents were provided by temp agency
3 Randstad and this pertains to communications that Randstad had
4 with Respondent regarding the termination of a service
5 agreement and the work assignment of the Randstad temp
6 employees. At this moment, I would like to move GC-29 into
7 evidence.

8 MR. WILSON: No objection with the same qualification as
9 GC-28.

10 JUDGE LAWS: Okay. And I will then admit GC-29.

11 **(General Counsel Exhibit Number 29 Received into Evidence)**

12 MS. PEREDA: GC-30 are -- these are screen shots that were
13 provided by temp agency Randstad pertaining to Martinez
14 (phonetic), Pedro Hernandez, Jeremiah Zermeno, and Fanor
15 Zamora. At this moment, I would like to move GC-30 into
16 evidence.

17 MR. WILSON: I'll not object to GC-30 with the same
18 qualifications as GC-29.

19 JUDGE LAWS: So I will admit General Counsel 30.

20 **(General Counsel Exhibit Number 30 Received into Evidence)**

21 MS. PEREDA: GC-31, also it's emails that were provided --
22 or I'm sorry, documents that were provided by temp agency
23 Randstad -- one second -- pertaining to the conversion of fees
24 billed to Respondent pertaining to former temp employees Harumi
25 Tomimura, Walter Vargas, and Eric McLoughlin. At this point, I

1 would like to offer GC Exhibit 31 into evidence.
2 MR. WILSON: No objection with the same qualifications as
3 GC-30.
4 JUDGE LAWS: Yup, very good. With that, GC-31 will be
5 admitted.
6 **(General Counsel Exhibit Number 31 Received into Evidence)**
7 MS. PEREDA: And the last exhibit is GC-32. This document
8 was also provided by temp agency Randstad showing the state of
9 the temp employees working for Respondent from October 31st
10 through December 2017. At this point, I would like to move GC
11 Exhibit 32 into evidence.
12 MR. WILSON: No objection with the same --
13 JUDGE LAWS: Same qualifications.
14 MR. WILSON: -- qualifications as GC-31.
15 JUDGE LAWS: Okay. Very good. GC-30 is --
16 MR. WILSON: 32.
17 JUDGE LAWS: 32 is admitted prior to qualification.
18 **(General Counsel Exhibit Number 32 Received into Evidence)**
19 MS. PEREDA: And then just one other thing, Your Honor.
20 So regarding Exhibit 20, which is the -- pertaining to the
21 flier that the --
22 JUDGE LAWS: Oh, yes.
23 MS. PEREDA: -- prior witness was testifying to,
24 Respondent and -- we talked to Respondent and it seems like
25 they're able to stipulate that that document was distributed to

1 employees around the time that is noted on the flier, which is
2 March 12, 2018.
3 Would Respondent stipulate to that?
4 MR. WILSON: Yes. We'll stipulate to that.
5 MS. PEREDA: So do we move the --
6 JUDGE LAWS: To admit it?
7 MS. PEREDA: Yeah. I guess can I move --
8 MR. WILSON: We won't object to it. That's fine.
9 MS. PEREDA: Okay.
10 JUDGE LAWS: General Counsel 20 is admitted. I will note
11 the witness -- the one witness who did testify about it said it
12 was not distributed at the meeting he attended. So I'm
13 admitting it but without context as to when and how, and to
14 whom it was distributed.
15 **(General Counsel Exhibit Number 20 Received into Evidence)**
16 MS. PEREDA: Thank you, Your Honor.
17 MR. RIMBACH: We can call our next witness whenever you're
18 ready, Your Honor.
19 JUDGE LAWS: Oh, I'm ready. Ready when you are.
20 Come on around here. It's a little bit of a maze, sorry.
21 MR. RODRIGUEZ: That's okay.
22 JUDGE LAWS: Can I have you raise your right hand?
23 Whereupon,
24 **ALBERTO RODRIGUEZ**
25 having been duly sworn, was called as a witness herein and was

1 examined and testified as follows:

2 JUDGE LAWS: Can you please have a seat, and state and

3 spell your name for the record?

4 THE WITNESS: My name is Alberto Rodriguez. A-L-B-E-R-T-O

5 Alberto. Rodriguez, R-O-D-R-I-G-U-E-Z.

6 JUDGE LAWS: Thank you, Mr. Rodriguez. Just a couple

7 things before you're asked questions by the attorneys. First

8 is if you're asked a question and you just don't know the

9 answer for sure, just say I don't know or I'm not sure. Only

10 guess if you're asked to take a guess.

11 THE WITNESS: Okay.

12 JUDGE LAWS: If you don't understand a question, just say

13 I don't understand the question, and it will be clarified for

14 you.

15 THE WITNESS: Okay.

16 JUDGE LAWS: And then, finally, our court reporter who's

17 seated to your left has to take down everything that we say

18 while we're on the record. So as best you can, try to make

19 sure the person that's asking you the question is completely

20 finished asking it before you start in with your answer.

21 THE WITNESS: Okay.

22 JUDGE LAWS: Okay. Thanks.

23 MR. RIMBACH: Thank you, Your Honor.

24 **DIRECT EXAMINATION**

25 Q BY MR. RIMBACH: Good morning, Mr. Rodriguez.

1 A Good morning.
2 Q Just to let you know, the microphone in front of you it
3 doesn't amplify your voice.
4 A Okay.
5 Q So if you could speak loudly and clearly so everyone can
6 hear, and so that it picks up on the court reporter's
7 transcript.
8 A Okay.
9 Q Are you familiar with the company called Horizon Personnel
10 Services?
11 A Yes.
12 Q Horizon Personnel Services is a temporary staffing agency?
13 A Yes, correct.
14 Q How did you hear about Horizon?
15 A My father had told me about the agency.
16 Q Who is your father?
17 A Javier Robles.
18 Q Did you ever apply for a job through Horizon?
19 A No, only -- yes, well, I applied when he told me to apply.
20 Q And did Horizon ever refer you anywhere for work?
21 A They referred me to -- what was it called? It's Asian
22 Foods.
23 Q Wismettac Asian Foods?
24 A Yes. Well, it was -- it was first -- it was Nishimoto
25 Asian Foods and then -- so then they changed name to Wismettac.

1 Q When did you first start working for Wismettac?
2 A When I first started with the agency it was around 2015.
3 Q Did you always work for Wismettac through Horizon or did
4 you ever become a permanent employee?
5 A Yes, I became a permanent employee. It was around, I
6 think, 2017.
7 MR. RIMBACH: Your Honor, I would like to approach the
8 witness with GC Exhibit 33.
9 JUDGE LAWS: Okay.
10 **(General Counsel Exhibit Number 33 Marked for Identification)**
11 JUDGE LAWS: That water is for you, so help yourself if
12 you want it.
13 THE WITNESS: Okay. Thank you.
14 JUDGE LAWS: Thank you.
15 Q BY MR. RIMBACH: Can you please take a minute and read
16 over this document and let me know when you've finished?
17 A Okay. I've finished.
18 Q Do you recognize this document?
19 A Yes.
20 Q The document is dated March 23rd, 2017. Do you remember
21 when you received this document?
22 A Yes.
23 Q When did you receive it?
24 A I received it on that day.
25 Q Did you accept an offer of permanent employment with

1 Wismettac?
2 A Yes.
3 Q Do you recall when you received this offer, did you
4 receive a wage increase?
5 A I was going -- I think I was going to because I was going
6 to be in the freezer, so they were going to give me a dollar
7 more.
8 Q So up until the point that you received this -- sorry.
9 Before you received this letter, you were working through
10 Horizon?
11 A Yes.
12 MR. RIMBACH: Your Honor, I would like to move for the
13 admission of GC-33 into evidence.
14 MR. WILSON: No objection.
15 JUDGE LAWS: General Counsel 33 is admitted.
16 **(General Counsel Exhibit Number 33 Received into Evidence)**
17 Q BY MR. RIMBACH: Where was the Wismettac facility that you
18 worked at located?
19 A It was located in Santa Fe Springs.
20 Q Are you currently for Wismettac?
21 A No.
22 Q What was your first position with Wismettac?
23 A I was an order selector.
24 Q What were your job duties as an order selector?
25 A It was to pull orders for customers.

1 Q What kind of equipment did you use as an order selector?
2 A Scanner. We used a pallet jack.
3 Q How long were you an order selector?
4 A I was an order selector about two, two-and-a-half years.
5 Q After that, what was your position?
6 A They had changed me to become a forklift driver.
7 Q Do you remember about when you became a forklift driver?
8 A I'm not sure.
9 Q Do you remember what year?
10 A It was 2017.
11 Q Do you remember what part of 2017?
12 A It was like in the mids, like in the end.
13 Q The middle or the end?
14 A Yes.
15 Q What were your job duties as a forklift driver?
16 A It was to bring down, like, merchandise from the, like,
17 top racks from the higher levels for the employees if they
18 needed some.
19 Q What equipment did you use as a forklift driver?
20 A A forklift and a scanner.
21 Q What is the difference between an order selector and a
22 forklift driver?
23 A The difference is that the forklift driver, they could use
24 both machines, and also they also load the trucks for San
25 Diego.

1 And the pallet jack driver, they only get to use just that
2 machine because they don't have authorize to drive the
3 forklift.
4 Q So is it fair to say that the forklift driver involves
5 additional responsibilities?
6 A Yes.
7 Q Was the forklift driver position considered a promotion?
8 A No.
9 Q Did you receive a wage increase when you became a forklift
10 driver?
11 A No.
12 Q Did the forklift driver position require any additional
13 training or skills?
14 A Yes.
15 Q Can you describe that training or skills?
16 A We had to -- well, we watched a video. We took a test,
17 and also we had to, like, have, like -- to be able to see,
18 like, on top of the racks, the higher levels to see the numbers
19 because we needed to see expiration dates, and we had to also
20 make sure the safety with the machine.
21 Q What was your most recent schedule?
22 A It was 3:00 p.m.
23 Q What days of the week did you work?
24 A Monday through Friday.
25 Q When you started work at 3 p.m., was that considered the

1 day shift or the night shift?
2 A That was considered the night shift.
3 Q About how many days -- how many hours a week did you work
4 on average?
5 A A week, there was like 60 hours.
6 Q Who was your first supervisor at Wismettac?
7 A It was Isidro.
8 Q Do you recall his last name?
9 A No.
10 Q How long was he your supervisor for?
11 A Until -- until I got suspended or fired from the company.
12 Q Do you know what Isidro's job title was?
13 A He was my job manager.
14 Q Did you have any other supervisors?
15 A It was Hector.
16 Q Do you know Hector's last name?
17 A Ramundo.
18 Q Do you know what his job title is?
19 A He was a manager, too.
20 Q Are you familiar with Teamsters, Local 630?
21 A Yes.
22 Q When did you first hear about this Union?
23 A I heard it from one of my coworkers, Rolando Lopez.
24 Q Do you remember when you first heard about the Union?
25 A I -- no, I'm not sure.

1 Q Do you remember what year?
2 A It was last year.
3 Q Who is Rolando Lopez?
4 A He's a driver.
5 Q A driver with Wismettac?
6 A For Wismettac, yes.
7 Q What did you discuss with Rolando about the Union?
8 A Well, he told me if -- he told me something about the
9 Union at first, but I had -- but I had came to work so I wanted
10 to put me stuff away. So after I put my stuff away, I went out
11 to the parking lot and that's when he started discussing to me
12 about the Union, if I wanted to hear him out about the Union.
13 Q Do you recall a Union election that was September 19,
14 2017?
15 A Yes.
16 Q Did you discuss -- did you have this conversation with
17 Rolando before that Union election?
18 A Yes.
19 Q What was your participation with the Union, if any?
20 A I was -- I was like helping the Union collect cards. I
21 also wore the Union T-shirt. I visited homes with the Union.
22 I was a Union observer and also went to meetings with the
23 Union.
24 Q Do you know if there was a Union committee?
25 A Yes.

1 Q Were you involved in any type of Union committee?
2 A Yes.
3 Q What did you do as part of the Union committee?
4 A I wore the T-shirt. We all walked into the company.
5 Q Well, I'm talking just about the Union committee. Did
6 you -- what were your responsibilities as part of the Union
7 committee?
8 A Well, to try to talk to my coworkers, like, during my own
9 time, to tell them like if they want to listen to me about the
10 Union. So they can get to know, you know, like part of the
11 Union and, like, part of the company. Because I was working
12 there for a while, so I just explained to them the difference.
13 Q How often -- before the Union election in September
14 2017 --
15 A Uh-huh.
16 Q -- or September 19th, how often would you speak to
17 coworkers about the Union?
18 A It was like once in a while, like -- yeah, like once in a
19 while.
20 Q About how many employees did you speak to?
21 A Like 15.
22 Q About the Union?
23 A Yes.
24 Q Do you ever communicate with anyone from the Union itself?
25 A Yes.

1 Q Who did you communicate with?
2 A Carlos Quinonez.
3 Q Who is he?
4 A He's a Union -- I'm not sure what exactly he is.
5 Q He works for the Union, though?
6 A Yes. He works for the Union.
7 Q How did you communicate with him?
8 A I would text him or sometimes I would give him a call if I
9 had any questions or anything.
10 Q How often would you communicate with him?
11 A Pretty often.
12 Q And what did you communicate with him about?
13 A To tell him, like, if somebody would tell me that they
14 wanted to hear about the Union, I would refer them to him
15 because he had more information than what I had.
16 Q You mention cards. Are you referring to Union
17 authorization cards?
18 A Yes.
19 Q When did you collect those?
20 A I will collect them when the people were -- want to hear
21 about the Union. If they didn't, I would just leave them as
22 is. But if they did, I would give them to them so they can
23 sign it, and so then I can turn it into the Union so they could
24 get to speak to the people.
25 Q This was also before the first Union election?

1 A Yes.
2 Q Where did you collect them or where --
3 A I collect them, like, once when I take them to work -- I
4 mean, to their house or sometimes I pick them up and take them
5 to work. I will do it, like, once we're finished working.
6 I'll do it during my break times, so on my own time.
7 Q About how many Union cards did you collect from coworkers?
8 A I collected like six or five.
9 Q You mentioned you visited coworkers' homes?
10 A Yes.
11 Q About how many of your coworkers' homes did you visit?
12 A I would say, like, ten or five.
13 Q Five to ten?
14 A Yes, in one day.
15 Q You also mentioned a Union T-shirt?
16 A Yes.
17 Q Do you remember when you received it?
18 A I received it -- I received it, like -- when Rolando spoke
19 to me, I received it, like, weeks later after he spoke to me
20 about the Union, when I also signed the card to get the
21 T-shirt.
22 Q Did you receive the Union T-shirt before or after the
23 first Union election?
24 A Before.
25 Q Do you remember about how long before?

1 A Like weeks, like two weeks.
2 Q Can you describe the T-shirt?
3 A It's black. It has a drawing on the back like with a car
4 and it says, the Union -- Union and then also has a logo in the
5 front with the Union symbol.
6 Q Do you recall what colors the logo or the writing was?
7 A They were all black and white, the T-shirts were black.
8 Q Did you ever wear this T-shirt at work?
9 A Yes.
10 Q How often did you wear it at work?
11 A I will wear it Monday through Friday, but we had an
12 agreement that we were all going to wear it on Fridays. But I
13 wear it the majority of the times. So I take it -- because I
14 had two T-shirts, so I wore one Monday through Thursday, but I
15 would always wear it Fridays.
16 Q When you wore the Union T-shirt at work, did you wear
17 anything that covered it up like a jacket?
18 A No. It was always seeable.
19 Q Other people could see the T-shirt --
20 A Yes.
21 Q -- at work? Just make sure that I finish the question
22 before you respond so it makes sure -- for the court reporter
23 to --
24 A Okay.
25 Q -- record it. So you mentioned you got the Union T-shirt

1 a couple weeks before the first Union election.
2 A Yes.
3 Q Did you wear it before the first Union election?
4 A The first one I don't think I was there. I think I was
5 off.
6 Q Okay. Sorry. Did you wear the Union T-shirt before
7 September 19th, the first Union election?
8 A Oh, yes.
9 Q And what about after?
10 A Yes.
11 Q Did you ever stop wearing the Union T-shirt?
12 A No.
13 Q Did you continue wearing it?
14 A I continued wearing it.
15 Q You mentioned you were suspended. But did you continue
16 wearing the T-shirt through your suspension or did you ever
17 stop wearing the T-shirt before then?
18 A I still wear it.
19 Q After the Union election on September 19, 2017, do you
20 recall whether other employees wore a Union T-shirt to work?
21 A Yes. Some of them were wearing it and some stopped
22 wearing it, because we had told them to stop wearing it because
23 they were starting to fire people. They started firing the
24 people that were wearing the Union T-shirts so --
25 MR. WILSON: Objection. No foundation. Speculation.

1 JUDGE LAWS: If I'm going to take this as to any more than
2 this witness' perception, I'll need to get at the specifics.
3 MR. RIMBACH: Yes, Your Honor.
4 Q BY MR. RIMBACH: So just your observation --
5 A Okay.
6 Q -- after the Union election on September 19, 2017, do you
7 recall, what percentage of employees continued to wear the
8 Union T-shirt versus employees who stopped wearing the Union
9 T-shirt?
10 A It was like 50 percent, so 50/50.
11 Q So about half stopped wearing the T-shirt?
12 A Yes.
13 Q You were the one -- you were one of the employees that
14 continued to wear it?
15 A Yes, correct.
16 Q You mentioned Union meetings. About how many Union
17 meetings did you go to?
18 A I attend like seven of them.
19 Q Where were they?
20 A They were on the Union facility.
21 Q Where is the Union facility?
22 A It's right in Los Angeles, downtown.
23 Q Do you know what a petition for representation is?
24 A No.
25 Q Do you recall whether the Union ever -- any Union

1 representatives came to the Wismettac warehouse?
2 A Yes.
3 Q When was that?
4 A I'm not sure of the day.
5 Q Do you remember whether it was before the first Union
6 election?
7 A Yes.
8 Q Why did the Union come to the Wismettac facility?
9 MR. WILSON: Objection. Lack of foundation.
10 Q BY MR. RIMBACH: Do you --
11 JUDGE LAWS: Get it if you know. And he said --
12 Q BY MR. RIMBACH: Do you know --
13 JUDGE LAWS: He said he remembered whether it was before
14 the first Union election --
15 MR. RIMBACH: Sure.
16 JUDGE LAWS: -- but not that it was, but --
17 MR. RIMBACH: Sure.
18 JUDGE LAWS: -- his testimony was, yes, he remembers
19 whether or not it was.
20 Q BY MR. RIMBACH: Did the Union representatives come to
21 Wismettac before the Union election?
22 A Yes.
23 Q Do you know why the Union representatives came to the
24 facility?
25 A Because we wanted to get a contract to the company.

1 Q Can you describe what happened when they came to the
2 facility?
3 A We walked into the company and all the coworkers gathered
4 up with their Union T-shirts and we all sang this song -- we
5 all sang a song about the Union, about what we wanted. And
6 after that --
7 Q One minute. What was the -- what was the song and what
8 were you saying?
9 A We were saying, like, what do we want and then we would
10 say we want a contract. And it was -- I don't exactly remember
11 the song how it was.
12 Q Did you participate in that?
13 A Yes.
14 Q Do you remember -- do you recall specifically who from the
15 Union came to the facility?
16 A I think the president from the Union was there and other
17 guys. Carlos Quinonez was a part of it, too.
18 Q So after the Union reps came inside the warehouse and met
19 with employees, how many employees were there at the time?
20 A Majority of the employees from the company.
21 Q Do you remember about how many that was?
22 A It was like 50 to -- 50 to 60 workers.
23 Q And after employees sang or chanted, what happened next?
24 A We walked to the back of the building next to the lunch
25 area to go look for Nishimoto, which is the president from the

1 company.
2 Q And then what happened?
3 A The Union people, they went and spoke to him to tell him
4 basically that we wanted a contract, to give what we wanted.
5 Q Who was speaking to Nishimoto?
6 A I'm not sure --
7 Q Do you recall --
8 A -- who it was.
9 Q Do you recall how Nishimoto responded?
10 A He just stood there and just heard what the guy was
11 telling him, until another guy came out from I don't know where
12 and he basically spoke for Nishimoto.
13 Q And what did -- do you know that person's name?
14 A I'm not sure. I've never seen him in the company before.
15 Q Do you recall what he said?
16 A I was a little bit further, so I didn't really hear what
17 he said.
18 Q What happened next?
19 A So after that, basically, they didn't want to sign the
20 papers because we wanted a contract and stuff like that. So we
21 all walked out.
22 MR. WILSON: Objection. No foundation.
23 MR. RIMBACH: I'll --
24 JUDGE LAWS: Yeah, let's get --
25 MR. RIMBACH: -- ask the question again.

1 JUDGE LAWS: -- what was said. Okay.
2 MR. RIMBACH: Right.
3 Q BY MR. RIMBACH: So what was said? Do you recall what --
4 any specific statements?
5 A To the person?
6 Q Yes.
7 A There was -- they told him, basically, that we wanted a
8 contract, that we all wanted it to be better for the company.
9 Q Who was speaking?
10 A The Union, the Union person, I think, was speaking or the
11 lawyer I think was speaking to Nishimoto which is the president
12 from the company.
13 Q And then what's the next they think that was said?
14 A And then --
15 Q That you can remember?
16 A I don't remember from there.
17 Q What happened after that conversation?
18 A We all walked out, because the other guy came out. And I
19 didn't hear what they said, so after that they spoke to them or
20 something. He said something so after that we all walked out.
21 Q What were you wearing that day?
22 A I was wearing my Union T-shirt.
23 Q About how long was that incident from start to finish?
24 A Like 15 minutes.
25 Q Do you recall how long that conversation was between the

1 Union reps and Nishimoto?
2 A Like five minutes, not long.
3 MR. RIMBACH: Your Honor, I would like to approach the
4 witness with a copy of GC Exhibit 34.
5 **(General Counsel Exhibit Number 34 Marked for Identification)**
6 JUDGE LAWS: Okay.
7 Q BY MR. RIMBACH: Could you please take a minute and review
8 this document?
9 A Okay.
10 Q This document states it's a written warning. Do you
11 recognize it?
12 A Yes.
13 Q Did you receive this written warning?
14 A Yes.
15 Q The document is dated December 21st, 2017. Do you recall
16 when you received the document?
17 A I received it that day.
18 Q Do you recall who gave it to you?
19 A It was Frank.
20 Q Do you recall whether there was anyone else present when
21 you received it?
22 A Romero was there and also Anthony Vasquez.
23 Q Who is Anthony Vasquez?
24 A I think he's a manager from the morning.
25 Q Do you know whether he also goes by Jose Vasquez?

1 A Yes.
2 Q And you also mentioned Romero. Does he have a -- do you
3 know his first name?
4 A I think Jose Romero.
5 Q Do you know his job title?
6 A I'm not sure.
7 Q Do you know whether he's a manager or supervisor?
8 A I think -- I'm not sure because I was not there when they
9 announced what he was.
10 Q Where were you when you received this document?
11 A I was in the showroom.
12 Q Did someone call you to the room?
13 A They called me through the speaker, their intercom.
14 Q You mentioned your supervisor was Isidro Garcia?
15 A Yes.
16 Q Was he present?
17 A No.
18 Q What time was this meeting?
19 A It was in the afternoon.
20 Q Could you please describe what happened at the meeting?
21 A Frank did most of the speaking. He was telling me that I
22 was getting a warning because coworkers of mine had put a
23 complaint about me that I was not bringing down the merchandise
24 for them.
25 Q Did you respond?

1 A I told him that it was not true.
2 Q Do you recall what else -- anything else he said?
3 A He also told me that coworkers are saying that I was,
4 like, looking at them while they were working, staring at them,
5 and just looking at them.
6 Q Regarding the -- what Frank said about coworkers saying
7 you not bringing down merchandise, do you know what coworkers
8 he was referring to?
9 A He was referring to Oscar Ortiz.
10 Q How do you know that?
11 A Because I had -- there was a coworker of mine that told me
12 that Oscar Ortiz was trying to gather up coworkers to put a
13 complaint about me because he was upset that I had the position
14 to be on the forklift.
15 Q Do you recall any discussion about Oscar Ortiz at the
16 meeting?
17 A No.
18 Q Do you recall what else was discussed at this meeting?
19 A He also told me about something I was calling my coworkers
20 idiots.
21 Q Okay. So going back about -- you mentioned Frank raised
22 the issue about you watching coworkers.
23 A Uh-huh.
24 Q Do you know what that was referring to?
25 A No.

1 Q And then the third bullet point, you briefly mentioned
2 Frank said you referenced a coworker as idiot. Do you know
3 what that is referring to?
4 A Well, it's a coworker of mine that we get along with so
5 well that we call each other names. We have each other's
6 nicknames. And his name is Steve Herrera, so me and him --
7 MR. WILSON: What was the name again? I'm sorry.
8 THE WITNESS: Steve Herrera.
9 MR. WILSON: Okay.
10 Q BY MR. RIMBACH: What kind of names would you call each
11 other?
12 A Well, like him -- I will call him "Foca." He'll call me
13 like different nicknames. He'll call my stupid. He'll call me
14 just random names and I'll call him random names, too. We'll
15 get along so well.
16 Q What does Foca mean?
17 A Foca means seal.
18 Q Is that a Spanish word?
19 A Yes.
20 JUDGE LAWS: I'm just going to jump in here. Did you
21 know that this was Steve Herrera, or was that just what you
22 thought?
23 THE WITNESS: No, I know it's him.
24 JUDGE LAWS: Okay. And were you told he was the one who
25 made the complaint?

1 THE WITNESS: No. He didn't tell me.
2 JUDGE LAWS: He didn't tell you.
3 THE WITNESS: No.
4 JUDGE LAWS: So you just --
5 THE WITNESS: Assumed.
6 JUDGE LAWS: -- figured it out.
7 THE WITNESS: Yeah.
8 JUDGE LAWS: Okay.
9 Q BY MR. RIMBACH: You don't know whether it was him who
10 made the complaint or someone else who had maybe just heard
11 that?
12 A Yeah, I don't know.
13 Q No one explained that to you at the meeting?
14 A No.
15 Q Do other coworkers joke around like that that you know of?
16 A Everybody does in the company, even the managers. They
17 joke around with their drivers. So it's the whole company,
18 they all joke around.
19 Q About calling each other names?
20 A Oh, yeah, they -- they call each other names. They even
21 speak about stuff that doesn't even have to do with work. So
22 it's the whole company, they all play around.
23 Q And then the second bullet point about you watching
24 colleagues, did Frank or anyone at the meeting explain what
25 that was about?

1 A No.
2 Q Did anyone tell you which employees were raising these
3 complaints?
4 A No.
5 Q Do you recall any further statements or discussion from
6 this meeting?
7 A Actually, yes. I said something to Frank after he told me
8 this. I told him that if my manager Isidro knew that I was
9 getting this written warning, and he told me that -- it doesn't
10 matter that if he knew or if he didn't know. So I just got
11 quiet after that.
12 Q Do you recall anything else from the meeting?
13 A No.
14 Q How long was the meeting?
15 A It was, like, 15 minutes.
16 Q Did you continue to operate the forklift after this
17 meeting?
18 A No.
19 Q Why not?
20 A Because Frank had told me that I wasn't going to be
21 authorized to use the forklift anymore. So he put me back as
22 an order selector. Order selectors are always just using the
23 pallet jack.
24 MR. RIMBACH: Your Honor, I would like to admit -- move to
25 admit GC-34 into evidence.

1 JUDGE LAWS: Any objection?

2 MR. WILSON: No objection.

3 JUDGE LAWS: General Counsel 34 is admitted.

4 **(General Counsel Exhibit Number 34 Received into Evidence)**

5 Q BY MR. RIMBACH: What did you do after this meeting?

6 A I walked out and I went to speak to my manager, Isidro.

7 Q And was this right after the meeting?

8 A Yes. I walked out and I went straight to my boss, Isidro.

9 Q And did you have a conversation with him?

10 A Yes.

11 Q What was that conversation?

12 A I was -- I went and I spoke to him about that I was

13 getting the written warning about the forklift.

14 Q And did he respond?

15 A He was upset that I had told him that because there has

16 been an incident that happened in the company.

17 Q What did he say exactly?

18 A He told me that he wanted to go -- that both of us were

19 going to go talk to human resource about the written warning.

20 Q Was there any other discussion with him?

21 A No. He said after I told him that he said he was going to

22 talk to Anthony Vasquez about the written warning, and then

23 after that I just went straight to work.

24 Q About how long did you speak with Isidro for?

25 A It was, like, five minutes.

1 Q Did Isidro ever discuss this written warning with you
2 after that?
3 A We didn't have a chance to.
4 Q Did you ever go to HR afterwards to talk about the written
5 warning?
6 A No.
7 Q Okay. You mentioned you were switched back to the order
8 selector position.
9 A Yes.
10 Q Was that discussed at that meeting?
11 A Yes. I told him that I was going to go back to an order
12 selector.
13 Q Is that something that Frank -- Frank switched you back or
14 you chose to go back?
15 A Frank told me I was going to go back and I chose it.
16 Q So after you switched back to the order selector position,
17 did you ever still continue to operate a forklift?
18 A Yes.
19 Q How often did you operate the fork left?
20 A I operated it, like, six times.
21 Q Who instructed you to use the forklift?
22 A Chris.
23 Q And order selectors don't normally operate a forklift; is
24 that right?
25 A Yes, without their permission.

1 Q Before you received that written warning, did anyone from
2 the company ask you about any of the complaints that are listed
3 in it?
4 A No.
5 Q Before December 21st, 2017, did you ever receive a warning
6 about your work performance?
7 A I got one for being tardy, or two.
8 Q But not about your actual work performance?
9 A No.
10 Q Do you recall whether you ever received any performance
11 reviews, in general?
12 A Just -- just for being tardy, but that's about it.
13 Q But no just like annual performance review or anything
14 like that, do you remember?
15 A Yeah, we got -- we used to get this card that would tell
16 us that the work that we would do.
17 MR. RIMBACH: Your Honor, I would like to approach --
18 Q BY MR. RIMBACH: You mentioned that Chris instructed you
19 to operate the forklift.
20 A Yes.
21 Q Do you know his last name?
22 A I'm not sure of his last name.
23 Q Is he a manager or supervisor?
24 A He was a supervisor for the -- well, he was announced at
25 that time, but I was not there. They had told me that he was

1 announced as a supervisor, because he was training, so.
2 Q Why -- do you know why he instructed you to use the
3 forklift?
4 A Because they needed my assistance and they needed my help,
5 because they didn't have more people to be on the forklift.
6 MR. RIMBACH: Your Honor, I would like to approach the
7 witness with GC Exhibit 35.
8 **(General Counsel Exhibit Number 35 Marked for Identification)**
9 JUDGE LAWS: Okay. Thank you.
10 Q BY MR. RIMBACH: Can you please take a minute and review
11 this document?
12 A Finished.
13 Q You testified that you were suspended. Is this -- could
14 you -- do you recognize this letter?
15 A Yes.
16 Q Did you receive this letter?
17 A Yes.
18 Q When did you receive it?
19 A I received it on that day.
20 Q And this letter refers to a suspension. Is that the same
21 suspension you were referring to earlier in your testimony?
22 A Yes.
23 Q Do you recall what happened on February 2nd? How were you
24 notified of this letter? When did you receive it?
25 A I was next to the printer to print out my work, but I

1 didn't have a chance to because Vasquez was -- Vasquez -- he
2 told me if I had a minute and wanted to speak to me. So I
3 said, sure, so I put my equipment down and I walked up next to
4 there, which they were on the dock area.
5 Q About what time did Vasquez approach you, if you recall?
6 A It was like 4, like around 4 and 5.
7 Q Where were you when he approached you?
8 A I was in front of the office next to the dock.
9 Q Did he approach you with anyone else or was he by himself?
10 A He was with somebody else.
11 Q Who else was he with?
12 A Frank was there, Chris, Romero.
13 Q What happened when they approached you?
14 A Frank told me that I was being fired because I had
15 threatened my coworkers to vote for the Union.
16 Q Did you respond?
17 A I just stood quiet because I was shocked.
18 Q What happened next?
19 A After he told me what he told me, he told me also if I had
20 any personal items in the company and if I did, then I had to
21 go get them. So I told him that I had some equipment in my
22 locker.
23 Q And then what happened?
24 A So they escorted me to the locker room to get my
25 equipment. And then after I got my equipment, I stepped out of

1 the locker and Frank handed me an envelope.
2 Q What happened then?
3 A And after that, we all walked out of the company. They
4 escorted me to the car, and they escorted me out the gate.
5 Q About how long was that conversation when they approached
6 you?
7 A It was, like, five minutes. It was a fast conversation.
8 Q Was there anyone else around when they approached you?
9 A Yes.
10 Q Who else was nearby?
11 A There was coworkers of mine because they had -- they had
12 come out of a meeting that they had.
13 Q About how many coworkers were around?
14 A Like 20, 30 coworkers.
15 MR. RIMBACH: Your Honor, I would like to offer GC Exhibit
16 35 into evidence.
17 MR. WILSON: No evidence.
18 JUDGE LAWS: General Counsel Exhibit 35 is admitted.
19 **(General Counsel Exhibit Number 35 Received into Evidence)**
20 Q BY MR. RIMBACH: What were you wearing that day, if you
21 recall?
22 A I was wearing my Union T-shirt.
23 Q You mentioned that you received an envelope. Did you open
24 the envelope?
25 A No.

1 Q When -- oh, you didn't open it.
2 A Well, I opened it but not until I got home.
3 Q What was in the envelope?
4 A I said, it was the suspension letter.
5 Q Is that the same suspension letter that's in front of you
6 that's marked as GC-35?
7 A Yes.
8 Q Did you work at all for Wismettac after February 2nd,
9 2018?
10 A No.
11 Q After February 2nd, did you have any contact with the
12 company about your suspension?
13 A I tried to contact them, but they never answered. I
14 called human resource, which is Hikari. She never answered.
15 Until somebody answered, I'm not sure what's his name, but
16 somebody from human resources answered but it took a while for
17 them to answer.
18 Q Did you ever go back to the Wismettac warehouse after you
19 were suspended?
20 A Yes.
21 Q Why did you go back?
22 A Because I was going to be an observer for the election.
23 Q Are you referring to the second Union election that was on
24 February 6?
25 A Yes.

1 Q Did you go to the facility on that day?
2 A Yes.
3 Q What time did you go to the facility that day?
4 A I went in the morning to vote.
5 Q Did you go by yourself?
6 A I went with other coworkers of mine.
7 Q Do you recall who you went with?
8 A I went with Omar, Omar Ruiz, and Luis. And I don't know
9 the other guys' names.
10 Q Do you know Luis' last name?
11 A I'm not sure of his last name.
12 Q What happened after you got to the facility with them?
13 A We all walked in through the showroom to vote and after
14 one of my coworkers voted, I went and I voted.
15 Q Then what happened?
16 A And after I stepped out, Romero was coming out of the
17 office and he approached me, and he started telling me that I
18 had to leave the company.
19 Q What happened next?
20 A So Romero started telling me I had to leave the company
21 and that I knew that I couldn't be here. So I just stood
22 quiet. I just stood in front of my coworkers that was with me
23 and then my coworker told me just to step outside to wait for
24 them outside. So I walked outside to the tarp that they have
25 outside the company.

1 Q Then what happened?
2 A So Romero followed me all the way outside and I just stood
3 outside the tarp with one of the other coworkers that had voted
4 there with me and I stood there.
5 Q So this is when you were outside of the warehouse?
6 A Yes.
7 Q Then what happened when he approached you again?
8 A He told me that I couldn't be there again and he said that
9 I had to leave, and nobody could be here. Like, all the
10 coworkers that was with me, he told them that they also had to
11 leave, that they couldn't be there with me. So my coworkers
12 just told me, get in the car and wait for us outside. Whatever
13 happened that we'll be a witness for whatever happened.
14 Q Did you leave the facility after that?
15 A Yes. I just stood outside in my car, on the outside of
16 the facility so I left.
17 Q Then what happened after that?
18 A After that, some of my coworkers walked to my car and
19 there was -- one of my coworkers, Omar Ruiz, he walked back to
20 me. He told me, like -- well, his eyes were like watery. He
21 told me that he had to stay because Frank had came out and told
22 him that he wanted to speak to him. But I had told him that I
23 would wait for him because I had picked him up from his house.
24 Q During that morning voting session, do you recall whether
25 there were observers there on behalf of the company or the

1 Union?
2 A Yes.
3 Q Do you recall who the observer was for the Union, if you
4 remember?
5 A I don't remember.
6 Q Do you recall who the observer was for Wismettac, the
7 company, in the morning?
8 A It was -- I don't remember.
9 Q After you left the facility that morning, what happened
10 after that that day, if anything?
11 A After all that happened, I mean, I just left but I was
12 concerned about Omar Ruiz because he had stood there, because
13 I -- I picked him up so I wanted to take him back home.
14 Q Did you ever go back to the facility that day?
15 A Yes.
16 Q Why did you go back?
17 A To be an observer for the company -- I mean, for the
18 Union.
19 Q Was this a separate voting session?
20 A Yes.
21 Q And --
22 A In the afternoon.
23 Q What time -- what time did you go back to the facility for
24 that?
25 A It was in the afternoon at 5 p.m.

1 Q What did you do at -- sorry, you mentioned you were an
2 observer?
3 A Yes.
4 Q And you were the observer for who?
5 A For the Union.
6 Q What did that involve?
7 A That involved that I had to stand there and to support the
8 Union, so I basically was there to challenge votes.
9 Q Were you there for the whole afternoon voting session?
10 A Yes.
11 Q Do you recall whether there were any employees there
12 observing on behalf of the company?
13 A Yes.
14 Q Do you recall who?
15 A I'm not sure.
16 Q Did the company ever contact you about your suspension
17 letter?
18 A No.
19 MR. RIMBACH: Your Honor, I would like to approach the
20 witness with GC Exhibit 36.
21 **(General Counsel Exhibit Number 36 Marked for Identification)**
22 JUDGE LAWS: Okay.
23 THE WITNESS: Bless you.
24 JUDGE LAWS: Thank you.
25 Q BY MR. RIMBACH: Could you please take a minute and review

1 this letter? And let me know when you're ready.
2 A I'm ready.
3 Q Do you recognize this letter?
4 A Yes.
5 Q Did you receive this?
6 A I got it through the mail.
7 Q Do you recall about when you received it?
8 A I'm not sure.
9 Q The letter is dated February 16. So it was on or around
10 that day?
11 A Yes.
12 MR. RIMBACH: Your Honor, I would like to move for the
13 admission of GC Exhibit 36 into evidence.
14 MR. WILSON: No objection.
15 JUDGE LAWS: Okay. General Counsel 36 is admitted.
16 **(General Counsel Exhibit Number 36 Received into Evidence)**
17 Q BY MR. RIMBACH: The letter states -- there's a number two
18 in that sentence. The letter says that you were engaged in
19 insubordination. Did the company ever tell you what that is
20 referring to?
21 A No.
22 Q Did anyone from the company ever interview you about
23 allegedly engaging in insubordination?
24 A No.
25 Q Did the company ever give you a chance to respond to any

1 allegation about insubordination?
2 A No.
3 Q That same sentence says that you were engaged in threats
4 of violence against coworkers. Did the company ever tell you
5 what that was about?
6 A No.
7 Q Did the company ever interview you about allegedly making
8 threats of violence against coworkers?
9 A No.
10 Q Did the company ever give you a chance to respond to that
11 allegation?
12 A No.
13 Q The letter also says in that same sentence that you were
14 engaged in racial harassment of a coworker. Did the company
15 ever explain to you what that was referring to?
16 A No.
17 Q Did the company ever interview you about allegedly
18 harassing a coworker?
19 A No.
20 Q Did the company ever give you a chance to respond to this
21 allegation?
22 A No.
23 MR. RIMBACH: Your Honor, I would like to approach the
24 witness with GC Exhibit 37.
25 JUDGE LAWS: Okay.

1 **(General Counsel Exhibit Number 37 Marked for Identification)**
2 Q BY MR. RIMBACH: Could you please take a minute and review
3 this document? You can take your time because it's a little
4 bit lengthy.
5 A Ready.
6 Q Do you recognize this document?
7 A Yes.
8 Q What is it?
9 A It was a statement that I had wrote.
10 Q When is it dated?
11 A It's dated -- the first of '11.
12 Q January '11?
13 A Yes.
14 Q Is that the same date that you wrote this statement?
15 A Yes.
16 Q Why did you write it?
17 A Because there was an incident that I had with Marcus.
18 Q Do you know Marcus' last name?
19 A I'm not sure.
20 Q Did you give this statement to someone?
21 A I gave that to Chris.
22 Q The supervisor?
23 A Yes.
24 Q Okay. Could you describe the incident that this statement
25 is about?

1 A I was sitting on my break time listen --
2 Q Sorry, one quick question. When was the incident exactly?
3 A It was on my break time.
4 Q What day? The same day that you wrote the statement?
5 A Yes. It was the same day that I wrote this.
6 Q Okay. Could you just please describe the incident?
7 A I was in my break time. We were sitting down. I was on
8 my phone listening to my music.
9 Q Where were you during your break?
10 A I was sitting right next to the dock area, like close to
11 the door where we walk into the facility.
12 Q And then what happened?
13 A And so Marcus was sitting on my right hand side speaking
14 on the phone with his wife. And I was on the other side on my
15 phone listening to music.
16 Q And then what happened?
17 A And then after Chris comes out of the office, I'm guessing
18 he was going to go eat. And Marcus calls Chris over and tells
19 him to tell me to turn off my music.
20 Q Then what happened?
21 A So Chris tells me that -- to turn off my music. And I
22 told him that I was not going to turn it off because I was on
23 my break time. So Chris tells me after that he was going to
24 investigate that for me. That he said he was going to check if
25 I was allowed to listen to music during my break time.

1 Q Then what happened after that?
2 A And after that, Chris walked away. He went to the back
3 area to the lunch. And after that, I made like a little sound,
4 like, I just --
5 Q Like what kind of sound?
6 A Like I went like this. (Makes sound) Like with my teeth.
7 Q Like a clicking sounds with your --
8 A Yeah. With my teeth.
9 Q -- teeth.
10 JUDGE LAWS: One at a time.
11 THE WITNESS: And then, so --
12 Q BY MR. RIMBACH: Sorry. Just for the record, that was a
13 clicking sound with your teeth?
14 A Yeah.
15 Q Okay. Then what happened?
16 A And then so Marcus after -- after I did that, Marcus was
17 like, shut the fuck up. He was like -- I was like, what are
18 you talking about? And then --
19 Q And then what did he say?
20 A And then he said that he was going to fuck me up and then
21 to do something. And I was just like okay. So I just stood
22 quiet.
23 Q Then what happened after that?
24 A And then after that, I just continued like doing myself.
25 And I was continuing listening to my music. And after, one of

1 my coworkers, Alex De La Paz, sat next to me because he was
2 outside. And he sat next to me. And he told me what was wrong
3 with him because he saw him like with a face. And I was -- and
4 I explained to him in Spanish because he only speaks Spanish
5 what was happening.
6 Q Okay. Then what happened?
7 A And then after the bell rang, Marcus got up first because
8 I stepped down with my friend because Marcus is way bigger than
9 me and I felt threatened. So after Marcus got up, he was still
10 mumbling some stuff. But my friend was like, just stay here.
11 So I sat with him because my friend was a little bit big. But
12 he just told me to stay there with him. So when Marcus got up,
13 after he got up, I got up. But I went straight to go look for
14 Chris to put a report of what had happened.
15 Q How long was this incident between you and Marcus?
16 A It was the whole 15 minutes of break.
17 Q Did the company ever tell you that this incident was one
18 of the reasons why it terminated you?
19 A No.
20 Q Do you recall seeing Marcus at the February 6th Union
21 election?
22 A Yes. He was next to me.
23 Q He was next to you?
24 A Yes.
25 Q Can you describe how he was next to you?

1 A Well, he was the observer for the company. So we were
2 sitting right next to each other.
3 Q This is in the afternoon session where you were the
4 observer?
5 A Yes. Afternoon. Yes.
6 Q Did Marcus speak to you before he complained to Chris
7 about your music?
8 A No.
9 Q Did you hear Marcus say why he was complaining about your
10 music?
11 A No.
12 Q When Chris approached you and asked you to turn your music
13 off, did he explain why he was -- why Marcus complained about
14 your music?
15 A No.
16 Q Did anyone from the company at all explain to you why
17 Marcus wanted you to turn off your music?
18 A No.
19 Q Do you remember the specific singer or artist that you
20 were playing when Marcus was complaining?
21 A The singer, I know his name. But the song exactly, I'm
22 not sure of the name. But the singer's name is Stupid Young.
23 He's a rapper.
24 Q What were you using to play the music?
25 A I was using Pandora.

1 Q What is Pandora?
2 A Pandora is an app that you use to like listen to music so
3 you can get to choose multiple artists or singers that you want
4 to listen to.
5 Q What device were you using?
6 A My cell phone.
7 Q Were you playing any music by speaker phone -- by speaker
8 or headphones?
9 A It was speaker.
10 Q Can you explain more how Pandora works? Like do you
11 choose a song or how does it work?
12 A Well, you could choose a station. Like you could choose a
13 specific station you want. But I was playing shuffle. So the
14 shuffle, it changes to different music. So I have rap music.
15 I have Corridos, which is Spanish music. So I have different
16 types of music in my Pandora. And when I was playing my music,
17 I was just -- I just clicked shuffle and it just shuffles to
18 different music.
19 Q So the song is played randomly?
20 A Yes.
21 Q And Stupid Young, do you have any of that artist's songs
22 downloaded on your phone?
23 A No.
24 Q This was all just streaming through the Pandora app?
25 A Yes.

1 Q And you explained that the music shuffles. So does that
2 mean that the songs just play at random?
3 A Yeah. It shuffles through whatever you have in your list.
4 So you could have different singers, and it shuffles through
5 random songs.
6 Q Did you ever listen to music on your break before January
7 11th, 2018?
8 A Yes.
9 Q How often?
10 A Once in a while.
11 Q Did other employees listen to music during their breaks?
12 A Yes.
13 Q Did other employees listen to music on a speaker or
14 through head phones?
15 A Yes. There's a driver that once he would come back from
16 his route, he had a big speaker on his pocket. And once he
17 would enter the company, he would play like Mexican music loud.
18 And nobody never, ever told him nothing.
19 Q What about playing music -- did other employees play music
20 through their cell phone?
21 A Yes.
22 Q And is that through speaker or head phones?
23 A Speaker. Speaker.
24 Q How tall are you?
25 A I'm 5'4."

1 Q How much do you weigh?
2 A 140.
3 Q Do you know how tall Marcus Mack is about?
4 A He's like 6 feet.
5 Q And about how much does he weigh?
6 A He weighs like 300 pounds.
7 Q So you said that after your break you -- well, what
8 happened after your break?
9 A So I went and I spoke to Chris and I told him that I
10 wanted to put police report. And I also told him that I wanted
11 to write a report about Marcus because what had happened.
12 Because I told him that I felt threatened.
13 Q Did Chris respond?
14 A Well, he told me that -- because he was new, so he told me
15 just to write a statement, because he said he didn't want to go
16 to extreme to call the cops.
17 Q And is the statement that your referring to, is that in
18 front of you, GC-37?
19 A Yes.
20 Q Did you -- and you testified that you gave the statement
21 to him?
22 A Yes, I gave it to him because he was still in training.
23 He said he was going to give it to somebody else.
24 Q Okay. Did you ever hear back about the statement that you
25 provided to him?

1 A No.

2 MR. RIMBACH: Your Honor, I'd like to move for the

3 admission of GC-37 into evidence.

4 MR. WILSON: No objection.

5 JUDGE LAWS: Okay. General Counsel 37 is admitted.

6 **(General Counsel Exhibit Number 37 Received into Evidence)**

7 Q BY MR. RIMBACH: After that incident on January 11th,

8 2018, did you have any more interactions with Marcus?

9 A Yes. There was sometimes when I would go to my lunch

10 area -- there's a little hall that we have to go to, to go to

11 the lunch area. When he would walk next to me or when he would

12 walk the opposite way, like he will bump his shoulder to my

13 shoulder. That happened two times. And there was another one

14 that happened inside the office.

15 Q What was the third time you're referring to? What

16 happened then?

17 A Yeah. That was the third time that he bumped his shoulder

18 inside the office.

19 Q About how long after this incident with the music did he

20 bump into you?

21 A It was like -- like it was all in, like, in that whole

22 time. Like the whole week that all that happened. So it was,

23 like, for, like, a week, two weeks straight that he was, like,

24 on me.

25 Q Did you ever have any conversations with Marcus about

1 this?
2 A No.
3 Q Did you tell anyone about these incidents?
4 A Yes.
5 Q Who did you speak with?
6 A I went to human resource. And I also spoke to Anthony
7 Vasquez.
8 Q So first, when you went to human resources, do you recall
9 who you went to?
10 A Haro Hikati.
11 Q And what did Hikati say?
12 A Well --
13 Q Or what did you say when you approached Hikati?
14 A Well, I told her I wanted to speak to her. So we went
15 inside a separate room from her office. And I told her what
16 was going on. And after, she told me that she can't do nothing
17 for that moment because they have to follow like a relation
18 from the company first. So I have to talk to management. So
19 when I spoke to her, they told me if they couldn't do nothing
20 about it and then human resources would get involved after.
21 Q And then you also said you spoke with Vasquez?
22 A Yes.
23 Q Can you tell me about that conversation?
24 A So after I came out of human resources, I walked -- I went
25 to Vasquez. And that's when I went to speak to him about what

1 happened with Marcus.
2 Q Can you describe that conversation?
3 A Well, I told Vasquez what had happened with Marcus,
4 because he didn't knew (sic) about it at all.
5 Q Are you referring to the music incident?
6 A Yes. And then I also told the other stuff that happened
7 with Marcus; that he bumped his shoulder at me. And there was
8 another one with -- he was driving the forklift and I was
9 driving the pallet jack and he was coming, like, straight at
10 me. And we were so close. He had moved to where he was about
11 to hit me. And I told him that. And then he told me that --
12 after I told him all that and I told him that I went to human
13 resource, he told me that he didn't want me to go at all to
14 human resource, if I had any problems to speak to him.
15 Q Did he say why he didn't want you to go to human
16 resources?
17 A No.
18 Q Okay. The incident with -- you just mentioned for the
19 first time that Marcus drove at you with a pallet jack?
20 A Forklift.
21 Q A forklift?
22 A Like the bigger machine. Yeah.
23 Q When was that?
24 A It was like that whole, like, two weeks that he was, like,
25 on me.

1 Q And that was after the music incident?
2 A Yes. After the music incident.
3 MR. RIMBACH: Your Honor, I'd like to approach the witness
4 with GC Exhibit 38.
5 **(General Counsel Exhibit Number 38 Marked for Identification)**
6 JUDGE LAWS: Okay.
7 Q BY MR. RIMBACH: Do you recognize -- please take a minute
8 to review this document and let me know when you're finished.
9 A Okay. Finished.
10 Q Do you recognize this document?
11 A Yes.
12 Q How do you recognize it?
13 A I wrote it.
14 Q It's dated February 1st, 2018. Is that when you wrote it?
15 A Yes.
16 Q Did you give this statement to anyone?
17 A Yes. I gave it to Anthony Vasquez.
18 Q Why did you write this statement?
19 A Because after the incident -- the music with the incident,
20 Marcus was basically, like, pushing his elbow towards my elbow.
21 And I felt threatened because he was, like, always walk next to
22 me. He would act like he was tough. He would look at me in a
23 bad way. So I didn't feel comfortable at work, so I wrote this
24 and I went and I spoke to Vasquez. And that's when I wrote
25 that statement.

1 MR. RIMBACH: Okay. Your Honor, I'd like to offer GC-38
2 into evidence.
3 MR. WILSON: No objection.
4 JUDGE LAWS: General Counsel 38 is admitted.
5 **(General Counsel Exhibit Number 38 Received into Evidence)**
6 Q BY MR. RIMBACH: Before you were suspended, did you
7 receive any verbal or written warnings about the music incident
8 with Marcus Mack?
9 A No.
10 Q Do you recall whether you received any other discipline
11 from the company --
12 A Just --
13 Q -- other than what we just went over?
14 A Just the tardiness. That I got to work tardy.
15 MR. RIMBACH: Okay. So Your Honor, I'd like to approach
16 the witness with GC Exhibit 39.
17 **(General Counsel Exhibit Number 39 Marked for Identification)**
18 JUDGE LAWS: Okay.
19 Q BY MR. RIMBACH: So your termination letter states you've
20 been warned repeatedly for violations of company policy over
21 the past eight months. So I just wanted to show you these
22 other documents. Could you please take a moment and review
23 this document and let me know when you've finished?
24 A Finished.
25 Q Do you recognize this document?

1 A Yes.
2 Q It's dated June 13th, 2017. Do you recall whether that's
3 the date that you received it?
4 A Yeah, I received it that day.
5 Q Do you know what this verbal counseling record is about?
6 A It's about my tardiness. I was getting to work late.
7 Q And were you late?
8 A Yeah. Traffic. So I was late.
9 MR. RIMBACH: Your Honor, I would like to move for the
10 admission of GC Exhibit 39 into evidence.
11 MR. WILSON: No objection.
12 JUDGE LAWS: General Counsel 39 is admitted.
13 **(General Counsel Exhibit Number 39 Received into Evidence)**
14 **(General Counsel Exhibit Number 40 Marked for Identification)**
15 MR. RIMBACH: Your Honor, I would like to approach the
16 witness with GC Exhibit 40.
17 JUDGE LAWS: Okay.
18 Q BY MR. RIMBACH: Can you please take a minute and review
19 this document and let me know when you've finished?
20 A Finished.
21 Q Do you recognize this document?
22 A Yes.
23 Q And it's dated June 22nd, 2017. Do you recall whether
24 that's the date that you received it?
25 A I received it that day.

1 Q What is this verbal counseling record about? Do you know
2 why you received it?
3 A I received it because I got to the company two minutes
4 late. I clocked in late.
5 Q Was there a change in policy regarding attendance at that
6 time?
7 A Yeah. They had a new policy, like, if you clock in one
8 minute late, that is automatically an X attendance.
9 MR. RIMBACH: Your Honor, I'd like to move -- offer GC
10 Exhibit 40 into evidence.
11 JUDGE LAWS: Okay. Any objection?
12 MR. WILSON: No objection.
13 JUDGE LAWS: All right. General Counsel 40 is admitted.
14 **(General Counsel Exhibit Number 40 Received into Evidence)**
15 Q BY MR. RIMBACH: After you received those two verbal
16 warnings about a tardiness, did you ever receive any other
17 warnings about being late?
18 A No.
19 **(General Counsel Exhibit Number 41 Marked for Identification)**
20 MR. RIMBACH: Your Honor, I'd like to approach the witness
21 with a copy of GC Exhibit 41.
22 JUDGE LAWS: Okay.
23 Q BY MR. RIMBACH: Can you please take a minute and review
24 this document and let me know when you've finished?
25 A I'm finished.

1 Q Do you recognize this document?
2 A Yes.
3 Q It's dated December 11th, 2017. Is that the date that you
4 received it?
5 A Yes.
6 Q The document mentions an incident on December 8th, 2017,
7 where one of our assemblers made a mistake and some of his
8 coworkers teased him about the mistake. Do you recall that
9 incident?
10 A I was not there at -- when it happened. But I was -- when
11 they make the meeting the next day, I was there.
12 Q So at the meeting the next day, could you please describe
13 that meeting?
14 A Well, they all gathered -- they gathered us up next to the
15 office. And they told us that to be careful with our -- the
16 way how we picked orders. They didn't want no mistakes or they
17 wanted us to double check our work. And that's about it they
18 said.
19 Q And it says that you made a derogatory comment to the
20 group regarding the person who made the mistake. Do you know
21 what that's referring to?
22 A Yes. When I got to work, one of my coworkers told me that
23 what had happened that day that I didn't come. So the guy
24 that -- they -- that he went and put a complaint and told him
25 that he was -- that people were making fun of him. I get along

1 with him. His name is Steve. When they had -- they said that
2 in the meeting, I told him something. He was next to me.
3 Q Do you remember what you said?
4 A I'm not sure exactly what I told him.
5 Q Okay. Do you know -- so when you made that comment, that
6 was at the meeting with the whole group?
7 A Yeah.
8 Q How many people were at that meeting, if you remember?
9 A It was, like, probably, like, 20 of us, 30 of us. The
10 whole warehouse. I'm not sure exactly how many.
11 Q Do you know if -- you said Steve was the employee that
12 they were referring to?
13 A Yeah. They didn't say his name in the meeting. But we
14 all knew it was him.
15 Q Okay. That made a mistake?
16 A Yeah.
17 Q And do you know if it was him who complained about your
18 comments? Or do you know why you received this?
19 A He didn't complain about the comment. But --
20 MR. WILSON: Objection. No foundation.
21 JUDGE LAWS: Yeah. How do you know?
22 THE WITNESS: Because Frank was -- Frank told me that he
23 heard me saying the comment. So he said he didn't like that
24 when I said the comment.
25 Q BY MR. RIMBACH: Okay.

1 A Yeah.
2 Q Do you remember if the comment was derogatory? Or do you
3 remember --
4 A Exactly what I said, I don't remember.
5 Q Okay.
6 A Yeah.
7 Q The employee Steve, is that Steve Herrera?
8 A No. That's another Steve. We had two Steves. Yes.
9 Q Do you know the Steve's last name? The one that --
10 A I'm not sure his last name. But Steve Herrera is hired
11 through the company. And the other Steve was agency. Yes.
12 MR. RIMBACH: Your Honor, I would like to move GC Exhibit
13 41 into evidence.
14 MR. WILSON: No objection.
15 JUDGE LAWS: General Counsel 41 is admitted.
16 **(General Counsel Exhibit Number 41 Received into Evidence)**
17 **(General Counsel Exhibit Number 42 Marked for Identification)**
18 MR. RIMBACH: Your Honor, I'd like to approach the witness
19 with GC Exhibit 42.
20 JUDGE LAWS: Okay.
21 Q BY MR. RIMBACH: Can you please take a minute and review
22 this document and let me know when you've finished?
23 A Finished.
24 Q Do you recognize this document?
25 A Yes.

1 Q It's dated January 26th, 2018. Did you receive this
2 document?
3 A Yes.
4 Q Did you receive it on that day?
5 A Yes.
6 Q Can you please explain to me what this document is
7 referring to?
8 A It was about that Romero had said that I was refusing to
9 do the work that Mr. Lu had gave to me.
10 Q Okay. Can you please explain what happened with Mr. Lu?
11 A Mr. Lu had asked me to do an order for him for a customer
12 that was going to come and pick up some merchandise. But I
13 told him that if -- I'll do it once I was done with my order,
14 because I had an order I had to do too. And I told him that I
15 would finish my order fast and then I would get to his so I
16 could do it too. But Mr. Lu would always ask me because I
17 was -- I would always do his work fast. So when I told him, I
18 also told him that I didn't have my pallet jack because one of
19 the drivers had took my pallet jack. So I didn't have anything
20 to work with at that moment.
21 Q And then what happened?
22 A And so I stood right there next to the printer standing
23 waiting for my pallet jack so I could continue doing my work.
24 So I stood there until my pallet jack arrived.
25 Q Okay. Did you eventually do the work that you were asked

1 to do?
2 A Yes. Romero came out of the office and he told me that --
3 he said, really, dude? And I was like, what? And then he told
4 me that there was plenty of machines right there that I could
5 use. And then I told him that I cannot grab them because they
6 have boxes on top. Because each machine, they were assigned to
7 people. So if it had a box on top with markers or something,
8 we're not allowed to get it because that's what they had told
9 us. So there was a couple machines there charging because
10 people were at their lunch time. But we could -- we were not
11 allowed to touch them.
12 Q So it was company policy not to use another employee's
13 pallet jack?
14 A Yes. The drivers could get them. But just other
15 employees cannot grab their machines.
16 Q And then what happened when --
17 A So he just told --
18 Q -- Vasquez approached you?
19 A So --
20 Q Or sorry, was that Romero approached you?
21 A Yes. So Romero told me, like, just grab it. So I was
22 like, okay. I'm like, later on if somebody tells me something
23 I'm going to come and let you know because you're the one that
24 told me basically just to grab the machine. So I grabbed the
25 machine. I went and I did Mr. Lu's job. And I left mine

1 alone. And I did his first. And then I went and continued
2 doing mine after I finished Mr. Lu's job, because he had needed
3 the merchandise fast.
4 Q Okay. So you did perform the task that you were asked to
5 do?
6 A Yes. I did it. Yes.
7 Q Have you ever refused to do work?
8 A No. I always did Mr. Lu's work.
9 Q Have you ever failed to follow instructions?
10 A No.
11 MR. RIMBACH: Your Honor, I would like to move for the
12 admission of GC Exhibit 42 into evidence.
13 MR. WILSON: No objection.
14 JUDGE LAWS: General Counsel's 42 is admitted.
15 **(General Counsel Exhibit Number 42 Received into Evidence)**
16 **(General Counsel Exhibit Number 43 Marked for Identification)**
17 MR. RIMBACH: Your Honor, I would like to approach the
18 witness with a copy of GC Exhibit 43.
19 Q BY MR. RIMBACH: Could you please take a minute and review
20 this document and let me know when you're finished?
21 A I'm finished.
22 Q Do you recognize this document?
23 A Yes.
24 Q Did you receive a copy of it?
25 A Yes, I did.

1 Q The document's dated January 31st, 2018. Do you recall
2 whether you received it that day?
3 A Yes.
4 Q Who gave this document to you?
5 A It was Chris.
6 Q Was there anyone with him when you received this document?
7 A Frank was there and Romero was there.
8 Q Where were you when you received it?
9 A They took me to the back of the facility.
10 Q Do you remember what time that day you received it?
11 A It was in the afternoon.
12 Q So in addition to Frank, Chris, and Romero, was there
13 anyone else there at the meeting?
14 A Vasquez.
15 Q Oh Vasquez.
16 A Anthony Vasquez was there also.
17 Q Not -- oh, also Vasquez?
18 A Yes.
19 Q Okay. Could you please describe what happened at this
20 meeting?
21 A Chris basically gave me the document, which is the
22 warning. And he told me to read it. And after I read it, he
23 read it to me. And he told me that I was getting this warning
24 because I didn't turn in a paper to them, which is -- it was an
25 eviction paper that I had gotten. So I called in to tell them

1 that I needed to move out and I needed some time so I could
2 move out, because I had to leave the apartment where I was
3 living at. So they wanted the paper. So when I came back
4 from -- when I came back to work, I didn't have the paper --
5 the eviction paper, because they asked for it, because it got
6 mixed up between all the stuff I moved.
7 Q Okay. So they asked about the -- Chris asked about the
8 eviction paper?
9 A Yes.
10 Q Did they discuss anything else with you?
11 A They also discussed about a doctor's note.
12 Q Okay. And who was speaking?
13 A Chris.
14 Q And what did he say about a doctor's note?
15 A He told me that -- when he read to me about the doctor's
16 note, I told him that I had returned a doctor's note to them,
17 because when I was moving out, I got hurt. But I still came to
18 work. But at that -- when I was working, Chris saw me limping.
19 And he told me what happened. And then I told him I got hurt
20 when I was moving out.
21 Q So do you remember about when you received the eviction
22 notice?
23 A I didn't know because my wife, she hid it from me because
24 she was scared. So she basically told me like it was already
25 time for us to move out. So when she gave it to me, she was

1 basically crying. And I called the company early in the
2 morning, because I worked in the night. I called them early in
3 the morning and I told them, you know what, I found out this
4 and I have to move out, I need some time off.
5 Q Was that in January?
6 A Yes.
7 Q And then you mentioned you had to call out sick. What was
8 that for?
9 A Well, that has to do with the eviction because I didn't
10 have no sick time. So they -- I didn't have no PTO to use, so
11 they used it as a sick time.
12 Q Okay. And what was the injury?
13 A The injury was when I got hurt while moving out. When I
14 went to work, Chris saw me limping. So he told me that he
15 wanted me to go see my doctor to get a full duty -- so I could
16 come back to work. So I went to see my doctor. But they
17 wanted to refer me to appointments for three months. So I had
18 to go look for another doctor to see me right away so I could
19 come to work. So I took, like, a think like a week so a
20 doctor could see me.
21 Q So the injury was related to moving out --
22 A Yes.
23 Q -- from the eviction?
24 A Yes. It had nothing to do with the company.
25 Q So that was all around the same time?

1 A Yes. All was around the same time.
2 Q Do you know why -- if you look at the first paragraph of
3 this document, do you know why doctor's notes is crossed out?
4 A Yes, because I turned in the doctor's note when I went to
5 see the doctor.
6 Q Did you discuss that at the meeting?
7 A Yes. I told him -- when I read it, I told Chris that I
8 turned in the doctor's note.
9 Q When did you turn the doctor's note in?
10 A I turned it in that same day -- well, not the same day. I
11 went to see the doctor. And when I came out the doctor, I went
12 and I turned it into Anthony Vasquez.
13 Q At some point before you received this written warning?
14 A Yes.
15 Q Who crossed this out, the doctor's note?
16 A It was Chris.
17 Q Someone hand wrote documentation next to where doctor's
18 note is crossed out. Do you see that?
19 A Yes.
20 Q Do you know who wrote that?
21 A It was Chris.
22 Q There's also a CM with a circle. What is that?
23 A Those are Chris' initials. And the ones next to it are my
24 initials.
25 Q The AR next to it are your initials?

1 A Yes. They are my initials.
2 Q Did you write that?
3 A Yes, I wrote that.
4 Q The AR?
5 A Yes.
6 Q And then Chris wrote the CM?
7 A Yes.
8 Q If you'll look at the second page. Is Chris the same
9 person as Christian McCormick?
10 A Yes.
11 Q Also on the second page, do you see towards the top it
12 says employees' comments?
13 A Yes.
14 Q Someone handwrote I've been looking for the paper?
15 A That was mine.
16 Q Who wrote that?
17 A Me.
18 Q Why did you write that?
19 A Because they needed the eviction letter because HR was
20 asking for it.
21 Q Were you able -- were you ever able to provide the company
22 with the eviction letter?
23 A No.
24 Q Why not?
25 A Well, I got suspended and they gave me a certain date to

1 turn it in. And I also couldn't -- I was not able to find the
2 eviction letter.
3 Q Do you recall any other statements from that meeting on
4 January 31st?
5 A No.
6 MR. RIMBACH: Your Honor, I'd like to move for the
7 admission of GC Exhibit 43 into evidence.
8 MR. WILSON: No objection.
9 JUDGE LAWS: General Counsel 43 is admitted.
10 **(General Counsel Exhibit Number 43 Received into Evidence)**
11 JUDGE LAWS: And I just want to do a little check in and
12 see how much longer. We started this testimony right around
13 10. So I want to make sure everybody is --
14 MR. RIMBACH: There will probably be only a couple more
15 minutes, Your Honor.
16 JUDGE LAWS: Oh okay. So let's finish direct then.
17 MR. RIMBACH: Thank you.
18 Q BY MR. RIMBACH: You mentioned in your testimony earlier
19 that another employee, Oscar Ortiz, had complained about your
20 work; do you recall that?
21 A Yes.
22 Q Were there any other issues between you and Oscar Ortiz?
23 A Yes. He wanted to gather up people to put complaints
24 about me about being sick.
25 MR. WILSON: Objection. No foundation.

1 Q BY MR. RIMBACH: How do you know that he did that?
2 A A coworker of mine had told me.
3 Q Who?
4 A It was a temp worker. He was new. So he would get along
5 with me. And he -- once we were going home, he told me once we
6 were parking our pallet jacks to charge. He had told me.
7 Q And what did that coworker tell you exactly?
8 A He told me that Oscar was trying to gather up people to
9 put complaints about me and that I was going home early.
10 Q And you mentioned being sick?
11 A Yeah. And also, because I was sick and I had missed work.
12 So he wanted to put a complaint about that.
13 Q And you were suspended on February 2nd, 2018. How long
14 before that did you hear about what Oscar was doing?
15 A It was for like a month that he was doing that.
16 Q About a month before you were suspended?
17 A Yes.
18 Q Okay. Did you do anything after you found out about
19 Oscar's options?
20 A Yes. I went and I spoke to Anthony Vasquez about it.
21 Q And what did -- when did you speak with him?
22 A When? I'm not sure exactly.
23 Q But it was sometime the previous month before you were
24 suspended?
25 A Yes.

1 Q And what did you speak to him about?
2 A I told -- I told him what was going on with Oscar. That
3 he was trying to gather up workers to put complaints about me.
4 And I told him the incidents that have happened with him. And
5 there was one occasion that he was trying to put a complaint
6 about me because I was in the bathroom for so long. And then
7 so I basically told him, the things that Oscar was trying to
8 do --
9 Q What specifically did you say?
10 A I specifically told him that I wanted to put a complaint
11 to Oscar because I felt harassed.
12 Q Did he respond?
13 A Yes. He responded. He heard me, what I said. And then
14 after, he told me that he was not going to be able to do
15 nothing to Oscar because he was no longer going to be in the
16 company.
17 Q And then what happened?
18 A And then so I told him okay, it's fine. So he told me not
19 to worry about Oscar no more because I will not be seeing him
20 in the company anymore.
21 Q Do you recall whether after that incident you saw him at
22 the company?
23 A After I spoke to him, a week passed and I saw Oscar again
24 in the company.
25 Q Did you ever go to HR about these issues?

1 A No. Like Vasquez told me, he didn't want me to get
2 involved with HR. So I always just went straight to him and
3 speak to him.
4 Q if you know, do you know why Oscar was soliciting employee
5 complaints about you?
6 A He was upset because I had the position of --
7 MR. WILSON: Objection. No foundation.
8 JUDGE LAWS: Yeah. Let's get it -- what was said.
9 Q BY MR. RIMBACH: If you know, did anyone tell you why
10 Oscar was soliciting complaints about you?
11 A Because he was upset about the pallet jack -- I mean, the
12 forklift.
13 MR. WILSON: Once again, objection.
14 JUDGE LAWS: Let's get the conversations.
15 MR. RIMBACH: Sure.
16 JUDGE LAWS: And who said them. And when.
17 Q BY MR. RIMBACH: Were there any conversations specifically
18 about the reasons why Oscar solicited complaints about you?
19 A No.
20 Q You don't recall any specific conversations?
21 A No.
22 MR. RIMBACH: No further questions, Your Honor.
23 JUDGE LAWS: All right. Any questions from the Charging
24 Party?
25 MS. SANCHEZ: Yes. Would it be possible to take a brief

1 break?

2 JUDGE LAWS: I was going to ask. If it was going to be

3 lengthy, why don't we take a break. It's 11:30. Let's take

4 ten. Ready to go back on the record at 11:40.

5 (Off the record at 11:29 a.m.)

6 JUDGE LAWS: All right. It's 11:40. Is counsel ready or

7 do you need more time?

8 MS. SANCHEZ: Your Honor, the Union has some questions

9 that go more to the R case that I'd like to reserve.

10 JUDGE LAWS: Okay.

11 MS. SANCHEZ: But I do have some clarifying questions that

12 I'd like to ask now. It will be brief.

13 JUDGE LAWS: Okay. All right. Let's go back on the

14 record.

15 Whenever you're ready.

16 **CROSS-EXAMINATION**

17 Q BY MS. SANCHEZ: Good morning, Mr. Rodriguez. My name is

18 Renee Sanchez. I'm counsel for Teamsters Local 630. I'm going

19 to ask you a few questions about your earlier testimony.

20 A Okay.

21 Q You testified about going to the warehouse before the

22 first election with a bunch of your coworkers and some union

23 folks to ask for recognition. Do you remember that testimony?

24 A Yes.

25 Q You mentioned that the person who did most of the talking

1 for the Union might have been the president. Were you
2 referring to Lou Villalvazo?
3 A Yes.
4 Q You said that meeting lasted for about 15 minutes total?
5 A Uh-huh.
6 Q At some point, were you asked to leave?
7 A Well, they -- well, our coworkers had told us just to walk
8 out. So --
9 Q And did you do that?
10 A Yeah. We all walked out.
11 Q You also testified about getting a warning and that you
12 went to speak with your manager Isidro right after. Do you
13 remember that testimony?
14 A Yes.
15 Q And you said that Isidro was upset?
16 A Yes.
17 Q You didn't recall Isidro's name. But if you look at GC
18 number 40 that's in front of you -- do you have that document
19 in front of you?
20 A This one?
21 Q GC-40, under supervisor's name, Isidro Garcia. Do you see
22 that?
23 A Oh yes.
24 Q Does that refresh your memory about Isidro, your
25 supervisor's last name?

1 A Yes.
2 Q Is this the same Isidro you testified about earlier?
3 A Yes.
4 Q Okay. Thank you. And when you said Isidro was upset, can
5 you elaborate? Do you know why he was upset?
6 A He was upset because the following day that they gave me
7 the warning, there was a coworker of mine, when we were going
8 home, he came up to me and told me that Oscar Ortiz went up to
9 him and a couple employees to put a complaint about me that I
10 was not bringing down the merchandise. So when that coworker
11 told me that, I went and I spoke to Isidro and told him what
12 was going on.
13 Q And he was upset about the incident?
14 A He was upset about that they gave me the warning about
15 that I was not bringing down the merchandise.
16 JUDGE LAWS: What did he say that made you perceive he was
17 upset?
18 THE WITNESS: Because at that time, we were doing
19 inventory --
20 JUDGE LAWS: What did he say that made you perceive he was
21 upset? Listen to my question carefully because I'm asking you
22 something specific.
23 THE WITNESS: Okay.
24 JUDGE LAWS: What did Isidro say that led you to think, oh
25 wow, Isidro's upset?

1 THE WITNESS: He was upset.
2 JUDGE LAWS: What did he say?
3 THE WITNESS: He said he wanted to speak to him because of
4 what had happened --
5 JUDGE LAWS: Okay.
6 THE WITNESS: -- about the warning.
7 Q BY MS. SANCHEZ: You spoke a bit about the vote for the
8 second election. And you had traveled there with some
9 coworkers.
10 A Yes.
11 Q And you mentioned the showroom. Is that also considered
12 the training room?
13 A Yes.
14 Q And where is that located?
15 A It's right next to the office.
16 Q And are you referring to the office in the warehouse?
17 A Yes.
18 Q I want to talk a little bit about General Counsel Exhibit
19 Number 37 that's in front of you. If you could take a look at
20 that, please. That's your witness statement regarding the
21 January 11th, 2018 incident with Marcus Mack, I think. Do you
22 have that document in front of you?
23 A Yes.
24 Q So I just wanted to clarify who said what. If you go down
25 towards the bottom it says, he told me to shut the F up. Who

1 said that?
2 A Marcus told me that.
3 Q And then you also said that he said to do something. Was
4 that an invitation to fight?
5 A Well, I guess. I don't know. Because he told me, like,
6 shut the fuck up, do something. So --
7 Q Did he make any gestures with his body?
8 A Yeah. He went like this. Like throwing his body towards
9 me but on his chair.
10 Q Thank you. You also mentioned that Marcus served as the
11 Employer's observer at that election?
12 A Yes.
13 Q And you did as well, correct?
14 A Correct.
15 Q Did Marcus show you anything while you two were observing?
16 A Yes. He showed me a magazine with guns on them.
17 Q Do you know why?
18 A No.
19 Q Prior to both of you observing at that election, you had
20 had these incidents?
21 A Yes.
22 Q Including him telling you to shut the F up, to do
23 something, throwing his body towards you, hitting you with his
24 shoulder in the hallway, et cetera. You wrote all of these
25 statements?

1 A Yes.
2 Q Clearly, you weren't friendly with him.
3 A No, not at all.
4 Q So had you had any discussion prior to him showing you the
5 magazine with the guns that day?
6 A Can you repeat the question?
7 Q Let me rephrase. How did it come about that he showed you
8 the pictures of the guns in the magazine the day you were
9 observing?
10 A I felt bad. I felt bad. I don't know. I felt like I was
11 threatened.
12 Q You felt threatened by what?
13 A Yes. By the pictures he was showing me about the guns.
14 Q Did he say anything to you when he showed you the pictures
15 of the guns?
16 A Yes. He told me that he has firearms in his house.
17 Q Did he say anything else about that?
18 A He gave me like a little story like if somebody robs his
19 house, that he'll shoot them. And even though they're not
20 inside his property, that he will drag them inside his property
21 and drop things down just to make it seem like if they had
22 robbed his house.
23 Q Did you respond in any way?
24 A No. I was just quiet because they had told us that we
25 couldn't speak to each other.

1 Q How did it make you feel when he said that to you?
2 A I felt threatened and scared. I didn't feel comfortable
3 being next to him after what was going on with me and him.
4 Q Why do you think he showed you the guns?
5 MR. WILSON: Objection. Lack of foundation.
6 JUDGE LAWS: Yeah. Answer only if you know. I'm not --
7 Q BY MS. SANCHEZ: Do you know why he showed you the
8 pictures of the guns?
9 A Probably to scare me.
10 MR. WILSON: Objection. Lack of foundation.
11 JUDGE LAWS: Yeah. Do you know or is that just your
12 perception?
13 THE WITNESS: That's what I think.
14 JUDGE LAWS: Okay.
15 THE WITNESS: Yeah.
16 MS. SANCHEZ: No further questions.
17 JUDGE LAWS: All right. What do we have in terms of
18 statements? That's probably going to take us through lunch is
19 my --
20 MR. RIMBACH: We have three Jencks statements, Your Honor.
21 JUDGE LAWS: All right. Let's go off the record. We'll
22 incorporate a lunch break and Jencks statement review. We'll
23 figure out how much time once we go off the record.
24 (Off the record at 11:48 a.m.)
25 ///

1 **CROSS-EXAMINATION**

2 Q BY MR. WILSON: Good afternoon, Mr. Rodriguez. My name is
3 Scott Wilson. I'm attorney for the Employer in this case. I
4 want to thank you for coming here this afternoon. I just have
5 some questions for you. It won't take very long.
6 First off, in your testimony you mentioned a supervisor
7 you referred to as Isidro Garcia?
8 A Yes.
9 Q Okay. How long have you known Mr. Garcia?
10 A The four years I was working in the company.
11 Q Did you know him prior to the time you worked at the
12 company?
13 A No.
14 Q And have you ever socialized with him outside of work?
15 MS. SANCHEZ: Objection. Relevance.
16 JUDGE LAWS: Overruled.
17 Q BY MR. WILSON: Have you ever socialized with Mr. Garcia
18 away from work?
19 A No.
20 Q Okay. Would you consider him a friend of yours?
21 A No.
22 Q Your father, Javier Rodriguez also works at the company,
23 correct?
24 A Worked.
25 Q Worked at the company. To your knowledge, does he have a

1 friendship with Mr. Garcia -- Isidro Garcia?
2 A I'm not sure.
3 MS. SANCHEZ: Objection. Relevance.
4 JUDGE LAWS: Overruled.
5 Q BY MR. WILSON: Do you have any knowledge of your father
6 socializing with Mr. Garcia?
7 MS. SANCHEZ: Same objection.
8 JUDGE LAWS: Go ahead and answer. Overruled.
9 THE WITNESS: No.
10 Q BY MR. WILSON: So the first document I'd like you to take
11 a look at is Exhibit 33. And how did you receive this letter?
12 Was it by mail or email?
13 A It was by person.
14 Q By person?
15 A Yes.
16 Q And who gave it to you?
17 A Hector Ramundo was there and Isidro was there.
18 Q Okay. Now, at that point, you were already working for
19 the company through the temp agency?
20 A Yes, I was.
21 Q And so Hector who?
22 A Hector Ramundo.
23 Q Hector -- oh. I thought you said Hector and Ramundo.
24 Hector Ramundo. So who is Hector Ramundo?
25 A He was my manager from the night shift when I started

1 working.
2 Q And did you know this was in the works, that you were
3 going to be converted from temporary status to full time
4 status?
5 A Yes.
6 Q Okay. And who is this document signed by?
7 A It's my signature.
8 Q No, no, I'm sorry. From the company, who is the person
9 that's designated as Hikari Konishi?
10 A That's human's resource (sic).
11 Q And had you ever met Ms. Hikari or talked to her in person
12 prior to receiving this letter?
13 A No.
14 Q Okay. Now, after you received this letter, were you given
15 other documents to sign?
16 A Yes. I went to human resource because I had to fill out
17 some documents like for the 401(k) and other stuff.
18 Q Okay. Now, if you look at the bottom of Exhibit 33, the
19 very last paragraph, can you read that paragraph?
20 MR. RIMBACH: I'm sorry, which page are you referring to?
21 MR. WILSON: The first page. I'm sorry. The first page
22 of Exhibit 33.
23 Q BY MR. WILSON: Do you recall reading that document --
24 excuse me, that paragraph the day you received this letter?
25 A Well, I didn't read the whole thing. They basically

1 explained to me everything when they gave me the paperwork.
2 Q Okay.
3 A Yes.
4 Q Did they give you documents to sign stating you would read
5 and comply with the employee handbook?
6 A Yes.
7 MR. WILSON: So I'm going to mark as and give the witness
8 what's going to be Employer Exhibit Number 1.
9 JUDGE LAWS: Okay.
10 **(Employer Exhibit Number 1 Marked for Identification)**
11 Q BY MR. WILSON: Now, can you take a look at Employer
12 Exhibit Number 1?
13 A Finished.
14 Q Okay. Is that your signature on Employer Exhibit 1?
15 A Yes.
16 Q Okay. Do you recall when you went -- had your meeting
17 with HR, do you recall signing that document?
18 A Yes.
19 Q Okay. And that document indicates that you will become
20 familiar with and abide by the rules in the company handbook,
21 correct?
22 A Yes.
23 Q Did they give you a copy of the company handbook at that
24 time?
25 A They gave it to me I think the following day.

1 Q Okay. And keeping with the document that you signed in
2 Exhibit 1, did you read the rules in the employee handbook?
3 A Yes. They gave us time to read it.
4 Q Okay. But did you read it?
5 A Oh yes.
6 Q Okay. And did you familiarize yourself with those rules?
7 A No, I didn't. No.
8 Q Okay. So you don't recall what rules were in the employee
9 handbook whenever you signed that document?
10 A No --
11 Q Okay. When did you sign the document? What date?
12 A It was on the 27th of --
13 MS. SANCHEZ: Objection, Your Honor. The document speaks
14 for itself.
15 MR. WILSON: Well, I just want to make sure he
16 acknowledges that he signed it --
17 THE WITNESS: Oh yeah.
18 MR. WILSON: -- on the date.
19 MS. SANCHEZ: I think he did.
20 MR. WILSON: I'm sorry. Okay.
21 Q BY MR. WILSON: But you don't recall what rules were in
22 the handbook that you were supposed to comply with?
23 A No.
24 Q So you don't recall a rule in the handbook about
25 insubordination?

1 A No.
2 Q You don't recall a rule in the handbook about derogatory
3 behavior towards management?
4 A No.
5 Q You don't recall a rule in the handbook about sexual or
6 other types of harassment towards employees?
7 MS. SANCHEZ: Objection, Your Honor. The question -- this
8 line of questioning is argumentative. The witness has already
9 stated he didn't recall.
10 MR. WILSON: Well, I'm trying to refresh his recollection.
11 He said he read the handbook. Maybe if we ask him a few more
12 questions he'll recall.
13 JUDGE LAWS: Overruled.
14 Q BY MR. WILSON: And do you recall any rule in the handbook
15 that referred to excessive absenteeism or tardiness?
16 A I don't remember.
17 Q Okay. Now, after you were terminated on February 15th, I
18 believe it was -- or excuse me, let's back up. After you were
19 suspended on February 2nd, I believe it was, did you contact
20 the Teamsters Union?
21 A I contacted the company.
22 Q Okay. But in what way did you contact the company?
23 A Try to figure out -- to get information why was I being
24 well, fired. Because Frank told me I was getting fired when he
25 gave me that letter.

1 Q Okay. And why did he tell you that you were being fired
2 again?
3 A He told me because I was threatening my coworkers to vote
4 for the Union.
5 Q Okay. And so did you get satisfactory answers from the
6 company as to why you had been suspended?
7 A But I wanted to know like exactly the right information.
8 Like from who, or what was it for exactly.
9 Q Okay. But did they tell you? Did they come back over and
10 explain that to you?
11 A No. Never called me. Never gave me explanations. Never
12 got response; I called, anything, mailed them, nothing.
13 Q Okay. And after you didn't get that satisfactory
14 information after the suspension, then a couple weeks later you
15 were terminated, correct?
16 A Yes.
17 Q Okay. Did you try to contact them again after that?
18 A Yes.
19 Q Okay. Did you get any satisfactory --
20 A The only thing they told me --
21 JUDGE LAWS: Well, wait until the question is finished.
22 THE WITNESS: Okay.
23 JUDGE LAWS: Let's start over.
24 Q BY MR. WILSON: Did you get a satisfactory response after
25 that?

1 A No. They told me that Hikari was on vacation.
2 Q Okay. So what did you do after you tried to contact the
3 company and you weren't given an explanation for your
4 termination?
5 A I spoke to somebody from human resources. But he said
6 that he couldn't give me any information. So the only thing he
7 told me was that the only thing he would give me was the copies
8 of my documents and that's about it.
9 Q All right. So then did you decide to go to the Teamsters
10 Union and complain about that?
11 A Yeah.
12 Q Okay. And when did you first go to the Teamsters Union?
13 A I told them about that the company was not responding.
14 And I showed them the documents of the copies that they had
15 gave me about my written warnings.
16 Q So you considered at that point you had a dispute with the
17 company, did you not?
18 A Yeah.
19 Q Okay. An employment-related dispute, did you not?
20 A Uh-huh.
21 Q Okay. And to your knowledge did the Teamsters file an
22 unfair labor practice charge on your behalf?
23 A Yes.
24 Q Okay. And that's why we're here today, correct?
25 A That's correct.

1 Q Okay. I want to show you what's been marked as -- or will
2 be marked as Exhibit Number 2 for Respondent.
3 **(Employer Exhibit Number 2 Marked for Identification)**
4 JUDGE LAWS: Did you want to move to admit 1 --
5 MR. WILSON: Oh, I'm sorry.
6 JUDGE LAWS: -- while we're --
7 MR. WILSON: Yeah. I move to admit Employer Exhibit 1.
8 JUDGE LAWS: Okay. Any objection?
9 MR. RIMBACH: No, Your Honor.
10 MS. SANCHEZ: No.
11 JUDGE LAWS: Okay. I'll admit Employer Exhibit 1.
12 Thanks.
13 **(Employer Exhibit Number 1 Received into Evidence)**
14 Q BY MR. WILSON: So Mr. Rodriguez, I want to show you a
15 document that's been marked as Employer Exhibit 2 and ask if
16 you recognize that document.
17 A Yes.
18 Q Okay. And did you sign that about the same time --
19 A Yes.
20 Q -- you signed Employer Exhibit Number 1?
21 A Yes.
22 Q Okay. And do you know what this document is?
23 A Don't remember.
24 Q Okay. Can you read the first sentence?
25 MR. RIMBACH: Objection. The document speaks for itself.

1 MS. SANCHEZ: Objection. The document speaks for itself.
2 MR. WILSON: I just want him to read it, so he can
3 familiarize himself with it.
4 JUDGE LAWS: Don't read it out loud.
5 MR. WILSON: No, just to yourself. I'm sorry. Okay.
6 MR. RIMBACH: Also, objection as to relevance with respect
7 to this document.
8 MS. SANCHEZ: Same objection.
9 JUDGE LAWS: Well, he hasn't been asked a question about
10 it yet, so I'll --
11 THE WITNESS: Okay.
12 Q BY MR. WILSON: Okay. So --
13 JUDGE LAWS: I can anticipate where you're going, but
14 we're not there yet.
15 MR. WILSON: Okay.
16 Q BY MR. WILSON: So the very first sentence states that if
17 you have an employment-related dispute, you'll submit it to
18 arbitration, correct?
19 A Uh-huh.
20 Q Okay. And you signed --
21 MR. RIMBACH: Objection. Relevance.
22 JUDGE LAWS: Yeah. I mean, I --
23 MR. WILSON: Your Honor, we don't have to get into this
24 other than briefing it later, but I do want to establish, on
25 the record. And we can move on from this if we can simply

1 agree he signed this arbitration agreement, and then we'll move
2 on from it.
3 MR. RIMBACH: Also --
4 JUDGE LAWS: Absolutely.
5 MR. RIMBACH: -- and case law --
6 JUDGE LAWS: I mean, I understand what the law is.
7 MR. RIMBACH: Okay.
8 JUDGE LAWS: I think counsel is -- again, I hate to
9 speculate, but perhaps going to argue that it should be
10 changed. I will follow the law as it is. I'm not going to
11 preclude counsel from making whatever arguments he chooses to
12 make in his defense, and --
13 MR. RIMBACH: Okay. That's fine.
14 JUDGE LAWS: -- I would imagine this is going to that. So
15 if we can --
16 MR. WILSON: Yeah, we can move on. I just wanted to
17 establish that this was put into evidence.
18 JUDGE LAWS: All right. And are -- if this is -- do you
19 want to move this --
20 MR. WILSON: Yes, I was going to -- the next thing I was
21 about to say was over their objection, I would like to move it
22 into evidence. Yeah.
23 MR. RIMBACH: And same objection as to relevance, Your
24 Honor.
25 MS. SANCHEZ: The Union reiterates its objections, as

1 well.

2 JUDGE LAWS: Okay. And I understand, and I -- the law is

3 what it is in this area. Until it changes, I will apply it.

4 But I am not going to foreclose counsel from putting it into

5 the record to argue and brief --

6 MR. WILSON: Okay.

7 JUDGE LAWS: -- whatever he wants to argue. The less I

8 say, the better. So --

9 MR. WILSON: That's all right.

10 JUDGE LAWS: -- I will admit Employer Exhibit 2.

11 **(Employer Exhibit Number 2 Received into Evidence)**

12 MR. WILSON: You can offer an advisory opinion, but --

13 JUDGE LAWS: Exactly.

14 MR. WILSON: -- we just won't argue it. So, okay. All

15 right. Thank you, Your Honor

16 MR. RIMBACH: Well, I'm sorry, I just wanted to -- you

17 made a comment about the law is what it is, but I'm not sure if

18 that's referring to DR Horton or a separate -- separate case

19 law.

20 JUDGE LAWS: I -- I don't -- I'm not going to give a

21 lecture on the law and mutual agreements to arbitrate as they

22 pertain to the validity to file Board charges.

23 MR. RIMBACH: Okay.

24 MR. WILSON: Well, Your Honor, there's a brand new, U.S.

25 Supreme Court case called Epic Systems, and you know, as far as

1 we're concerned, that changes the landscape here. But I don't
2 want to argue that today.
3 JUDGE LAWS: Exactly. And we're not going to argue that
4 today, and that will be saved for briefs.
5 Q BY MR. WILSON: Okay. So Mr. Rodriguez, back to your
6 testimony here. So as I recall when you testified earlier, you
7 mentioned you first heard about the Union through it was
8 Mr. Rolando Lopez?
9 A Yes.
10 Q Okay. And he still works at the company, doesn't he?
11 A Yes. Correct.
12 Q And do you recall approximately when he contacted you
13 about being involved with the Union?
14 A Can you repeat the question?
15 Q Do you recall approximately when he contacted you about
16 being involved with the Union?
17 A I'm not sure. I'm not sure exactly when.
18 Q Okay. So there was an election in September 2017,
19 correct?
20 A Yes.
21 Q And do you recall if that election was approximately on or
22 about September 19th, 2017?
23 A Yes.
24 Q Okay. So did he contact you prior to the election in
25 September 2017?

1 A Yes.
2 Q Okay. What did he say when he contacted you?
3 A Well, first he said he wanted to speak to me, but I had
4 told him I was going to put my stuff away, my lunch. And then,
5 I walked back outside to the parking lot and that's when he
6 started speaking to me in my car. And he told me --
7 Q What did he say?
8 A -- he said that if I wanted to hear him -- listen to him
9 about the Union stuff like that, about the company and the
10 difference about the Union and the company, so I heard him.
11 And he gave me a little card to sign so I could get more
12 information about the Union.
13 Q Okay. And did he say at that point there was a committee
14 of employees who were trying to bring in the Union?
15 A Yeah. He told me that there was -- yeah.
16 Q Okay. And did you decide then to join the committee?
17 A Uh-huh.
18 Q Okay.
19 UNIDENTIFIED SPEAKER: I'm sorry, was that a yes?
20 THE WITNESS: Yes.
21 Q BY MR. WILSON: Okay. And do you recall who else was on
22 the committee?
23 A It was Roland and --
24 Q By Roland do you mean Rolando Lopez?
25 A No, Roland -- there's Rolando Lopez and there's another

1 one that's Roland.
2 Q Okay.
3 A It's -- yeah. And Yader.
4 Q Yader?
5 A Yes.
6 Q Okay. And who else?
7 A And I'm not -- oh, and Luis.
8 Q Luis Lopez?
9 A Lopez, I think is it.
10 Q Okay. Can you recall anyone else?
11 A That's all who I remember so far.
12 Q Okay. So then after that, you became a regular member of
13 that committee, correct?
14 A Uh-huh.
15 Q And did you regularly communicate with representatives of
16 the Teamsters Union?
17 A Yes.
18 Q Okay. And were you the spokesperson for the committee to
19 deal with the Teamsters Union?
20 MS. SANCHEZ: Objection as to spokesperson.
21 MR. WILSON: Okay.
22 Q BY MR. WILSON: Were you the -- well, were -- was it your
23 job as a member of the committee to stay in contact with the
24 Teamsters Union?
25 A Yes.

1 Q Okay. And who did you deal with at the Teamsters Union?
2 A Carlos Quinonez.
3 Q Okay. Is he -- he's here today, is he not?
4 A Yes.
5 Q Okay. And what sort of instructions did Mr. Quinonez give
6 you as a committee member?
7 A He told me that to basically speak to people that want to
8 hear about the Union. And if they didn't, just leave them
9 along. But if they did, to give them a card to sign and they
10 would be given more information about the Union.
11 Q And he told you to keep the identity of the committee
12 member a secret from management, didn't he?
13 A No.
14 Q No. Okay. Was it your idea that you should tell
15 management who was on the committee?
16 A No, I didn't --
17 MR. RIMBACH: Objection. I think that that wasn't -- that
18 facts haven't been put into the record.
19 JUDGE LAWS: Let's ask --
20 MR. RIMBACH: You're assuming facts that aren't in
21 evidence.
22 Q BY MR. WILSON: Did Mr. Quinonez ever tell you to keep the
23 identity of the committee members secret from management?
24 A Not that I remember.
25 Q Okay. And did you attempt to keep the identity of the

1 committee members a secret from management?
2 A No.
3 Q Did you openly go to anyone in management and tell them
4 who was on the committee?
5 A No.
6 Q Okay. You just didn't discuss it with them?
7 A Yes.
8 Q Okay. But you did communicate to your coworkers that
9 there was a committee, correct?
10 A Yes.
11 Q And did you tell the coworkers who was on the committee?
12 A Yes.
13 Q Okay. Now you also testified about an incident in August
14 2017 when the Teamsters Union showed up at work to present the
15 company with a petition; do you recall that?
16 A Yes.
17 Q Okay. And as I understand your testimony, the purpose of
18 that -- them coming on the property was to ask the company to
19 recognize the Teamsters; is that correct?
20 A Yes.
21 Q Okay. And do you recall what time of day that they came
22 onto the property?
23 A It was in the morning.
24 Q Okay. Do you -- approximately when?
25 A It was like 9:00.

1 Q Okay. And you were working at 9:00, were you not?
2 A No, I was -- I work in the night.
3 Q Okay. Were there other -- so did you go with the
4 Teamsters Union to present the petition? Or were you there on
5 the property when they arrived?
6 A I was there with some coworkers of mine.
7 Q Okay. Why were you there at 9 in the morning if you work
8 at night?
9 A Because we were all going to go.
10 Q So you knew in advance that they were going to come and
11 present the petition, correct?
12 A Yes.
13 Q Okay. And when did you find this out?
14 A My coworkers, we all knew about that. We all went to a
15 meeting.
16 Q Okay. And when was that meeting?
17 A It was --
18 MS. SANCHEZ: Objection as to relevance. There's already
19 been discussion about the meeting happening, and I'm not sure
20 that this line of questioning is appropriate nor is it
21 responsive to direct examination of this witness.
22 JUDGE LAWS: Overruled.
23 Q BY MR. WILSON: So when was this meeting to talk about
24 presenting the petition at the company
25 A At the local.

1 Q Okay. And when did it take place?
2 A Saturdays.
3 Q Saturday?
4 A Yes.
5 Q And do you recall what day of the week they actually went
6 to the company to present the petition?
7 A I remember exactly.
8 Q Okay. Do you recall how many days after Saturday it was?
9 A Can you repeat that question?
10 Q Do you recall how many days after Saturday it was?
11 A No. I don't remember.
12 Q Okay. So you said when the Union came to present the
13 petition, you were there waiting for them?
14 A Yes.
15 Q Okay. And where were you on the company premises?
16 A Actually, somebody picked me up. We were in the parking
17 lot.
18 Q Which parking lot?
19 A The one outside the gate. The one that's on the side.
20 Q Okay. So you weren't inside the company?
21 A No, I was outside.
22 Q Okay. And when the Union got there to present the
23 petition, what happened next?
24 A We all walked inside the company.
25 Q Okay. And how did you get in?

1 A Somebody from inside the company opened the -- one of the
2 employees in the company opened the door for us to go inside.
3 Q Okay. And how many people walked in the door that was
4 opened from the inside?
5 A Like 15 of us.
6 Q 15 of you?
7 A Yeah.
8 Q Okay. And then when you got inside you were joined by
9 additional coworkers, correct?
10 A Correct.
11 Q Okay. And so how many additional coworkers joined the
12 group that walked in the door?
13 A The majority of the people from the company.
14 Q So you think there were probably in this group about 70 or
15 80 people?
16 A Yeah.
17 Q Okay. And were a number of them wearing Teamster
18 T-shirts?
19 A Yes, everybody was.
20 Q Everybody was.
21 A Yes.
22 Q So all 70 or 80 people wearing these T-shirts?
23 A Yes.
24 Q Okay. And then how long after you walked in the door --
25 or excuse me, let me back up. You testified earlier that you

1 were chanting and singing. How long after you walked in the
2 door --
3 MS. SANCHEZ: Objection. Misstates his testimony. He
4 didn't testify that he was chanting.
5 JUDGE LAWS: He said singing, but with that --
6 MR. WILSON: Oh, I thought he said both, but okay.
7 Q BY MR. WILSON: So how long after you walked in the door
8 did the singing start?
9 A After everybody, the drivers and the coworkers and people
10 from the shipping area, they all gathered up with us.
11 Q Okay. And who started to sing?
12 A All of us. We all started together.
13 Q Okay. And what was the song you were singing?
14 A I don't remember. But we all said like what we wanted
15 from the contracts. So we sang like what did we want, and we
16 said like contracts. And we said like certain things, but I
17 just exactly don't remember.
18 Q Okay. So then by then there was a group of 70 or 80
19 people?
20 A Yes.
21 Q Chanting, correct?
22 A Yes.
23 Q And the chants were loud, were they not?
24 A Yes.
25 Q Okay. You wanted them to be loud because you wanted to

1 get your point across, correct?
2 A Uh-huh.
3 Q Okay. So then did this group of -- or singing or
4 chanting, however we want to refer to it, then where did you go
5 as a group?
6 A We went to go look for Nishomoto (sic). So we went to the
7 back area, which is next to the bench area.
8 Q Next to the lunch area.
9 A Yeah, there's a little office and like right next to the
10 lunch.
11 Q Okay. And when the group went there, they were still
12 chanting, correct?
13 A No. Once we stepped inside that room, we were not
14 chanting no more. We were just --
15 Q Oh, okay. Once you stepped inside what room?
16 A Inside to the office.
17 Q Where Nishomoto was?
18 A Yes.
19 Q Narimoto, I'm sorry?
20 A Yeah.
21 Q Okay. And that's when you quit chanting?
22 A Yeah.
23 Q And you quit chanting, so the Teamsters Union could
24 present the petition to Mr. Narimoto, correct?
25 A Yes.

1 Q Okay. Were you in the room when you saw the Teamsters
2 Union approach -- Teamsters Union officials approach
3 Mr. Narimoto?
4 A Yes.
5 Q Okay. And what did he say?
6 A I couldn't hear; I was in the back.
7 Q Okay. Now going back over your testimony, 15 or so of you
8 walked in the door, and this was approximately 9 a.m. Were the
9 employees in the facility who joined in the demonstration, were
10 they working before you got there, to your knowledge?
11 A Yes, they were working.
12 Q Okay. Do you know if they clocked out to join the
13 demonstration?
14 A No, they didn't clock out.
15 Q They didn't clock out? Or --
16 A Well, I don't know --
17 MS. SANCHEZ: Objection. Calls for speculation.
18 MR. WILSON: Well, that's why I asked him if he knew.
19 JUDGE LAWS: Yeah. Do you know?
20 THE WITNESS: No, I don't know.
21 MR. WILSON: Okay.
22 Q BY MR. WILSON: Do you think they had time to go clock
23 out?
24 MS. SANCHEZ: Objection. Calls for speculation.
25 JUDGE LAWS: Again, answer only if you know.

1 THE WITNESS: I don't know.
2 MR. WILSON: Okay.
3 Q BY MR. WILSON: Was there any discussion when you had the
4 meeting at the local prior to going to present the petition
5 that the employees in the warehouse should clock out when you
6 arrived there?
7 A No.
8 Q No. Okay. So to your knowledge, they remained on the
9 clock?
10 A Yes.
11 Q Okay.
12 MR. RIMBACH: Objection. I just would like to strike that
13 testimony. He said he didn't know earlier.
14 MR. WILSON: Well, he contradicted himself.
15 JUDGE LAWS: One way or the other, I can sort that out.
16 MR. WILSON: All right. Okay.
17 Q BY MR. WILSON: And so you indicated that this entire
18 process took about 15 minutes?
19 A Yes.
20 Q Okay. And so how did it end? Why did you leave?
21 A Because they told us to leave because Nishomoto didn't
22 want to like sign the contract. So after he said no, we just
23 all left.
24 Q Okay. So to your knowledge did the employees involved in
25 the demonstration go back to work?

1 A Yes, they went straight back to work.
2 Q Okay. And then the people that arrived with you and the
3 Teamsters just left the property?
4 A Yeah, we all left together.
5 Q Now when the group approached Mr. Narimoto's office were
6 there other people in the area that you observed who weren't
7 part of your group?
8 A The people that worked in their office that they have
9 right there.
10 Q Okay. And how many people were in there?
11 A I'm not sure.
12 Q Okay. So can I direct your attention to General Counsel's
13 Exhibit 34? That was presented to you earlier. Okay. Do you
14 want to take a second and look at that?
15 A I know what it is.
16 Q Okay. So at the top it says, description of the incident.
17 And then, there's like three bullet points. Do you see those?
18 A Yes.
19 Q So let's talk about the first bullet point. Is it your
20 testimony that the complaint about failing to bring down
21 merchandise from the tops of shelves were invalid?
22 A No.
23 Q So -- well, I'm sorry. Let me clarify. So is what's
24 stated in the first bullet point, we received complaint from
25 your colleague that you rejected a request to bring -- from

1 team members to bring down merchandise from the top of the
2 shelves. Do you think that's a true allegation against you?
3 A No.
4 Q Okay. And why is that?
5 A Because I always brought the merchandise down.
6 Q Okay. So the company simply made that up then?
7 A Uh-huh.
8 Q Okay. There no --
9 JUDGE LAWS: Is that a yes?
10 THE WITNESS: Yes.
11 JUDGE LAWS: Yes.
12 THE WITNESS: Yes.
13 Q BY MR. WILSON: Okay. There's no basis, in fact, to your
14 knowledge for that allegation whatsoever?
15 A Uh-huh.
16 MR. RIMBACH: I'm sorry; is that a yes or no?
17 THE WITNESS: Yes.
18 MR. RIMBACH: Okay.
19 THE WITNESS: Yes.
20 MR. WILSON: Okay.
21 Q BY MR. WILSON: And can you read bullet point two?
22 A Okay.
23 Q Okay. Once again, do you think that's a fair allegation
24 against you?
25 A No.

1 Q Okay. And why do you think it's unfair?
2 A Because it's not true what it says.
3 Q Okay. Why is it not true?
4 A Because I would always just do my work.
5 Q Okay. So once again, the company simply made that up and
6 put it in there, and to your knowledge, there's no basis,
7 whatsoever, for that allegation?
8 A Yes.
9 Q Okay. And then can you read bullet point number three?
10 A Okay.
11 Q Okay. Now do you think that's a fair allegation against
12 you?
13 A No.
14 Q Okay. So is it your testimony you never called anyone an
15 idiot or stupid?
16 A Only to guys I get along with, yes.
17 Q Okay. So it's true to the extent that you said it, as I
18 understand it, jokingly to people that were your friends?
19 A Yes.
20 Q Okay. But if the company wrote you up for that, you think
21 that's completely unfair?
22 A Yes.
23 Q Okay. Now can we turn your attention to Exhibit 39? Do
24 you recall, from your earlier testimony, reviewing Exhibit 39?
25 A Yes.

1 Q Okay. Are -- is exhibit -- are the incidents of being
2 tardy in Exhibit 39 accurate?
3 A I'm not sure. I don't remember. That was a long time,
4 sir.
5 Q So you don't recall whether that you were late on 4/19/17
6 is true or not?
7 MS. SANCHEZ: Objection. Asked and answered.
8 JUDGE LAWS: Overruled.
9 Q BY MR. WILSON: Well, can you look at the 4/19/17, it says
10 called, started at 7 p.m.
11 A Yes.
12 Q Okay. Is that an accurate statement -- allegation against
13 you?
14 A Yeah.
15 Q Okay. And then where it says 5/23 called, started at 6
16 p.m., and the starting time is 5 p.m. Do you recall being late
17 on that day?
18 MS. SANCHEZ: Objection, Your Honor. Same objection.
19 It's been asked and answered. The witness testified he didn't
20 recall, originally.
21 JUDGE LAWS: And I will allow him to ask about this
22 specific incident, so overruled.
23 MR. WILSON: Okay.
24 Q BY MR. WILSON: So is the statement, is the sentence at
25 the bottom, the scheduled start time is 5 p.m.; is that

1 accurate?
2 A Yes.
3 Q Okay. And you don't recall whether then you started at 6
4 p.m. that particular day, 5/23/17?
5 A No, I started at 5.
6 Q Okay. So the second entry where it says you started at 6,
7 you're saying that's inaccurate?
8 A Well, I got there late.
9 Q Okay. So you did --
10 A Yeah.
11 Q -- get there late?
12 A Yes.
13 Q Okay. So that can -- the statement that you started at 6
14 p.m., an hour late, is accurate; is it not?
15 A Yes.
16 Q Okay. And then if we go to 6/7/17, called, started at 6
17 p.m.; were you an hour late that day, also?
18 A Yes.
19 Q Okay. And where it says, 6/8/17, called, started at 7:15
20 p.m., which would be 2 hours and 15 minutes late, is that
21 statement accurate?
22 A Yes.
23 Q Okay. And then the last one, 6/13/17, called, started at
24 7 p.m., two hours late, is that statement accurate?
25 A Yes.

1 Q Okay. Now can we go to Exhibit Number 40? Okay. Can you
2 read Exhibit 40?
3 A I know what it is.
4 Q Okay. So once again, there's an allegation or a statement
5 in there that you were tardy?
6 A Yes.
7 Q Is that statement accurate or not accurate?
8 A Yes.
9 Q It is accurate?
10 A Yes.
11 Q Okay. And then if we could go to Exhibit 41. Can you
12 take a look at Exhibit 41?
13 A Okay.
14 Q Okay. And you recall this from your earlier testimony,
15 correct?
16 A Yes.
17 Q Okay. Now, you received a verbal counseling record. Do
18 you think the statements in the Exhibit 41 that were signed by
19 your supervisor, Anthony Vasquez, are accurate?
20 A No.
21 Q No. So once again, the company just made this up? Is
22 that your testimony?
23 A Yes.
24 Q Okay. And could we go to Exhibit 42? And can you take a
25 second and read that?

1 A I know what it is.
2 Q Okay. Now once again, there is a verbal counseling by
3 Mr. Vasquez. And after you -- and you've had an opportunity to
4 read that. Is it your testimony that the allegations in that
5 verbal warning or counseling record are fair or not fair?
6 A Not fair.
7 Q Okay. And you think they're completely inaccurate?
8 A Yes.
9 Q Okay. So once again, the company just made all of this
10 up?
11 A Yes.
12 Q And finally, can we go to Exhibit Number 43? Okay. So I
13 just -- a few questions about this incident. And can you turn
14 to the back page of this? Okay. There's a statement, I've
15 been looking for the paper. Is that your writing?
16 A Yes, that's my writing.
17 Q Okay. And can you tell me again what that was -- what
18 paper that was referring to?
19 A It was for the eviction letter that I got it.
20 Q Okay. So you never did produce the eviction notice to the
21 company, then, did you?
22 A No.
23 Q Okay. But then flip back to the first page. But then as
24 I understand your testimony, you did come in with a doctor's
25 note?

1 A Yes.
2 Q Okay. Now can we turn your attention to Exhibit 37. And
3 can you take a few minutes and look at that?
4 A I know what it is.
5 Q Okay. So as I understand your testimony and this
6 statement that the incident you're describing took place on
7 January 11th, 2018?
8 A Correct.
9 Q Okay. And that's the date in the upper right-hand corner?
10 A Yes.
11 Q So this incident occurred the day that you're talking
12 about?
13 A Yes.
14 Q Okay. And prior to this incident, I don't believe you
15 offered any testimony that you'd had disputes with Marcus Mack?
16 A Uh-huh.
17 Q So this was the first time that you and he had an
18 altercation, correct?
19 A Yes, that was the first time.
20 MR. RIMBACH: Objection. I'm not sure if the witness ever
21 testified as to Marcus' last name.
22 JUDGE LAWS: It came up somehow.
23 MR. RIMBACH: Okay.
24 JUDGE LAWS: But is that his last name?
25 THE WITNESS: I don't know.

1 JUDGE LAWS: Okay.
2 THE WITNESS: I'm not sure.
3 Q BY MR. WILSON: Okay. You don't know if his last name is
4 Marcus Mack?
5 A I don't know. Yeah.
6 Q Okay. Okay. You just know him as Marcus?
7 A I just know him as Marcus.
8 Q And is Marcus an African-American gentleman?
9 A Yes.
10 Q Okay. So is it your testimony that Marcus just suddenly
11 asked you to turn off your music?
12 A He didn't ask me. He told Chris to tell me.
13 Q Okay. And did he say anything to you before he told
14 Chris?
15 A No.
16 Q Okay. And how was it that he summoned Chris? Did he go
17 find him or?
18 A Chris was coming towards us.
19 Q Okay. And where did the incident take place?
20 A Right there by the lunch area. Right next when you come
21 in through the facility doors. So like right there against the
22 wall.
23 Q Okay. So Chris happened to be in the area?
24 A Well, he was going to the lunch area, so he was coming
25 like --

1 Q Okay.
2 A -- towards us to go to the kitchen.
3 Q And you mentioned an artist you were playing earlier; his
4 name was Young Stupid or Stupid Young?
5 A Stupid Young.
6 Q Stupid Young?
7 A Yes.
8 Q Okay. All right. I forgive the generational gap here.
9 I'm not familiar with him. I'm sure he's very good. Okay.
10 But then you also stated that you were shuffling the music?
11 A No, it shuffles itself.
12 Q Okay. Once again, I excuse the generational gap here.
13 Shuffle itself meaning, I believe you testified that the songs,
14 on their own, are changing?
15 A Yes.
16 Q Okay. So do you recall other, besides Stupid Young, who
17 the other artists were that were coming up?
18 A There's Mexican like, singers, so I mean, I was listening
19 to Ger Ortiz.
20 Q Okay.
21 A It's a Mexican singer. So only -- only got to hear one
22 song for Stupid Young and two songs from Ger Ortiz.
23 Q Okay. And how long have you been playing the music before
24 Mr. Mack ask you -- or asked Chris to tell you to turn it off?
25 A Once I -- once -- I walked and sat down, I started playing

1 my music.
2 Q Okay. And how long did the music last though before
3 Mr. -- before Marcus went to Chris to ask you to turn it off?
4 A I played it the whole -- my whole break.
5 Q Okay. So how long was that?
6 A Fifteen minutes.
7 Q Okay. How far into the break though did Marcus -- how far
8 into the break was it before Marcus asked Chris to ask you to
9 turn it off?
10 A Like two minutes, two, three minutes we were in break.
11 Q Okay.
12 A Everybody sat down.
13 Q Now when he asked Chris to ask you to turn off the music,
14 did he appear angry?
15 A I didn't -- I didn't see -- I didn't look at Marcus, I
16 just looked at Chris.
17 Q Well, did you see Marcus approach Chris?
18 A No, we were sitting down. He -- he called them over.
19 Q Okay.
20 A Yes.
21 Q Okay, but you saw him calling him over, correct?
22 A Yeah.
23 Q Okay. Did he appear angry when he called Chris over?
24 A I don't know.
25 Q Well, you say him, didn't you?

1 A Well, I heard him when he told them -- Chris, like, to
2 come over. Yeah.
3 Q Okay. What sort of tone of voice did he have when he
4 said, Chris, come over?
5 A He had a, like a deep voice, like -- like loud.
6 Because -- because it was, like, coming towards me, like, hey,
7 Chris, come over then, come over here.
8 Q So when he said it, would you say he said it loudly?
9 A Yes.
10 Q Would you say he said it in an angry tone, correct?
11 A Yes.
12 Q Okay. And what do you think he was angry about?
13 A I don't know.
14 Q Okay, he didn't tell you what he was angry about?
15 A No.
16 Q Okay. Did he have any reason to be angry, to your
17 knowledge?
18 MS. SANCHEZ: Objection, calls for speculation.
19 JUDGE LAWS: You can answer only if you know --
20 THE WITNESS: I don't know.
21 JUDGE LAWS: -- or have an idea.
22 MR. WILSON: All right.
23 Q BY MR. WILSON: So you can't think of anything you were
24 doing playing that music, to your knowledge, it would've upset
25 Mr. Mack?

1 MS. SANCHEZ: Object- --
2 MR. WILSON: No.
3 MS. SANCHEZ: Same objection, plus --
4 JUDGE LAWS: He --
5 MS. SANCHEZ: -- argumentative.
6 JUDGE LAWS: -- he answered no, so --
7 MS. SANCHEZ: Okay.
8 Q BY MR. WILSON: Had you been on break with Marcus Mack --
9 or excuse me, Marcus, prior to that particular day, January
10 11th?
11 A Can you repeat it?
12 Q Have you ever been on a break with Marcus prior to January
13 11, 2015 --
14 UNIDENTIFIED SPEAKER: '18.
15 Q BY MR. WILSON: -- '18, excuse me?
16 A Yes.
17 Q You have been on breaks with him?
18 A Yes.
19 Q And you played music at those times?
20 A Yes.
21 Q Okay. And he never approached Chris before that day to
22 ask him to ask you to turn off the music, correct?
23 A Yes.
24 Q No, I mean, are -- he did approach Chris to ask you to
25 turn it off prior to January 11th or --

1 A Oh, no.
2 Q -- he didn't -- you never have?
3 A No --
4 Q Just that particular day?
5 A Yeah, just that day.
6 Q And when he called Chris, as you said, he appeared angry?
7 A Yeah.
8 MR. RIMBACH: Objection, that misstates his testimony.
9 MR. WILSON: He said --
10 JUDGE LAWS: It's -- it -- it's on the record, I'll --
11 MR. WILSON: Okay.
12 JUDGE LAWS: -- let's move on.
13 Q BY MR. WILSON: Now are you aware that Mr. Mack told the
14 company that the lyrics of the music you were playing used the
15 word nigger?
16 A No.
17 Q Okay. And was -- did the lyrics of the song you were
18 playing use that word?
19 A I'm not sure.
20 Q You're not sure? So it could have, correct?
21 A Yeah.
22 MS. SANCHEZ: Objection, calls for speculation.
23 JUDGE LAWS: Overruled.
24 Q BY MR. WILSON: And do you think using that word might've
25 upset Mr. Mack?

1 MR. RIMBACH: Objection, calls for speculation.
2 Q BY MR. WILSON: If you know.
3 A I don't know.
4 Q You don't know? But it could have, correct?
5 MR. RIMBACH: Objection --
6 THE WITNESS: I don't know.
7 MR. RIMBACH: -- same, calls for speculation.
8 JUDGE LAWS: He said he doesn't know. I mean, a little
9 common sense can come into play as to what words might offend
10 people of certain races. So --
11 Q BY MR. WILSON: So just to clarify your testimony, you
12 don't recall whether that term -- and I don't want to repeat it
13 again, whether that term was used as a lyric in the song that
14 you were playing on your phone?
15 A I don't remember.
16 Q Okay.
17 A Yeah.
18 Q So let's go back to the day of the second election. Do
19 you recall your testimony about that?
20 A What was that?
21 Q The second election, which was February 5th, 2018. The --
22 A The second election?
23 Q Yeah, were you an observer?
24 A Yes.
25 Q Okay. You recall that day, correct?

1 A Yes.
2 Q Okay. And you were in the room with Marcus at that time,
3 right?
4 A Yes.
5 Q And as I understand your testimony, he was talking -- he
6 was showing you a gun magazine?
7 A Yes.
8 Q Okay. Was the Board age- -- was there a NLRB agent
9 conducting the election?
10 A Yes.
11 Q Okay. And what was the role of that NLRB agent at the
12 election?
13 MR. RIMBACH: Objection, relevance.
14 MR. WILSON: It's not relevant. I mean, it's very
15 relevant.
16 MR. RIMBACH: I'm not sure to what.
17 JUDGE LAWS: Yeah, I don't know where we're going, but
18 I'll --
19 MR. WILSON: Oh, it's --
20 JUDGE LAWS: -- I'll allow --
21 MR. WILSON: -- very, very brief.
22 JUDGE LAWS: Okay, I'll allow some leeway, go ahead.
23 THE WITNESS: Can you repeat it?
24 JUDGE LAWS: Uh-huh.
25 Q BY MR. WILSON: Okay. So did the NLRB agent in the room

1 set rules of conduct for the observers?
2 A Yes.
3 Q Okay. And what were those rules, if you remember?
4 A They told us not to speak to each other, not to speak
5 peop- -- to the employees that were going to come and vote, and
6 don't make signs to anybody.
7 Q Okay. And there were two NLRB agents in the room, were
8 they not, during the voting?
9 A Yes.
10 Q Okay. And when Mr. Mack and you were having this
11 conversation, were either one of those NLRB agents present?
12 A Yes.
13 Q Okay. And is there some rea -- to your knowledge, do you
14 know why they didn't tell you to cease speaking?
15 A Well, he actually showed them the magazine also.
16 Q Okay. And do you recall what they said when he showed
17 them the magazine?
18 A They didn't say anything. Yeah, they just --
19 Q Okay. Now -- so the incident with Marcus and the magazine
20 was when you were the observer, correct?
21 A Yes.
22 Q And that was in the afternoon, was it not?
23 A Yes.
24 Q Okay. But in the morning you came to vote --
25 A Yes.

1 Q -- as I understand your testimony. And do you recall what
2 time you voted?
3 A It was like at 9:00, 9 or 10-ish.
4 Q Okay. And the voting took place in the warehouse,
5 correct?
6 A Inside the storeroom.
7 Q Okay. And where did you go after you finished voting?
8 A I went outside to the --
9 Q Outside where?
10 A -- to the tarp, the one that they have outside, I'm not
11 sure they still have it, but it's --
12 Q You --
13 A -- next to the generator.
14 Q Okay, but you were still in the warehouse, were you not?
15 A Outside the warehouse.
16 Q Okay, but you were on the company property?
17 A Yes.
18 Q Okay. And you were on -- and you had been suspended the
19 day that you showed up to vote, correct?
20 A Yes.
21 Q You were on suspension, correct?
22 A Yes.
23 Q Okay. Is there some reason you didn't leave the property
24 after you finished voting?
25 A Well, because I had came with my coworker, so I was

1 waiting for them.
2 Q Okay, and you couldn't wait for them off the property?
3 A I didn't know that.
4 Q Okay. Well, were you advised by Mr. Romero to leave?
5 A He just told me to step outside.
6 Q Okay. How many times did he tell you that?
7 A He told me -- inside the warehouse, he told me two times.
8 Q Okay. Why did he have to tell you two times?
9 A Because I was not -- I was looking at my coworker when he
10 was speaking to me.
11 Q Who were you -- excuse me, I didn't understand what you
12 said.
13 A It was -- when he was told me that, I was -- I was looking
14 at one of my coworkers.
15 Q What he -- you were looking at one of your coworkers?
16 A Yes, I was standing right in front of him, so I was
17 looking towards him, so I was not looking at Romero, right.
18 Q Okay. So are you saying you didn't hear Romero when he
19 told you to leave?
20 A Yes.
21 Q Okay, but he did tell you twice?
22 A Yes.
23 Q Okay. Did you leave the second time?
24 A Yes.
25 Q Okay. And how long were you on the property after you

1 voted, how many minutes?
2 A Like -- I'm not sure.
3 Q Well, can you estimate?
4 A Like 10 minutes.
5 Q Ten minutes? Okay. So it took you 10 minutes to leave
6 the property is what you're saying?
7 A Yes.
8 Q Okay. But you only -- you recall him telling you to leave
9 twice?
10 A Yes, and -- when I was inside.
11 MR. WILSON: Okay, I have no further questions.
12 JUDGE LAWS: All right. Any redirect?
13 MR. RIMBACH: Yes, Your Honor. If I could just have --
14 JUDGE LAWS: Yeah --
15 MR. RIMBACH: -- one minute?
16 JUDGE LAWS: -- yeah, take your time.
17 MR. RIMBACH: Thank you.
18 JUDGE LAWS: When -- just jump in whenever you're ready.
19 No hurry.
20 **REDIRECT EXAMINATION**
21 Q BY MR. RIMBACH: Mr. Rodriguez?
22 A Yes?
23 Q If you could take a look at the document that says GC-34
24 on the bottom. The first bullet point that says, "We received
25 complaints from our colleagues that you reject requests for

1 your team members to bring down the merchandise from the top of
2 the shelves."
3 Have you ever rejected requests from your teammate -- team
4 members or coworkers, I guess, to do work?
5 A No.
6 Q Can you please take a look at the document that says GC-39
7 at the bottom? After each of these dates, like April 19, 2017,
8 it says, called. What does called mean?
9 A I don't know.
10 Q Does it mean that you called beforehand to let the company
11 know you were going to be late?
12 A Yes.
13 Q So you didn't just show up late?
14 A No, I always called them.
15 Q But you were only given a warning on June 13th, 2017.
16 A Yes.
17 Q Not before then for any of these dates?
18 A (No audible response)
19 Q So you only got one warning after you may have been late
20 these five dates that are listed here?
21 A Yes.
22 Q Can you please take a look at GC-41, that document? You
23 said, when Mr. Wilson asked you if the company just made this
24 up, but I wanted to ask you, it says that you made a derogatory
25 comment to the group regarding the person who made the mistake.

1 Did you mean when the company made it up that whatever you said
2 doesn't warrant discipline?
3 A Yes.
4 Q Like how serious did you think your comment was?
5 A It was not that serious.
6 Q Were you -- was -- can you describe what kind of comment
7 it was, as best as you can remember?
8 A I called him slow, because -- because they were saying
9 that he was talking too much. So I basically called him slow,
10 but said it like slow ass. And the way when I -- there -- we
11 had the meeting, so when he was standing next to me and they
12 said something about no mistakes and stuff like that, I called
13 Steve slow ass.
14 Q Slow ass?
15 A Yes.
16 Q Okay. But you said that in a joking manner?
17 A Yes.
18 Q Okay. So earlier in your testimony, when you said you
19 couldn't recall, you can now recall after thinking about it
20 more?
21 A Yes.
22 Q If you could look at the document that says GC-37 at the
23 bottom. This is the incident between you and Marcus with the
24 music. Did anyone ever tell you specifically that Marcus was
25 upset about the lyrics you were playing?

1 A No.
2 Q Did Marcus ever tell you that?
3 A No.
4 Q Did any supervisor or manager explain that it was the
5 lyrics in the song that you were playing?
6 A No.
7 Q So as far as you knew, it was only the fact that you were
8 playing any music at all?
9 A Yes.
10 MR. WILSON: Objections, lack of foundation.
11 JUDGE LAWS: No, as far as he knows, so --
12 MR. WILSON: Okay, that's --
13 JUDGE LAWS: -- that's what I'm taking it as.
14 MR. RIMBACH: No further questions, Your Honor.
15 JUDGE LAWS: All right. Any follow up from the Union?
16 MS. SANCHEZ: Thank you, yes.
17 JUDGE LAWS: Okay.
18 MR. WILSON: Just one, Your Honor.
19 JUDGE LAWS: What's that?
20 MR. WILSON: Just one question.
21 JUDGE LAWS: Oh, I'm going --
22 MS. SANCHEZ: Oh, the Union --
23 JUDGE LAWS: -- to allow --
24 MS. SANCHEZ: -- yes.
25 MR. WILSON: Oh, I thought you meant --

1 MS. SANCHEZ: Yes.

2 JUDGE LAWS: -- Union counsel.

3 MR. WILSON: -- oh, okay. I thought she said no.

4 **RECROSS-EXAMINATION**

5 Q BY MS. SANCHEZ: Still on the paper in front of you, GC-37

6 about the music, you were listening, not singing, correct?

7 A Yes.

8 Q Correct, you were not singing?

9 A I was not -- I was not singing.

10 Q And you didn't use the N -- you didn't speak the N-word

11 that day, did you?

12 A No.

13 Q And just to clarify, because I also don't know very much

14 about Pandora, you don't have control over what song comes on,

15 correct?

16 A No.

17 Q Okay. So you didn't choose that particular song?

18 A No.

19 Q Okay. I'd like to talk to you about your testimony

20 regarding the August 2017 meeting with your coworkers where the

21 Union went to speak about recognition. Do you remember the

22 general atmosphere of the -- your coworkers and yourself with

23 regard to that meeting that day?

24 A Can you say it in --

25 Q Sure. Let me try to ask you a different way. Do you

1 remember what you -- your coworkers and your feeling was that
2 day, what was the general feeling of the crowd?
3 MR. WILSON: Objection, lack of foundation.
4 JUDGE LAWS: He was there, so I will take it as his
5 perception --
6 MR. WILSON: Okay, that's fine.
7 JUDGE LAWS: -- of what was going on, not how any other
8 people actually felt.
9 THE WITNESS: Well, I felt angry, because they were
10 basically treating me wrong. I was looking for more -- more
11 for me for my future, so I was pretty upset.
12 Q BY MS. SANCHEZ: Okay. And you said that you all were
13 singing. Singing is generally a nice thing. Were you trying
14 to just get attention about what was going on?
15 A No.
16 Q Okay. You were asked questions about the other coworkers
17 inside and whether they were on or off the clock. You don't
18 know one way or the other, do you?
19 A No.
20 MS. SANCHEZ: No further questions.
21 JUDGE LAWS: All right. Any recross?
22 MR. WILSON: Yeah, just a few.
23 **RECROSS-EXAMINATION**
24 Q BY MR. WILSON: So back to Exhibit 37, the incident with
25 Mr. Mack, do you recall the name of the song that Stupid Young

1 was singing on your cell phone?
2 A No, I don't recall which one was it exactly.
3 Q Okay. Now the other thing I was a little confused about,
4 you said you played the cell phone the entire 15-minute break;
5 is that correct?
6 A Yes.
7 Q Okay. And the same music was on the cell phone, was it
8 not?
9 A Different.
10 MR. RIMBACH: Objection, that misstates his testimony.
11 JUDGE LAWS: He was about to answer that it change --
12 different.
13 MR. WILSON: No.
14 JUDGE LAWS: Okay.
15 Q BY MR. WILSON: I meant -- yeah, excuse me, I meant the
16 Pan -- I should've clarified. I meant the Pandora music was on
17 your phone that entire 15 minutes?
18 A Yes.
19 Q Okay. That was my -- so how far into the break did
20 Mr. McCormick tell you to turn the music off?
21 A He didn't tell me. Oh, Chris?
22 Q Chris, yes.
23 A Like five minutes into my break.
24 Q Okay, but you continued to play it, correct?
25 A Yes.

1 Q Even though he told you to turn it off?
2 A Yes.
3 Q And why did you do that?
4 A Because it was my break time and they have never told
5 me -- at human resources I was not able to listen to music
6 during my break.
7 Q Okay. Now, at any time you were playing the music, the
8 Pandora music, did you lift up your cell phone and thrust it at
9 her, point it at Marcus?
10 A No.
11 Q You're certain of that?
12 A Yes.
13 Q So if Marcus were to come in and testify that when the
14 N-word was used, you picked up the phone and shoved it towards
15 him, he would be lying?
16 A Yes. There's cameras by both of us.
17 Q Okay.
18 A Yes.
19 MR. WILSON: Okay, I have no further questions.
20 JUDGE LAWS: All right. Anything from either party? I
21 normally do direct, cross one, direct, one recross or redirect,
22 one recross, but if there's something that just can't be
23 ignored, allow a brief redirect. But if it's just ping-ponging
24 back and forth with --
25 MR. RIMBACH: Right, just --

1 JUDGE LAWS: -- nothing new --
2 MR. RIMBACH: -- right.
3 JUDGE LAWS: -- I'd like to cut it off.
4 MR. WILSON: We have no further questions.
5 JUDGE LAWS: Yeah, great.
6 **FURTHER REDIRECT EXAMINATION**
7 Q BY MR. RIMBACH: Sorry, just one question. After you
8 explained to Chris that you didn't think that there was a
9 policy where you weren't allowed to play music, how did he
10 respond?
11 A He said that he was going to investigate that for me, he
12 was going to speak to human resource.
13 Q So did he tell you after you said that that you had to
14 turn your music off anyways?
15 A No, he didn't tell me to turn it off anyways.
16 Q Thank you.
17 MR. RIMBACH: No further questions.
18 JUDGE LAWS: Okay.
19 Anything else from -- one more?
20 MR. WILSON: Okay, I'm sorry.
21 **RECROSS-EXAMINATION**
22 Q BY MR. WILSON: Did Mr. Mack --
23 JUDGE LAWS: This will be it.
24 Q BY MR. WILSON: -- stay there in -- or Marcus, I'm sorry.
25 Did Marcus stay there during the entire time that you were

1 on break or did he leave?

2 A He stayed there until the bell -- the bell rang.

3 Q Okay.

4 MR. WILSON: No further questions.

5 JUDGE LAWS: Okay.

6 Very well, thank you for providing your testimony. Please

7 don't discuss what you talked about here today with any other

8 witnesses or anybody connected to the events --

9 THE WITNESS: Okay.

10 JUDGE LAWS: -- at issue who could be called as a witness.

11 THE WITNESS: Okay.

12 MS. SANCHEZ: Your Honor --

13 JUDGE LAWS: Thank you.

14 MS. SANCHEZ: -- if I may, the Union will recall this

15 witness in the -- our case, I think I --

16 JUDGE LAWS: Okay.

17 MS. SANCHEZ: -- clarified that earlier.

18 JUDGE LAWS: All right, off the record.

19 (Off the record at 2:18 p.m.)

20 JUDGE LAWS: We're okay? Okay. All right, let's go back

21 on the record.

22 Can you please raise your right hand?

23 Whereupon,

24 **ROLANDO LOPEZ**

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

1 examined and testified as follows:

2 JUDGE LAWS: Can you please state and spell your name for

3 the record?

4 THE WITNESS: Rolando Lopez.

5 JUDGE LAWS: And I don't think we -- if that's

6 traditionally spelled, I don't think we need the spelling.

7 A couple of quick instructions before you're asked

8 questions. If you're asked a question and you don't know the

9 answer, just say I don't know. Don't guess or speculate unless

10 you're asked to do so.

11 THE WITNESS: Okay.

12 JUDGE LAWS: And if you don't understand a question, just

13 say so and it will be cleared up for you.

14 THE WITNESS: Okay.

15 JUDGE LAWS: Thank you.

16 Okay, whenever you're ready.

17 **DIRECT EXAMINATION**

18 Q BY MS. PEREDA: Good afternoon, Mr. Lopez.

19 Mr. Lopez, who do you work for?

20 A Wismettac.

21 Q How long have you worked for this company?

22 A Nine years.

23 Q Currently what's your job title at the company?

24 A Driver.

25 Q And how long have you been a driver for the company?

1 A Six years.
2 Q And can you briefly tell us what are your duties as a
3 driver?
4 A One of my duties is to take care of the merchandise, load
5 the merchandise on to the truck, and make my deliveries to the
6 clients.
7 Q What's your start time?
8 A 6 a.m.
9 Q And what days of the week do you work?
10 A From Monday through Friday.
11 Q And on average, how many hours a week do you work?
12 A Fifty-four hours.
13 Q Who's your supervisor?
14 A Right now it's Tommy.
15 Q Do you know Tommy's last name?
16 A No.
17 Q Are you familiar with union Local 630?
18 A Yes.
19 Q And how do you know this Local?
20 A We knew it through other coworkers from different
21 companies.
22 Q What, if any, has been your participation with the Union?
23 A Like a committee.
24 Q What is the committee?
25 A We organized as a committee so that we could speak to our

1 coworkers to let them know what the problems were that were
2 happening in the company, and look for the help with Local 630.
3 Q How many employees are members of the committee?
4 A We're nine.
5 Q When was the committee formed?
6 A I believe it was formed February and March --
7 Q Of what year?
8 A -- again. 2017.
9 Q When did you become a member of the committee?
10 A In March.
11 Q Of 2017?
12 A 2017.
13 Q Does the committee hold meetings?
14 A Yes.
15 Q Where are these meetings held?
16 A We do it at the company, in the parking lot of the
17 company.
18 Q Do you recall the first election that took place?
19 A Yes.
20 Q Do you recall when that first election took place, the
21 date?
22 A 19th of September of 2017.
23 Q After the first election, do you recall if the Union
24 committee held meetings at Wismettac?
25 A After the election, was your question?

1 Q Yes, after the election.
2 A Yes.
3 Q How many meetings do you recall the committee holding at
4 Wismettac?
5 A I remember one.
6 Q When did that meeting take place?
7 A It was at the end of October.
8 Q Of what year?
9 A 2017.
10 Q Who was present for this meeting?
11 A Luis was present, Carlos Orellana, Fanor, Jeremias, Pedro,
12 this man whose name is Mr. Jose Pena, and some others --
13 THE INTERPRETER: Excuse the interpreter.
14 THE WITNESS: And some other employees that I don't
15 remember their name.
16 Q BY MS. PEREDA: You named -- you said that Luis was at
17 this meeting, are you referring to Luis Lopez?
18 A Yes.
19 Q And Luis Lopez is your brother, correct?
20 A Yes.
21 Q You mentioned somebody named Pedro. Do you know Pedro's
22 last name?
23 A No, I don't know the last name of Pedro.
24 Q You mentioned someone named Fanor. Do you know his last
25 name?

1 A I don't remember --
2 Q And you mentioned some --
3 A -- Fanor's last name.
4 MS. PEREDA: I'm sorry, did you finish? Sorry about that.
5 Q BY MS. PEREDA: You mentioned someone named Jeremiah. Do
6 you know his last name?
7 A No, I don't know that either.
8 Q How many employees were present for this meeting?
9 A It was between 20 and 30 of us employees.
10 Q And at what time was it held?
11 A It was between 6 and 6:30 p.m.
12 Q Where in the facility was this meeting held?
13 A It was at the parking lot at the rear of the company where
14 we park the trucks.
15 Q Is there an entrance that leads from the parking lot to
16 the warehouse?
17 A Yes.
18 Q What was the distance between the group of employees and
19 the entrance to the warehouse?
20 A About 20 feet.
21 Q What was the purpose of this meeting?
22 A The purpose of the meeting was to give, like, an update to
23 the employees about the elections that had taken place.
24 Q When you were having this meeting in the parking lot, were
25 there any managers or supervisors in the area?

1 A Yes.
2 Q Who do you remember seeing?
3 A Yoshie Narimoto or Yoshi'ir (phonetic), I don't know, but
4 his last name is Narimoto, Isidro Garcia.
5 Q What did you see Mr. Narimoto doing?
6 A He went out to the door of the warehouse in the parking
7 and he was looking at us.
8 Q How long was -- did you notice Mr. Narimoto looking at you
9 guys?
10 A For about five minutes.
11 Q And you mentioned that you also saw Isidro Garcia. What
12 did you see Mr. Isidro Garcia do?
13 A The same, he was looking at us.
14 Q For how long did you notice that Isidro was looking at the
15 employees?
16 A Five minutes.
17 Q Did Mr. Narimoto and Mr. Isidro Garcias (sic) come
18 together or separately?
19 A Separately.
20 Q Aside from Mr. Narimoto and Mr. Isidro Garcia, did you
21 notice any other managers or supervisors in the area while you
22 guys were having your meeting?
23 A Yes.
24 Q Who else did you notice?
25 A Mr. Ron, and Jose Vasquez.

1 Q Where were -- first do you know Ron's last name?
2 A No.
3 Q Who is Vasquez?
4 A I -- I understood him to be the assistant manager.
5 Q And where were they, Ron and Vasquez?
6 A They were behind the door of the dock.
7 Q Can you describe this door for us?
8 A Yes. The size of the door is the size of the dock where
9 you park a truck.
10 Q And how were they looking at you? Through what?
11 A Through a window that the door has.
12 Q Can you tell us the dimensions of the window?
13 A It could have been a foot-and-a-half of width. Width.
14 Q What about the length?
15 A It could have been about a foot-and-a-half length.
16 Q And what is the distance between that window where you saw
17 Ron and Mr. Vasquez and the group of employees?
18 A Twenty feet.
19 Q And how did you know that Ron and Vasquez were behind the
20 window?
21 A Because they were employees that were leaving work, and
22 they were telling us that they were there.
23 Q Did you see that Vasquez and Ron were looking towards you
24 guys?
25 A Yes.

1 Q For how long did you notice that they were behind this
2 window?
3 A About five or six minutes.
4 Q How long did this meeting in the parking lot among the
5 employees last?
6 A Around 35 minutes.
7 Q And I'm sorry. Do you know what was Ron's job title?
8 A No.
9 Q Do you know a person named Frank Matheu?
10 A Yes.
11 Q Who is he?
12 A I don't know what his position at the company is.
13 Q Is he based off the Santa Fe Springs facility?
14 A No.
15 Q Do you know where he's based off of?
16 A I understood him to come from the State of Florida.
17 Q To your knowledge, does Vasquez report to Frank Matheu?
18 A Could you repeat the question, please?
19 Q Let me actually change the question.
20 Is Frank Matheu above Vasquez?
21 A Yes.
22 Q Do you know a person named Gustavo Flores?
23 A Yes.
24 Q Who is Gustavo Flores?
25 A We know him to be anti-union.

1 Q When did you first see Mr. Gustavo Flores?
2 A In September.
3 Q That's of 2017?
4 A Yes.
5 Q Now, you testified earlier that there was an election on
6 September 19, 2017. Before that election, do you remember
7 attending any meetings at the company where the upcoming
8 election or the Union was mentioned?
9 A Yes.
10 Q How many meetings do you recall attending at the company
11 where, again, the election or the Union was mentioned?
12 A Three.
13 Q Let's talk about the first meeting first. Do you recall
14 when that first meeting took place?
15 A Yes.
16 Q What date did the first meeting take place?
17 A September the 8th.
18 Q And where did this meeting take place?
19 A At the second floor of the offices.
20 Q Who from the company was present at this meeting?
21 A Frank Matheu and Mr. Gustavo Flores.
22 Q Which employees were present at this meeting?
23 A Luis Lopez and myself.
24 Q Who spoke at this meeting?
25 A Frank Matheu.

1 Q Was this meeting in Spanish or English?
2 A Spanish.
3 Q And, to your knowledge, does Frank Matheu speak Spanish?
4 A Yes.
5 Q What was said at this meeting and by whom?
6 A At this meeting Frank Matheu spoke. He told us that he
7 knew the mistakes that the company was making. In his hand he
8 had a notebook, and he said that in that notebook he had the
9 changes that he was going to make, that those changes had been
10 authorized for him from the owner. The owner's name is Robert,
11 and he told us that Mr. Robert told him that he had green light
12 and the authority to make the changes that he needed to make
13 and to forget about the budget, but that those changes were
14 going to be made if the Union did not come in, that if the
15 Union came in, he wasn't going to make those changes.
16 After that Mr. Gustavo Flores spoke. He showed us a paper
17 where he said to us that that was the contract the Union was
18 going to give to us. Then Frank spoke again, and he told us
19 that fortunately the Maryland branch had voted no against the
20 Union and that we have to do the same here.
21 Then Luis spoke, and Luis said to him that Maryland was
22 Maryland, and Los Angeles was Los Angeles, that the problems we
23 had were not the same as the ones Maryland had.
24 Q Did you speak at this meeting?
25 A Yes.

1 Q What do you remember you saying at this meeting?
2 A I told Frank that I no longer believed in the company,
3 because he came at the beginning of 2017 and promised us
4 changes at the company, changes that we had not seen. And he
5 said he understood about those changes, but that he had
6 superiors who didn't allow him to make those changes.
7 Q Mr. Lopez, you mentioned that Gustavo Flores spoke at this
8 meeting. When Gustavo spoke, in what language did he speak?
9 A Spanish.
10 Q You also mentioned that during this meeting you told Frank
11 that he had been there at the beginning of the year. Since the
12 beginning of the year through September of 2017, had you seen
13 Frank at the facility, at the company?
14 A Yes.
15 Q How many times?
16 A About three or four times.
17 Q How long did this meeting with Frank and Gustavo last?
18 A Around 20 to 25 minutes.
19 Q Do you recall when was the next meeting that you attended
20 where the upcoming Union or election was mentioned or
21 discussed?
22 A We had the second election. I'm sorry. The second
23 meeting. That meeting was directed by David.
24 Q Okay. So let's talk about the third meeting. When was
25 the third meeting?

1 A The third meeting was September the 18th.
2 Q Where was this meeting held?
3 A In the kitchen.
4 Q Who from the company was present at this meeting?
5 A Frank Matheu, Narimoto, Mr. Robert.
6 Q Which employees were present at this meeting?
7 A All the drivers.
8 Q How many drivers were present?
9 A Around 25 and 30.
10 Q Was this meeting in Spanish or English?
11 A In English. Yes, in English.
12 Q Did they provide any translating services for those who
13 needed it?
14 A Yes.
15 Q What method did they use?
16 A Headphones.
17 Q Did you use the headphones provided?
18 A No.
19 Q Why not?
20 A Because I understand a lot of English.
21 Q During the course of your job, in what language do you
22 communicate with customers?
23 A In English.
24 Q And what percentage of spoken English do you understand?
25 A Sixty percent.

1 Q Who spoke at this meeting?
2 A Frank Matheu, Narimoto, and Mr. Robert.
3 Q What do you remember Frank saying at this meeting?
4 A At that meeting Frank spoke about three points that his
5 father had shown him. The first he talked about was respect to
6 others, listening to others, and respecting one's self. And
7 then he spoke about action, that us, the employees, did on
8 August the 21st. He mentioned that that was an unacceptable
9 action. Then he mentioned that he had the green light and the
10 authority to do the changes that needed to be done at the
11 company, but if the Union passed, he was not going to do any
12 change.
13 Q Do you recall anything else that Mr. Frank Matheu said at
14 this meeting?
15 A No.
16 Q For how long did Frank Matheu speak?
17 A Five minutes.
18 Q And at what time was this meeting held? Do you remember?
19 A I believe it was around 5 or 5:30.
20 Q Is that in the morning or the evening?
21 A In the morning.
22 Q Okay. We're going to change topics a little bit,
23 Mr. Lopez.
24 MS. PEREDA: Mr. Court Reporter, are you able to hand this
25 witness what's been marked as GC-3?

1 Q BY MS. PEREDA: Mr. Lopez, do you have the --
2 MR. WILSON: Can you wait just a second till we find it?
3 MS. PEREDA: Oh, sorry.
4 MR. WILSON: Thank you. Go ahead. I'm sorry.
5 Q BY MS. PEREDA: Mr. Lopez, do you have before you what's
6 been marked as GC-3?
7 A Yes.
8 Q Do you recognize this document that's been handed to you?
9 A Yes.
10 Q What is this document?
11 A It's a verbal warning.
12 Q And this verbal warning was issued to you, correct?
13 A Yes.
14 Q Now, before you received this verbal warning, do you
15 recall an incident involving Employee Augustine?
16 A Yes.
17 Q Do you know Augustine's full name?
18 A I believe it's Augustine Troncoso.
19 Q And who is Augustine?
20 A He's a driver.
21 Q And the incident. When did this incident take place?
22 A It was in November. I believe at the end of November.
23 Q And that's of 2017?
24 A Yes.
25 Q Where did this incident take place?

1 A At the warehouse.
2 Q And where in the warehouse? Do you remember?
3 A At the door, where Augustine was loading.
4 Q Who was present for this incident?
5 A Jose Vasquez and Jose Romero.
6 Q Where were you when this incident took place?
7 A I was loading my truck two doors away from where Augustine
8 was loading.
9 Q And can you tell us about how many feet were there between
10 Augustine and you on that day?
11 A About five or six feet.
12 Q And what happened during this incident? What did -- what
13 was said?
14 And let me stop you for a second. Sorry about that. When
15 Augustine was loading his truck that day, was he approached by
16 Vasquez and Jose Romero?
17 A Yes.
18 Q And in what language did Vasquez and Jose Romero speak to
19 Mr. Augustine?
20 A In Spanish.
21 Q And again, what did you hear Vasquez or Romero say to
22 Augustine that day?
23 A The one who spoke was Jose Vasquez, speaking to him in a
24 loud and aggressive tone, to Augustine, telling him that the
25 merchandise would fit in the truck that they had assigned to

1 him, that he didn't care how Augustine was going to do it, to
2 take the merchandise, that if what he wanted was to be lazy --
3 THE INTERPRETER: Excuse me. Interpreter. He used a
4 vulgar term for that in Spanish.
5 THE WITNESS: He could call in sick and not work but that
6 the merchandise, he needed to take it, and he didn't care how
7 he did that.
8 Q BY MS. PEREDA: What, if anything, did you hear Mr. -- did
9 Mr. Augustine respond to Mr. Vasquez?
10 A No.
11 Q How long did that conversation involving Vasquez and
12 Augustine last?
13 A Between 5 and 10 minutes.
14 Q Now, what happened after the conversation ended?
15 A After Jose Vasquez said that to Mr. Augustine, Yader and I
16 approached that -- he's another driver -- and myself to help
17 Mr. Augustine to load his truck. And we began to tell him --
18 I'm the one that began to tell Augustine -- that if he felt
19 insecure with the merchandise, that it wasn't an obligation for
20 him to take it.
21 I explained to him a situation that I had in 2016, where
22 they forced me to take a vehicle that was overweight.
23 MR. WILSON: Objection. Lack of foundation.
24 JUDGE LAWS: Overruled. He's saying what he recited to
25 his coworkers, so I'll allow it. I am considering it just for

1 what he shared with his coworker, but --
2 MR. WILSON: Okay.
3 THE WITNESS: And I told him that it was his full right to
4 refuse to take a truck that was overweight.
5 Q BY MS. PEREDA: When you and Yader were assisting
6 Mr. Augustine to load his truck, did Yader say anything during
7 that -- while you guys were there?
8 A Yes.
9 Q What do you remember Yader telling Mr. Augustine?
10 A Augustine was worried because of the first client he had.
11 That client was setting a time for him to do the delivery.
12 Yes, but Alvarado told him not to worry about the client, that
13 first place was his safety, that if the client didn't want to
14 receive him to just take the merchandise back.
15 Q While you and Yader were talking to Augustine, were there
16 any managers or supervisors in the area?
17 A Yes.
18 Q Who was there?
19 A Jose Romero.
20 Q And how far was Jose Romero from where you guys were?
21 A You could say a foot. He was in front of us.
22 Q Going back to the verbal counseling record, what's been
23 marked as GC-3. This counseling record mentions a briefing
24 with the drivers. Do you recall that meeting with the drivers?
25 A Yes.

1 Q When did that meeting take place?
2 A I think it was December the 5th. I'm sorry. December
3 4th.
4 Q So that meeting with the drivers took place a day before
5 you received the verbal counseling record?
6 A Yes.
7 Q Who was present for this meeting on December 4th?
8 A It was Yader Alvarado, Augustine Troncoso, Giovani,
9 Marvin, the majority of us drivers.
10 Q And how many drivers is that?
11 A There is, like, 25 of us.
12 Q Where did this meeting take place?
13 A At the warehouse.
14 Q Who was present for the company at this meeting?
15 A Frank Matheu, Jose Romero, Jose Vasquez, and a lady. Her
16 name is Susan.
17 Q Do you know Susan's last name?
18 A No.
19 Q Is that the Susan Sands that is referenced in the verbal
20 counseling record, to your knowledge?
21 A I believe so. Her name is Susan. I don't know the last
22 name.
23 Q Can you describe for us the layout of this meeting? Were
24 the drivers standing or sitting? What was the layout?
25 A We were close to the office, that is downstairs in the

1 warehouse. There's a table, but us drivers, we were standing.
2 Q And where were the managers and supervisors standing or
3 sitting in relation to the drivers?
4 A They were in front of us.
5 Q And what was the distance between the drivers and, again,
6 the managers or the supervisors present?
7 A Three or four feet.
8 Q What was said at this meeting, and by whom?
9 A When Frank Matheu began to speak he said that it was a
10 safety meeting, because another branch was having trouble with
11 OSHA, and he didn't want Los Angeles to have the same problem.
12 He said that we were going to talk about three points. He
13 talked about safety. He said we were going to speak about some
14 adjustments that were for the client and about the drivers'
15 breaks.
16 Q And let me just ask you this question, Mr. Lopez. Was
17 this meeting in Spanish or English?
18 A In English and Spanish.
19 Q Okay. And what happened after Mr. Frank Matheu said that
20 he was going to raise three points at this meeting? What was
21 said next?
22 A I asked Frank if I could speak. I said if the meeting was
23 a safety meeting, I was going to present to him the case of
24 Augustine Troncoso, what Mr. Jose Vasquez had done to him, that
25 he was forcing him to take a route that was overweight for the

1 truck that Jose Troncoso (sic) had.

2 After that Vasquez said -- he talked to me. He asked me
3 how did I know that that was the problem. How did I know that
4 the truck was overweight? I explained to him that the same
5 thing had happened to me in 2016. When I told them that my
6 truck was overweight, and they forced me to take it that way,
7 and I got a ticket. And what he said to me was that he didn't
8 know. I asked him, don't you remember when I called you that
9 the Highway Patrol had pulled me over? He said he didn't
10 remember.

11 He started speaking to Mr. Augustine, ignoring what I was
12 responding, and I said to him, look at me, because you were
13 asking me a question. After that Mr. Frank Matheu said to me
14 to lower the tone of my voice, because nobody was fighting. I
15 said to him, I'm not fighting, that that was the tone of my
16 voice.

17 After that Mr. Jose Romero said to me that that was an
18 individual case, that I had no reason why to bring it up at the
19 safety meeting, that the problem that they were having with
20 Mr. Augustine Troncoso, the problem was the airbrakes of the
21 truck.

22 Mr. Giovani answered Mr. Jose Romero that the laws of
23 California, the problem is not the airbrakes, that the problem
24 is the weight and that the company was forcing the drivers to
25 take the merchandise that was overweight. And he told him to

1 go to school so he could learn more about the laws of
2 California.
3 Q How long did this meeting last?
4 A About 20 minutes.
5 Q Now, the verbal counseling, again, General Counsel Exhibit
6 3, it's dated December 5th, 2017. Is that when you received
7 the verbal counseling record?
8 A Yes.
9 Q And who issued you the verbal counseling record?
10 A Jose Romero.
11 Q Was there a meeting to talk about the verbal counseling
12 record?
13 A Yes.
14 Q When did that meeting take place?
15 A December the 5th.
16 Q Of 2017?
17 A Yes.
18 Q Who, for the company, was present at this meeting?
19 A Jose Vasquez and Jose Romero.
20 Q And you were also present for this meeting?
21 A Yes.
22 Q Was there anyone else present for this meeting?
23 A No.
24 Q Was this meeting in Spanish or English?
25 A Spanish.

1 Q And where did the meeting take place?
2 A At the safety meeting, in a room where we hold meetings.
3 Q Who spoke at this meeting?
4 A Jose Romero.
5 Q What was said at this meeting, and by whom?
6 A When he called me he told me they were going to give me a
7 verbal warning for having brought up an individual case to a
8 safety meeting, and that was not my problem. When he said that
9 to me, I answered that I was bringing up the case, because it
10 was a safety meeting. And I was concerned about what they were
11 doing to our proceeding. About forcing him to take a route
12 that was overweight.
13 Q What else do recall being said at this meeting?
14 A The other thing I remember is Mr. Jose Romero was sitting
15 down. And I stood up with my arms crossed. And that's why
16 they implied that he told me not to stand in front of him in
17 that way.
18 MR. WILSON: Objection. Irrelevant.
19 JUDGE LAWS: Overruled.
20 THE WITNESS: And I said to him, that that was my way of
21 standing. And I asked him, you're not going to change the way
22 that I stand. And with a certain reaction, he said to me,
23 "You're not going to do that to me" as he pushed his chair
24 back. And he was telling me that in that same way, I had stood
25 the day of the meeting. Just because the drivers were behind

1 me. And I answered, that was my way of standing. That no one
2 was going to change that for me.
3 Q BY MS. PEREDA: Anything else that you recall from this
4 meeting?
5 A Just saying he mentioned to me that it wasn't my problem,
6 and that's why he was given me the warning.
7 Q I'm sorry. Did he specify as to what was not your
8 problem?
9 A Why he was giving me the warning?
10 Q Yes. I'm sorry. Did he specify as to what was not your
11 problem?
12 A Oh. That Augustine's problem, that that was not problem.
13 That that was an individual case, that I shouldn't have brought
14 it up to the safety meeting that there was before.
15 Q How long was this meeting? Did Vasquez say anything at
16 this meeting?
17 A No.
18 Q How long did the meeting with Vasquez and Romero last?
19 A About 10 minutes.
20 Q At this meeting with Romero and Vasquez, did you receive a
21 copy of the verbal counseling that is in front of you?
22 A No.
23 Q Before today had you seen this verbal counseling record?
24 A Yes.
25 Q When did you first see the counseling -- I'm sorry, the

1 verbal counseling record that's before you?
2 A When?
3 Q Yeah. When did you see it? When did you first see it?
4 A At the end of December of 2017.
5 Q And how did you see it?
6 A Because I went up to human resources, and I asked to see
7 my personal company file.
8 Q And in reviewing your company file, is that were you saw
9 the verbal counseling record?
10 A Yes.
11 MS. PEREDA: Nothing further, Your Honor.
12 JUDGE LAWS: All right. Any questions from the Charging
13 Party?
14 MS. SANCHEZ: No.
15 JUDGE LAWS: Okay.
16 MR. WILSON: Do you have a statement, please?
17 MS. PEREDA: Yes. We have two affidavits from this
18 witness. One is four pages long and the second one is about --
19 it's seven pages long.
20 JUDGE LAWS: All right. Let's go off the record while
21 counsel reviews, and just let me know whenever you're ready.
22 Off the record.
23 (Off the record at 3:10 p.m.)
24 JUDGE LAWS: All right. Let's go back on the record.
25 Proceed when you're ready.

1 **CROSS-EXAMINATION**

2 Q BY MR. WILSON: Good afternoon, Mr. Lopez. My name is
3 Scott Wilson, I'm an attorney for the Company. And thank you
4 for coming today, I want to ask you a few questions about your
5 testimony.
6 A Okay.
7 Q And would you prefer to speak to me directly in English or
8 through the interpreter in Spanish?
9 A Through the interpreter in Spanish.
10 Q Okay. That's fine. Now, you mentioned that at the outset
11 of your testimony that there was a union committee that you
12 were a member of?
13 A Yes.
14 Q Okay. And as I recall, you mentioned that there were nine
15 members of that committee?
16 A Yes.
17 Q Okay. And then you listed certain members of the
18 committee. You listed a Luis Lopez, Carlos Orellana, Fanor
19 Zamora, Jeremiah, Pedro Hernandez, and Jose Pena. That's six
20 names, do you recall who the other three are?
21 MS. PEREDA: Objection, Your Honor. I believe that
22 misstates this witness' testimony as to who was a member of
23 that committee.
24 JUDGE LAWS: The -- what his testimony is, is going to be
25 a matter of record, and I'd rather go by the transcript than by

1 memory. So we can just have him say is there anybody else.
2 Q BY MR. WILSON: Are there any other names you recall that
3 might be members of the committee?
4 A I never said that the names I mentioned were part of the
5 committee. The question she made me, who was present at that
6 meeting that was held.
7 Q Okay. Then I misunderstood. Okay. So the people that
8 you mentioned, the six people you mentioned, were present at
9 the meeting that you discussed?
10 A They were present.
11 Q Okay. And I understand -- that's six, and as I understand
12 your testimony, there were approximately 20 to 30 employees at
13 that meeting?
14 A Yes. And the six that I mentioned were part of the 20
15 that I mentioned were there.
16 Q Okay. He said 20 to 30 as I recall.
17 A Yes.
18 Q Okay. So there could have been more than 20?
19 MS. PEREDA: Objection. Calls for speculation.
20 JUDGE LAWS: Overruled.
21 THE WITNESS: Yes.
22 Q BY MR. WILSON: Okay. And the meeting took place
23 approximately 6:30 p.m.?
24 A Between 6 and 6:30 p.m.
25 Q Okay. And were, to your knowledge, were employees

1 changing shifts at that time?
2 A No.
3 Q Okay. Well, okay. Were the 20 to 30 employees that
4 attended the meeting, were they clocked in, to your knowledge,
5 or where they off duty?
6 A They had already clocked out.
7 Q Okay.
8 THE INTERPRETER: Excuse me. That could have been clocked
9 in or out in Spanish. If you'd like, I can try to clarify
10 that?
11 MR. WILSON: Sure.
12 THE WITNESS: To leave. So clocked out.
13 THE INTERPRETER: Thank you.
14 Q BY MR. WILSON: Okay. Now, I want to direct your
15 attention to the meeting that's referenced in General Counsel
16 3. Well, you have -- you still have that document in front of
17 you, correct?
18 A Yes.
19 Q Okay. Now, as I understand your testimony, at that
20 meeting you stood up and addressed Mr. Matheu; is that correct?
21 THE INTERPRETER: Excuse interpreter, the name of the
22 person you said?
23 MR. WILSON: Frank Matheu.
24 THE WITNESS: You're talking about the safety meeting?
25 Q BY MR. WILSON: Yes, sir. The meeting that's referenced

1 on General Counsel Exhibit 3.
2 A There were two meetings, I would like for you to be more
3 specific. When Matheu was present was at the safety meeting.
4 Q And that's the meeting I asked you about. Okay. So let's
5 talk about the meeting that took place on December 4th, 2017.
6 A Okay.
7 Q Was Matheu present at that meeting?
8 A Yes.
9 Q As I recall your testimony, you said he wanted to make
10 three points.
11 A Yes.
12 Q Okay. And at some point during that meeting, did you
13 stand up to address Mr. Matheu?
14 A I stood, no. Us drivers were standing, and I asked Frank
15 Matheu if I could speak, and he allowed me to.
16 Q Okay. So it is your testimony that all of the drivers at
17 the meeting were standing?
18 A Yes.
19 Q Okay. And had Mr. Matheu had an opportunity to discuss
20 the three points he wanted to make before you asked to speak
21 up?
22 A Yes.
23 Q Okay. So it was after he made the three points that you
24 stated that you wanted to speak to him?
25 A To allow me to speak.

1 Q Okay. But did you speak -- address Mr. Matheu and ask to
2 speak before he started his presentation or after?
3 A After he touched the three points.
4 Q Okay. And as I understand the meeting, there was another
5 person there, a Susan Sands?
6 A Yes.
7 Q And was Ms. Sands standing or sitting during the meeting?
8 A She was standing.
9 Q Okay. And did she say anything at the meeting?
10 A No.
11 Q Okay. And when you addressed Mr. Matheu about the safety
12 issue, you spoke in a loud voice, correct?
13 A Yes.
14 Q And because that's the way you normally speak as I
15 understand?
16 A Yes.
17 Q Okay. And how close were you to Ms. Sands when you were
18 speaking to Mr. Matheu in a loud voice?
19 A From where I am at to where you are at.
20 Q So six feet, ten feet?
21 A Probably.
22 Q Ten feet?
23 A I don't know.
24 Q Okay. Because the records show approximately ten feet
25 apart from where he is sitting on the witness stand to where

1 this table is?

2 MS. PEREDA: Objection. He said he didn't know.

3 JUDGE LAWS: Well he said about that far, he didn't know

4 how to estimate it. Really, neither do I, but I would say it

5 might be the length of 10 to 15, a couple human bodies.

6 MR. WILSON: Okay. That's fine, I just wanted it clear on

7 the record.

8 Q BY MR. WILSON: And then you mentioned a meeting the next

9 day between you and Jose Romero; do you recall that?

10 A Yes.

11 Q Okay. And was Anthony Vasquez also at that meeting?

12 A Yes.

13 Q Okay. And what time of day did that meeting start.

14 A It was between 5:30 and 6 p.m.

15 Q Okay. And where did the meeting take place?

16 A In the room where we hold the safety meetings.

17 Q Okay. And were you standing or sitting at that meeting.

18 A I was standing.

19 Q Okay. Were you standing the entire meeting?

20 A Yes.

21 Q And were they -- Mr. Vasquez and Mr. Romero standing the

22 entire meeting?

23 A Mr. Jose Vasquez was standing, and Jose Romero was

24 sitting.

25 MR. WILSON: Okay. I have no further questions.

1 JUDGE LAWS: Okay. Any redirect?
2 MS. PEREDA: No, Your Honor.
3 JUDGE LAWS: Any additional questions from the Charging
4 Party?
5 MS. SANCHEZ: If I may.
6 JUDGE LAWS: Okay.
7 MS. SANCHEZ: No further questions, Your Honor.
8 JUDGE LAWS: All right. Thank you for providing your
9 testimony today. Please don't discuss what you've testified
10 about with any other witness or any potential witnesses. Thank
11 you.
12 THE WITNESS: Okay. Thank you.
13 JUDGE LAWS: Off the record.
14 (Off the record at 3:35 p.m.)
15 JUDGE LAWS: Let's go on the record. Before I swear in
16 the next witness, who is present on the stand, the court
17 reporter indicated she had a better translation for one of the
18 terms that was used. So I'm going to allow her to make that
19 clarification for the record.
20 THE INTERPRETER: Thank you, Your Honor. I have lazy --
21 lazy, assing.
22 JUDGE LAWS: Uh-huh.
23 THE INTERPRETER: A-S-S-I-N-G would be a better
24 translation for the vulgar term in Spanish. Huevando, which is
25 spelled H-U-E-V-A-N-D-O. Mr. Lopez used that in the

1 description of the incident. Thank you.

2 JUDGE LAWS: Thank you.

3 Okay. I'm going to go ahead and swear you in, so if you

4 could raise your right hand. Sir, why don't we stand up, we're

5 kind of --

6 Whereupon,

7 **JESUS DE LEON**

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

9 examined and testified as follows:

10 JUDGE LAWS: Can you please state and spell your name for

11 the record. You can have a seat.

12 THE WITNESS: Jesus De Leon. J-E-S-U-S, D-E, and a space,

13 L-E-O-N.

14 JUDGE LAWS: Thank you Mr. De Leon.

15 A couple of simple instructions before you're asked

16 questions by the lawyers. First is only answer questions that

17 you know the answers to. Don't guess unless one of the

18 attorneys says I want you to take you best guess. And if you

19 don't understand a question, just say I don't understand the

20 question and it'll be re-asked in a way that hopefully makes

21 more sense. And finally, to your left is our court reporter,

22 and he has to take down everything we say while we're on the

23 record. So as best you can, try not to start in with your

24 answer until the question you're being asked is completed.

25 Okay? All right.

1 **DIRECT EXAMINATION**

2 Q BY MR. RIMBACH: Good afternoon, Mr. De Leon. Have you
3 heard of a company called Horizon Personnel Services?
4 A Yes.
5 Q How have you heard of Horizon?
6 A By a friend.
7 Q Is Horizon a staffing agency?
8 A Correct. Yes.
9 Q Did you ever work at an assignment through Horizon?
10 A Yes.
11 Q Where did Horizon refer you for work?
12 A To Wismettac --
13 Q Is that --
14 A -- Asian Foods.
15 Q Wismettac Asian Foods?
16 A Yes.
17 Q Where is the Wismettac facility located? What city?
18 A Santa Fe Springs.
19 Q When were you first referred to Wismettac?
20 A May 2016.
21 Q Did you remain -- we you a temporary employee when you
22 were working through Horizon?
23 A I'm sorry?
24 Q When you were first referred to Wismettac, were you a
25 temporary employee or a permanent employee?

1 A Permanent -- temporary employee.
2 Q Did you ever become a permanent, direct employee of
3 Wismettac?
4 A Yes.
5 Q When was that, if you recall?
6 A In August of 2016.
7 Q Do you still work for Wismettac?
8 A No.
9 Q When did you stop working for Wismettac?
10 A On the 25th, 2018.
11 Q The 25th of what month?
12 A May. May 25th, I'm sorry.
13 Q What was your first job title with Wismettac?
14 A I was a receiver.
15 Q How long --
16 A Shipping and receiving.
17 Q In the shipping and receiving department?
18 A Correct.
19 Q How long were you a receiver?
20 A Eight months.
21 Q What were your job duties as a receiver?
22 A Unloading semis on merchandise.
23 Q Did your position ever change after you were a receiver?
24 A Yes. I moved to frozen area.
25 Q What was your job title when you were in the frozen area?

1 A I was picking assembler.
2 Q What did you do as an assembler?
3 A Picking order.
4 Q Did you use any particular equipment to do that?
5 A Pallet jack.
6 Q A pallet jack?
7 A Yeah.
8 Q Did you position change after you were an assembler or
9 were you an assembler for the rest of the time you were with
10 the company?
11 A Before my last day at Wismettac, the last two weeks, I
12 came back to receiving.
13 Q What were your normal work hours when you were working
14 with the company?
15 A From 7 a.m. to whenever I was done.
16 Q What days of the week did you work?
17 A Monday through Friday.
18 Q On average, how many hours a week did you work?
19 A Fifty to 55 hours.
20 Q Did you say you started around what time? I'm sorry.
21 A 7 a.m.
22 Q So that was considered the day shift?
23 A Yes.
24 Q Who was your supervisor?
25 A Vasquez.

1 Q Is that Jose Vasquez?
2 A Correct.
3 Q And he also goes by Anthony Vasquez?
4 A I don't know.
5 Q You don't, okay. Do you know his job title?
6 A He was plant manager.
7 Q Are you familiar with Teamsters Local 630?
8 A Yes.
9 Q When did you first hear about this Union?
10 A In June or July from 2017.
11 Q Who did you hear about the Union from?
12 A From one -- a driver, an employee.
13 Q Do you recall attending any meetings that the company held
14 where the Union was discussed?
15 A Yes.
16 Q About how many meetings do you recall that you attended?
17 A Around three.
18 Q Do you recall when the first meeting was? About when?
19 A I don't remember.
20 Q Okay. What about the next meeting?
21 A Before the election, I do.
22 Q Okay. Are you referring to -- is it -- the September
23 19th, 2017 election?
24 A Correct.
25 Q So the first meeting was before that election?

1 A Yes.
2 Q Okay. About how long before that meeting, if you can
3 recall?
4 A A week. A week before the first election.
5 Q So the meeting was around mid September 2017?
6 A Yes.
7 Q Do you recall what time that meeting was?
8 A 3 to 5 p.m.
9 Q The -- 3 to 5 p.m.?
10 A Yeah.
11 Q Or 3 or 5 p.m.?
12 A 3 or 5 p.m.
13 Q Where was the meeting?
14 A At the lunch area.
15 Q Who was present at this meeting?
16 A They brought the owner from Wismettac.
17 Q Do you recall the owner's name?
18 A I don't know.
19 Q Do you recall whether the owner worked at that Santa Fe
20 Springs facility?
21 A I never seen him.
22 Q Do you know where the owner worked? Where he came from?
23 A I don't know. From Japan. He came from Japan.
24 Q How do you know he came from Japan?
25 A That's what I was told.

1 Q And you said you had never seen him before?
2 A No.
3 Q Who else was at this meeting?
4 A It was a planned meeting, so there was HR people, office
5 people, all the warehouse people --
6 Q Okay. So --
7 A -- from all departments.
8 Q Okay. Do you recall any specific managers or supervisors
9 who were present?
10 A Jose Vasquez, Narimoto, Frank, and the owner.
11 Q And you mentioned HR was there too. Do you remember
12 anyone specifically from HR?
13 A The manager, Gina.
14 Q You mentioned Frank, is that Frank Matheu?
15 A No, I don't know his last name?
16 Q Do you know his job title?
17 A That day, he presented as the plant manager.
18 Q Does he work at the Santa Fe Springs facility?
19 A Yes.
20 Q Is he based at the Santa Fe Springs facility; do you know?
21 A No. He's works in Florida and Santa Fe Springs.
22 Q You also said warehouse employees were present. About how
23 many warehouse employees were present at this meeting?
24 A Like 40 to 50 people.
25 Q Do you recall whether there were any drivers at the

1 meeting?
2 A No.
3 Q What language was the meeting conducted in?
4 A English.
5 Q Do you recall whether there was any translation used at
6 the meeting?
7 A Yes.
8 Q Can you explain how the meeting was translated?
9 A There were like four to six translators, and they were
10 handing out headphones to translate.
11 JUDGE LAWS: And I want to clarify something. He was
12 asked, "Do you recall whether there were any drivers there?"
13 And he said no. So I -- we need to get it -- not his
14 recollection but what he actually recalls.
15 MR. RIMBACH: Sure.
16 Q BY MR. RIMBACH: Do you remember -- well, did you -- Okay.
17 Do you know if there were any drivers at that meeting?
18 A No. I don't remember.
19 Q There were not, or you don't remember?
20 A I don't remember.
21 Q Can you explain, you said that there were a few
22 translators?
23 A Yes.
24 Q And there were employees -- were there employees who used
25 those translators?

1 A Yes.
2 Q How did they use them?
3 A With the headphones.
4 Q If you know, do you know what other languages this meeting
5 was translated into?
6 A The meeting was in English.
7 Q Do you know what language the translators translated the
8 meeting into?
9 A Spanish, Vietnamese, Chinese, Japanese, Korean.
10 Q Did you personally use any translation?
11 A No.
12 Q What happened at the beginning of this meeting?
13 A They presented the owner.
14 Q And what did he say?
15 A He talked -- he did a speech of saying how he grew up with
16 the company and that he didn't want it to share the company
17 with strangers, and to think about our vote in the Union
18 election.
19 Q I'm sorry. What was that last sentence? Think about --
20 A To --
21 Q -- your vote about --
22 A The Union election.
23 Q You said the owner mentioned something about sharing the
24 company with strangers. Do you know what he was referring to?
25 A The Union.

1 MR. WILSON: Objection. Lack of foundation.
2 Q BY MR. RIMBACH: How do you know that?
3 MR. WILSON: Okay. He knows that.
4 JUDGE LAWS: Yeah. Do -- how do you know he was talking
5 about the Union?
6 THE WITNESS: That was the -- the whole meeting about.
7 Q BY MR. RIMBACH: And the Union vote, is that the vote that
8 occurred on September 19th?
9 A Correct.
10 Q Do you recall anything else that the owner stated at
11 the --- at this meeting?
12 A No. That's it.
13 Q What happened next at this meeting?
14 A They present Frank as our new plant manager.
15 Q Do you recall what Frank said at the meeting?
16 A He said that he was going to be there for everybody. He
17 was going to change things, and make it better. And that
18 whatever we need, he will be there for us.
19 Q Do you recall whether there was anything else Frank said
20 at the meeting?
21 A No.
22 Q What happened next?
23 A That's all I remember.
24 Q About how long was this meeting?
25 A Thirty minutes or more.

1 Q You stated that there were three meetings, so the third
2 meeting that you held -- that you attended, where the company
3 discussed the Union. Do you recall when that meeting was?
4 A The last meeting? That was after the second election at
5 the beginning of the year.
6 Q So the second election was February 6th, 2018 --
7 A Correct.
8 Q -- is that right? Do you recall what month the -- this
9 last meeting was?
10 A On March.
11 Q March 2018?
12 A I don't remember the date.
13 Q Oh, sorry. March of this year?
14 A Yes. This was of this year.
15 Q But you don't' remember the specific date?
16 A Yes.
17 Q Where was this meeting that was in March of 2018? Where
18 did it take place?
19 A This meeting took place where the HR department is on the
20 first floor.
21 Q Were there any mangers or supervisors present at this
22 third meeting?
23 A Only Frank and Laura. Laura Garza.
24 Q Do you recall whether there was anyone else present?
25 A The union busters made the meeting.

1 Q Do you recall how many union busters were there at the
2 meeting?
3 MR. WILSON: Objection. There is no foundation for the
4 term union busters.
5 JUDGE LAWS: And so that's, I think, labor consultant is
6 the term that everybody can agree on. So that might be the --
7 THE WITNESS: Sorry.
8 Q BY MR. RIMBACH: So did you recognize this person as a
9 labor consultant.
10 A Yes.
11 Q Do you recall the labor consultant's name?
12 A No.
13 Q Could you describe the labor consultant?
14 A Hispanic.
15 Q Okay. Did the labor consultant work for Wismettac?
16 A No.
17 Q Had you seen him before that meeting?
18 A Yes.
19 Q When did you see him?
20 A Walking around the facility, the warehouse.
21 Q How often did you see him walking around?
22 A Two times a week.
23 Q Were there other employees at this meeting?
24 A Yes.
25 Q About how many other employees were at the meeting?

1 A Around seven people.
2 Q Do you recall specifically the names of any of these other
3 employees?
4 A No. I don't remember.
5 Q What happened at the beginning of the meeting?
6 A The beginning of the meeting, the labor consultant, he
7 talk us -- he told us that the Union is not going to win. And
8 there -- if there was a chance to reject the Union sign sheet
9 that we did, that we can go ahead and sign it by mail.
10 Q The union sign sheets, what are -- what is that referring
11 to?
12 A That we're part of the Union. That we can reject that.
13 Q Are you referring to a union card?
14 A Yeah. A union card.
15 Q Okay. Do you recall anything else the labor consultant
16 said?
17 A That's all I remember.
18 Q What language was this meeting in?
19 A In Spanish.
20 Q Did the labor consultant distribute anything or have any
21 materials?
22 A I don't remember.
23 Q Okay. Were there any papers at the meeting?
24 A There were papers in the desk, but I didn't took it, I
25 didn't look at it.

1 Q Did the labor consultant say anything about the paper?
2 A Those are the papers, just sign and send them for -- so
3 you can get your sign card for the Union that you're rejecting
4 the Union, if you want.
5 Q To your signed card back?
6 A Uh-huh.
7 Q Do you recall anything else that the labor consultant said
8 at the meeting?
9 A No.
10 Q What language was the meeting in?
11 A Spanish.
12 Q Are you fluent in Spanish?
13 A Yes.
14 Q What happened next?
15 A Laura Garza was presented as the new HR manager.
16 Q And did she speak at the meeting?
17 A No.
18 Q Okay. What happened after that?
19 A That's all I remember.
20 Q Okay. What happened after everyone spoke at the meeting?
21 A We just left to our works.
22 Q All right. Do you recall whether any employees said
23 anything at the meeting?
24 A No.
25 Q You stated that Frank Matheu was present at the meeting as

1 well?
2 A Correct.
3 Q Did he say or do anything at the meeting?
4 A No.
5 Q Did he have any material with him?
6 A He had a notebook in his hand, but he didn't say anything.
7 Q Do you recall whether he did anything with the notepad?
8 A No. I didn't see that.
9 Q You didn't see anything?
10 A No.
11 Q Okay. So the document you said that was there; you didn't
12 see the document?
13 A No.
14 Q You did not take a copy of it?
15 A No.
16 Q Do you recall whether any of your coworkers at the meeting
17 took a copy of that document?
18 A Nobody took a -- anything.
19 Q About long was this meeting?
20 A 15 to 20 minutes.
21 Q Did you ever see a copy -- I withdraw that question.
22 Before this meeting in March 2018, did you ever speak to a
23 supervisor or a manager about getting your signed union card
24 back?
25 A No.

1 MR. RIMBACH: No further questions, Your Honor.
2 JUDGE LAWS: Okay. Are there any questions from the
3 Charging Party?
4 MS. SANCHEZ: Just a clarifying question.
5 JUDGE LAWS: Okay.
6 **CROSS-EXAMINATION**
7 Q BY MS. SANCHEZ: This meeting that you were just
8 testifying -- I'm sorry. My name is Renee Sanchez, I'm counsel
9 for the Teamsters Local 630. I just want to ask you a
10 clarifying question about the meeting you were just testifying
11 about. Do you remember where Frank Matheu was sitting in that
12 room?
13 A The last meeting?
14 Q Yes. The one in March 2018.
15 A He was there, just sitting, I don't know the specific
16 where at.
17 Q You don't remember the location?
18 A Yeah.
19 Q Do you remember if he was writing in his notebook?
20 A No. I didn't see that.
21 Q You don't remember? Okay. Thank you.
22 A I didn't pay attention to that.
23 MS. SANCHEZ: No further questions.
24 JUDGE LAWS: All right.
25 MR. WILSON: Do you have a statement?

1 MR. RIMBACH: Yes.

2 JUDGE LAWS: All right. Let's go off the record and

3 figure out time we need.

4 (Off the record at 3:59 p.m.)

5 **CROSS-EXAMINATION**

6 Q BY MR. WILSON: Good afternoon, Mr. De Leon. My name's

7 Scott Wilson, I'm the attorney for the Employer. Thank you for

8 coming this afternoon. I just have some very brief questions

9 for you.

10 Now, you testified about a meeting in March of 2018 where

11 there was a discussion about if employees wanted to get their

12 authorization cards back; do you recall that?

13 MS. SANCHEZ: Objection. Misstates his testimony.

14 Q BY MR. WILSON: Okay. Was there a meeting -- you did

15 testify about a meeting in March 2018 you attended, correct?

16 A Yes.

17 Q And there were labor consultants at that meeting?

18 A Yes.

19 Q One labor consultant that you recall; and I correct?

20 A Correct.

21 Q And there was Laura Garza there, correct?

22 A Correct.

23 Q And Frank Matheu?

24 A Yes.

25 Q Okay. Do you know the purpose of that meeting? What the

1 topic was?
2 A About the rejection the Union card?
3 Q Yes.
4 A And the presenting our HR manager.
5 Q Okay. Were there documents available to employees to take
6 at that meeting?
7 A There was. Yes.
8 Q Okay. And how were those documents presented to the
9 employees?
10 A I don't remember.
11 Q Okay.
12 MR. WILSON: Okay. I have no further questions.
13 JUDGE LAWS: All right.
14 Sir, any redirect on those three questions?
15 MR. RIMBACH: I don't have any Your Honor, thank you.
16 MS. SANCHEZ: No, thank you.
17 JUDGE LAWS: All right. Thank you for providing your
18 testimony. Please don't discuss what you testified here today
19 with any other witnesses or any potential witnesses. Thanks.
20 Okay. Off the record.
21 **(Whereupon, the hearing in the above-entitled matter was**
22 **recessed at 4:09 p.m. until Thursday, October 4, 2018 at 9:00**
23 **a.m.)**
24
25

1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Wednesday, October 3, 2018, at 9:00 a.m.,
11 was held according to the record, and that this is the
12 original, complete, and true and accurate transcript that has
13 been compared to the reporting or recording, accomplished at
14 the hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
18
19
20
21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

Place: Los Angeles, California

Dates: October 4, 2018

Pages: 384 through 510

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:	
WISMETTAC ASIAN FOODS, INC., Employer,	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union,	
and	
ROLANDO LOPEZ, An Individual,	
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Thursday, October 4, 2018, at 9:14 a.m.**

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1 **PROCEEDINGS**

2 JUDGE LAWS: Okay. Let's go back on the record. We are
3 resuming with the trial this morning.
4 We started off talking about a couple of housekeeping
5 matters. And I'll just go over what the parties forecast
6 happening and hopefully everything will go as planned. As we
7 all know, in litigation, there can be twists and turns, but it
8 appears we are on schedule to complete the case in chief in
9 defense of the ULP allegations by next week. If we finish
10 those by early next Friday, the Respondent may be calling some
11 witnesses in the R cases on Friday. We are going to plan to
12 break around midday, again, next Friday to allow people time to
13 travel home. So depending on who is on the stand and what's
14 being said, I would say, at a logical point for testimony to
15 end, between noon and 1 p.m. would make sense.
16 And then after the two-week break, when we will resume
17 with our case, when we reconvene in late October, early
18 November.
19 In addition, the General Counsel has a couple more
20 exhibits. So I'm going to turn things over to her to describe
21 those and offer them into the record.
22 MS. PEREDA: Thank you, Your Honor.
23 So what has been marked as General Counsel's Exhibit 44,
24 has been handed to the parties. That is a communication
25 between Respondent and temp agency, CornerStone, regarding

1 applicant Jeremiah Zermeno, which is one of the 883
2 discriminatees. At this point I would like to move GC-44 into
3 evidence.
4 MR. WILSON: No objection.
5 JUDGE LAWS: Okay. GC-44 is admitted.
6 **(General Counsel Exhibit Number 44 Received into Evidence)**
7 MS. PEREDA: GC-45 is a communication between Respondent
8 and temp agency, Randstad, regarding the termination of
9 assignment of the daytime Randstad employees and also
10 discriminatee Pedro Hernandez. At this moment, I would like to
11 move GC-45 into evidence.
12 MR. WILSON: No objection.
13 JUDGE LAWS: Okay. GC-45 is admitted.
14 **(General Counsel Exhibit Number 45 Received into Evidence)**
15 MS. PEREDA: And finally, GC-46 is a list provided by
16 Respondent regarding the temp employees who were working at
17 Respondent's facility, during the period from October 1, 2017
18 through May 31, 2018. At this point, I would like to move
19 GC-46 into evidence.
20 MR. WILSON: No objection.
21 JUDGE LAWS: GC-46 is admitted.
22 **(General Counsel Exhibit Number 46 Received into Evidence)**
23 MS. PEREDA: If there are no other housekeeping matters,
24 Your Honor, at this point I will go and look -- actually, I
25 need the interpreter for my next witness. Can we go off the

1 record for a second?

2 JUDGE LAWS: Okay. Let's go off the record and we'll get

3 the next witness.

4 MS. PEREDA: Thank you, Your Honor.

5 (Off the record at 9:17 a.m.)

6 JUDGE LAWS: All right. Let's go back on the record.

7 I'm going to swear you in. Can you please raise your

8 right hand?

9 Whereupon,

10 **RONALD MENA**

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

12 examined and testified as follows:

13 JUDGE LAWS: Okay. Please have a seat. Can you state and

14 spell your name for the record?

15 THE WITNESS: My name is Ronald R-O-N-A-L-D-O (sic).

16 JUDGE LAWS: And your last name?

17 THE WITNESS: Mena, M-E-N-A.

18 JUDGE LAWS: Thank you. Just a couple of instructions

19 before the attorneys ask you questions. The first, is if you

20 don't know the answer to a question, please say, I don't know.

21 Only guess if you are asked to guess. And if you don't

22 understand a question, just say I don't understand, and it will

23 be clarified for you. Okay? Thank you.

24 THE WITNESS: That's fine.

25 MS. PEREDA: Before I start off, I just want to make sure

1 I heard his name spelled correctly. Because I believe the
2 witness only said there's a D at the end, but no O.
3 THE INTERPRETER: I'll just ask him to repeat the spelling
4 if that's okay.
5 MS. PEREDA: Okay.
6 THE INTERPRETER: It might have been the interpreter's
7 mistake.
8 MS. PEREDA: Error? Oh, okay.
9 THE INTERPRETER: So --
10 MS. PEREDA: I had an O.
11 THE INTERPRETER: Yes, excuse the interpreter.
12 R-O-N-A-L-D.
13 MS. PEREDA: Thank you.
14 **DIRECT EXAMINATION**
15 Q BY MS. PEREDA: Good morning, Mr. Ronald Mena.
16 A Good morning.
17 Q Mr. Mena, who do you work for?
18 A For the company, Wismettac.
19 Q How long have you worked for this company?
20 A Around eight years.
21 Q Currently, what is your job title with the company?
22 A I'm a driver.
23 Q And how long have you been a driver?
24 A Since I started working at the company.
25 Q And briefly, tell us what you do as a driver?

1 A I arrive at the company, present day, we check the
2 merchandise, we take out the merchandise from the freezer, from
3 the deli department also, we break down all the merchandise, we
4 separate it by client, we check it and we load the truck. We
5 didn't used to do that.
6 Q Who do you report to?
7 A Present day, to my supervisor, Tommy Ma.
8 THE INTERPRETER: Excuse the interpreter, M-A, is the last
9 name.
10 Q BY MS. PEREDA: Mr. Mena, do you know who Frank Matheu is?
11 A Yes, I know who Frank Matheu is.
12 Q Who is he?
13 A He presents himself as the manager of the company.
14 Q And do you know who Gustavo Flores is?
15 A Yes, ma'am.
16 Q Who is he?
17 A Gustavo Flores is the man that the company hired, which we
18 call a union buster.
19 Q Now, do you recall the first election -- the first NLRB
20 election?
21 A Could you repeat the question?
22 Q How many elections have there been at work?
23 A Two.
24 Q Do you remember when the first one took place?
25 A Yes.

1 Q What date was that?
2 A September the 20th or 19th, I believe.
3 Q And that's last year?
4 A Yes.
5 Q Now, before that election, do you remember attending any
6 meetings at the company where the Union or election was
7 mentioned?
8 A Yes.
9 Q Before the first election, how many meetings do you
10 remember attending where the Union or the election was
11 mentioned?
12 A I remember one.
13 Q Do you recall when that meeting took place?
14 A It was either Thursday or Friday, if I remember, before
15 the elections.
16 Q How did you know that this meeting was going to take
17 place?
18 THE INTERPRETER: Excuse the interpreter, I'm going to
19 repeat the question.
20 THE WITNESS: They informed all of us. And through Allen
21 and Isidro also, they took us to a room, about seven of us
22 drivers, more or less.
23 Q BY MS. PEREDA: You mentioned a person named Isidro. Do
24 you know his last name?
25 A Isidro Garcia.

1 Q And back then, do you remember what was his job title?
2 A Isidro Garcia was the manager of the night shift.
3 Q When they took you to this room, did they tell you what
4 the meeting would be about?
5 A They didn't specifically tell me about what, until they
6 started to speak.
7 Q Who was present at this meeting for the company?
8 A Gustavo Flores and Mr. Frank Matheu. Gustavo Flores was
9 the one that introduced Frank Matheu.
10 Q You mentioned that there were about six or seven other
11 drivers. Do you remember, specifically, the names of any of
12 the drivers who were at this meeting?
13 A Yes. Yader Alvarado was there, Augustine Troncoso was
14 there, Enrique Medina was there, and some others, that I don't
15 remember well, but there was about seven of us people.
16 Q And around what time did this meeting take place?
17 A Around 7:00 or 8:00 in the morning.
18 Q And was this meeting in Spanish or English?
19 A In Spanish.
20 Q What was said at this meeting and by whom?
21 A Well, first of all, Mr. Gustavo Flores introduced to us
22 Frank Matheu as a manager of the company. And then, Mr. Frank
23 Matheu began to say to us who were present, that he was the
24 manager of the company, that he was coming with a green light,
25 on behalf of the owner of the company, to fix all the problems

1 that we had. And everything that we could ask of him, that he
2 was available to help us, because he had a green light, he
3 repeated it again, Mr. Frank Matheu.
4 Q Did any employees speak at this meeting?
5 A I spoke.
6 Q What did you say at this meeting?
7 A I also want to add that Mr. Frank Matheu said that he was
8 available to fix our problems and help us because he was
9 race -- that he was Central American, just like some of us that
10 were there, and that's why he understood our problems. And
11 that he was there to help us. And I asked him, okay,
12 Mr. Frank, if you say that you have a green light, and that you
13 have the best disposition to help us, and he previously had
14 also said that we didn't need a third party, we didn't need to
15 continue with what we were doing to negotiate something with
16 him.
17 So then I said to him, if, for example, we stop doing this
18 third party that we're doing in this action that we're in, and
19 we take an attorney on the side, a personal one, to do us a
20 contract, where what the company gives us, you don't take it
21 away tomorrow. Are you willing to sign it since you have green
22 light?
23 He immediately turned to look to Mr. Gustavo Flores and
24 asked him, and he said, no. And so I replied, how is it that
25 you have a green light and you have to consult with a person

1 who knows nothing about the company and you are listening to
2 what he says, to not sign anything that we propose to you. So
3 then, you don't have a green light like you say. After, he
4 said, anyways, right now I can't do anything, but I do have a
5 green light to help you with whatever you want.
6 Q Did any other employees speak at this meeting, in addition
7 to you?
8 A I don't remember exactly.
9 Q Do you remember if Yader spoke at this meeting?
10 A I believe he did speak something, but I don't remember
11 exactly what it is he said.
12 Q Do you recall if the topic of Gustavo's card, business
13 card, came up?
14 A Yes. I also asked to identify himself and he said he
15 didn't have one. That they were working on that.
16 Q How long did this meeting last?
17 A About 30 minutes approximately.
18 Q Before this meeting, had you seen Frank Matheu at the
19 company?
20 A Yes.
21 Q Before this meeting when was the last time you had seen
22 him at the company?
23 A I remember that there was a problem at the company, which
24 I don't know. When he went to fire the previous manager, whose
25 name is Tadashi Domez (phonetic), and his assistant, George,

1 but I don't know his last name, that's when I met him.
2 Q When was it? Do you remember when he was last at the
3 company, Frank Matheu? Before this meeting that you just
4 testified about?
5 A In 2016.
6 MS. PEREDA: No further questions, Your Honor.
7 JUDGE LAWS: Any questions from the charging party?
8 MS. SANCHEZ: No.
9 JUDGE LAWS: No?
10 MR. WILSON: Do you have a statement?
11 JUDGE LAWS: All right. Let's go off the record while
12 counsel reviews the Jencks statement.
13 (Off the record at 9:34 a.m.)
14 JUDGE LAWS: All right. Let's go back on the record.
15 Whenever you're ready.
16 MR. WILSON: Your Honor, after reviewing the statements I
17 was given and the notes from his testimony, I have no
18 questions.
19 JUDGE LAWS: Well, thank you for your testimony. Please
20 don't discuss your testimony with any other witnesses or any
21 potential witnesses.
22 THE WITNESS: Okay.
23 JUDGE LAWS: Let's go off the record.
24 (Off the record at 9:51 a.m.)
25 Whereupon,

1 **RUBEN MUNOZ HERNANDEZ**

2 having been duly sworn, was called as a witness herein and was
3 examined and testified as follows:
4 JUDGE LAWS: Can you please state and spell your name for
5 the record?
6 THE WITNESS: Ruben Munoz Hernandez.
7 JUDGE LAWS: And Mr. Hernandez, a couple of things before
8 the attorneys ask you questions. First is, if you don't know
9 the answer to a question, just say, I don't know. Only guess
10 if you are asked to take a guess. And if you don't understand
11 a question, that's fine, just say I don't understand, and it
12 will be asked in a way that you do.
13 Thanks.
14 THE WITNESS: That's fine.
15 MS. PEREDA: Since there is another witness with a similar
16 name, I'm just going to call you by your first last name,
17 Mr. Munoz; is that okay?
18 THE WITNESS: That's fine.
19 **DIRECT EXAMINATION**
20 Q BY MS. PEREDA: Good morning, Mr. Munoz. Mr. Munoz, who
21 do you work for?
22 A Wismettac Asian Foods.
23 Q How long have you worked for this company?
24 A Eleven years.
25 Q Currently, what is your job title at the company?

1 A An order assembly person. Also at --
2 THE INTERPRETER: The interpreter didn't hear what he
3 said.
4 THE WITNESS: Will call service.
5 THE INTERPRETER: Excuse the interpreter. I'm sorry. I'm
6 not familiar.
7 THE WITNESS: It's the same thing.
8 Q BY MS. PEREDA: What shift do you work?
9 A In the morning.
10 Q And currently, what is your start time?
11 A 6 a.m.
12 Q And typically, what time do you end your shift?
13 A Regularly, I finish at 6 p.m.
14 Q And do you work Monday through Friday?
15 A Yes.
16 Q And currently, who is your supervisor?
17 A Right now, Jose Vasquez, Anthony Vasquez.
18 Q Jose Vasquez and Anthony Vasquez are the same person,
19 correct?
20 A Yes.
21 Q Are you familiar with Local 630?
22 A Yes.
23 Q While working at Wismettac, what, if any, has been your
24 participation with this union?
25 A I support -- I support them.

1 Q And can you tell us, can you give us some examples in what
2 ways you support the Union?
3 A I support them in benefit of all of us coworkers in
4 general.
5 Q Can you give me some specific examples of things you've
6 done to show your support for the Union?
7 A We just said for us to continue forward.
8 Q Have you ever attended any union meetings?
9 A Yes.
10 Q When did you start attending union meetings?
11 A Before the elections in the month of August of 2017.
12 Q How many union meetings have you attended?
13 A Between two and three.
14 Q Where were these meetings held?
15 A Local 630, downtown.
16 Q You mentioned the action in August of 2017. Can you tell
17 us what you are referring to? Can you be more specific?
18 A Could you repeat that please?
19 Q You mentioned an action in August of 2017. What are you
20 referring to?
21 A That's when we went to the company, all of us coworkers.
22 Q Are you talking about that the day the Union came to the
23 company to request recognition from the Employer?
24 A Yes.
25 Q Were you part of the delegation of employees that went

1 with the Union to request recognition?
2 A Yes.
3 Q What were you wearing on this day?
4 A A T-shirt of the Union.
5 Q Can you describe this union T-shirt for us?
6 A Yes. It's black with a logo of two small horses.
7 Q In addition to that day, when the Union went to request
8 recognition, did you wear that union T-shirt to work any other
9 days?
10 A We use it on Fridays.
11 Q How many -- for how long did you use your union T-shirt on
12 Fridays?
13 A Between four and five times after.
14 Q And when you wore this union T-shirt to work, was there
15 anything covering your union T-shirt?
16 A No.
17 Q Did you ever talk with your coworkers about the Union?
18 A Yes, several times.
19 Q And where did these conversations take place?
20 A Outside of work hours.
21 Q But where did they take place? Were they at the facility
22 or outside the facility?
23 A The parking lot, the cafeteria.
24 Q And about how many coworkers did you talk to about the
25 Union?

1 A I don't have a specific number, but coworkers from my
2 shift only.
3 Q And, in general, what would you tell your coworkers about
4 the Union?
5 A Just that we were united and for us to continue forward.
6 That's it.
7 Q Mr. Munoz, while working at Wismettac, have you ever held
8 the lead position?
9 A I've never had the lead position.
10 MS. PEREDA: Excuse me, I'm sorry. For the interpreter,
11 I'm not sure that he's familiar with the word that you used for
12 lead. He recognizes the word as lead. I don't know if he
13 recognizes that other term.
14 THE INTERPRETER: Excuse the interpreter. I'll just use
15 that. Thank you.
16 THE WITNESS: Yes.
17 Q BY MS. PEREDA: When did you first hold the lead position?
18 A They gave it to me in April of 2017.
19 Q Currently, are you still the lead?
20 A No.
21 Q When did you stop holding the lead position?
22 A In the month of October.
23 Q Of what year?
24 A 2017.
25 Q Did you apply for the lead position?

1 A No. They just suddenly called me to HR and they took it
2 away.
3 Q I'm sorry. My question was, did you apply for the lead
4 position?
5 A No, Mr. Frank Matheu offered it to me.
6 Q Who is Frank Matheu?
7 A Supposedly, he said he was the manager.
8 Q When you were offered this lead position, how was this
9 done? Was it in person, or over the phone, or some other
10 method?
11 A It was in person, him and I.
12 Q And when did that happen? When did you meet with
13 Mr. Frank Mathew to talk about the lead position?
14 A In the month of April.
15 Q And that's of 2017?
16 A Yes.
17 Q Who was present for this meeting?
18 A Just him and I.
19 Q What was said during this conversation with Frank Matheu
20 about the lead position?
21 A He spoke to me and said, he told me that he would like it
22 if I was a leader at the company, because he recognized my work
23 in the years that I've been at the company, and that he knew
24 that I was one of the more efficient workers at the company.
25 Q At that moment, did you accept the lead position?

1 A Yes.
2 Q As a lead, what were your duties?
3 A As a lead, I continued to work normal. Simply that when
4 new employees arrived, I trained them. Several occasions,
5 other times, when I didn't have the time, the manager assigned
6 a different person. They would always take me into account,
7 when I was in a position to teach them.
8 Q Can you just briefly tell us what you did on a regular day
9 while you were a leader?
10 INTERPRETER: Excuse the interpreter. The last part of
11 your question, please?
12 Q BY MS. PEREDA: While you were a leader?
13 A I continued to work as I did previously, normal. Equal as
14 the same as the rest of the coworkers. I worked the same.
15 Q Sir, if I understand your testimony, Mr. Munoz, you
16 continued to pull orders, but as a lead you also trained other
17 new employees?
18 A Yes.
19 Q As a lead, did you operate any machines at work?
20 A Sorry?
21 Q When you were a lead, did you operate any machines at
22 work?
23 A All the time, yes. All the time I operated them.
24 Q Which machines did you operate when you were a lead?
25 A The pallet jack.

1 Q And now, were you a lead of a particular department?
2 A Yes.
3 Q Which -- I'm sorry.
4 A Dry department.
5 Q I'm sorry, let me repeat my question. Which department
6 were you a lead of?
7 A Dry good department.
8 Q And how many employees worked in the dry department when
9 you were lead?
10 A In dry goods it would vary. It would vary because some
11 would leave, some would return. So between 12 and 15, or less.
12 Just for dry goods.
13 Q What was your schedule when you were -- when you were a
14 lead?
15 A It changed twice. First it was at 5:00, then they changed
16 it to 3:00. After that, they changed it to 1:00 p.m.
17 Q When you were a lead, did you work the night shift, or the
18 day shift?
19 A Night.
20 Q And when you were a lead, who did you report to?
21 A To my manager, Mr. Isidro Garcia.
22 Q And at that time, do you remember what was Mr. Isidro
23 Garcia's job title?
24 A He was my manager. He was the night shift manager.
25 **(General Counsel Exhibit Number 47 Marked for Identification)**

1 MS. PEREDA: Your Honor, I'm going to be handing the party
2 what's been marked as GC Exhibit 47.
3 JUDGE LAWS: Do I get a copy?
4 MS. PEREDA: Oh, I'm sorry.
5 Q BY MS. PEREDA: Mr. Munoz, can you take a look at what's
6 been handed -- what's been marked as General Counsel Exhibit
7 47, and can you review that document?
8 A Well, it's in English, I don't understand it all.
9 Q Can you just flip through the pages and make sure that --
10 and I'll ask you some follow-up questions.
11 A Okay, that's perfect.
12 JUDGE LAWS: Well, he said he didn't understand the
13 document because it's in English, so I'm not comfortable with
14 you questioning him on a document that he doesn't understand.
15 MS. PEREDA: Your Honor, I will ask him some follow-up
16 questions. I think it will clarify this, as to why I'm asking
17 him questions about this document.
18 JUDGE LAWS: Okay.
19 Q BY MS. PEREDA: Mr. Munoz, have you seen this document
20 before? The document that I just handed you?
21 A Yes.
22 Q Do you now recognize this document, now that you've
23 flipped -- flipped the pages?
24 A Yes.
25 Q And what is this document, Mr. Munoz?

1 A HR gave me this document where it implies also a warning
2 that they assigned me.
3 Q I'm sorry, Mr. Munoz, before today had you seen this
4 document?
5 A Yes.
6 Q And when did you first see this document?
7 A October the 23rd.
8 Q Do you recall how you received this document?
9 A No, I received that one -- I received it in October.
10 Q Okay, and how did you receive it? Who gave it to you?
11 A This document -- I received this document through the
12 Union where my name is mentioned. Where they are stating my
13 name unfairly.
14 Q Do you recall about when it was that you received this
15 document from the Union?
16 A I remember it was around the second week of October.
17 Q And that's of 2017?
18 A Yes.
19 Q Now, you testified that they were making some accusations?
20 A Yes.
21 Q About -- I'm sorry, that they were making some accusations
22 against you. Why did you say that?
23 A Because in this document, when I got it from the Union,
24 someone mentioned it to me. I didn't read it, but someone
25 mentioned to me that my name was here where they implied that I

1 had intimidated a person to Mr. Jose Rosas, with a forklift.
2 And subsequently I took this document and I went with my
3 manager October the 12th and I asked him if there was another
4 person by the name of Ruben. And he told me now, that I was
5 the only Ruben that works at the company. Subsequently I
6 showed him the document, and I said to him, to read it. To
7 read it and that my name was here, where I was being accused
8 that I had intimidated Mr. Jose Rosas. And I said that I
9 didn't know who that man was.
10 Mr. Isidro read the document twice and he sent me directly
11 to HR to make a report. And he told me that this document,
12 professional people had prepared it at the company. That this
13 document -- this document it was credible, but it was false.
14 That he had no report for me -- against me.
15 Q Okay, so Mr. Munoz, let's back up a little bit.
16 Can you turn to page five of this document? Are you on --
17 A Yes.
18 Q Now, did you see above the first third of the page where
19 it has Ruben in quotation marks?
20 A Yes.
21 Q Do you know which Ruben this is referring to?
22 MR. WILSON: I'm going to object. He's indicated that he
23 can't read English, and you're quoting -- having him quote from
24 the document.
25 MS. PEREDA: I didn't ask him to quote from the document.

1 I asked him if he knew which Ruben it was referring to.
2 MR. WILSON: Well, how can he know which -- how can he
3 testify to that, unless he can put it in context.
4 JUDGE LAWS: I do -- I do agree with that. We would need
5 to get some context for what his name is in reference to in
6 this document.
7 Q BY MS. PEREDA: Mr. Munoz, when you received this document
8 from the Union, what, if anything, were you told by the -- that
9 somebody mentioned that your name was being mentioned in this
10 document. What was said to you by that person, do you
11 remember?
12 A Yes, I remember. He told me that my name was here.
13 Whether I had tried to intimidate this person by the name of
14 Jose Rosas. I answered him, no. They recommended to me to do
15 an investigation with the manager.
16 Q Mr. Munoz, last -- in October -- September, October of
17 2017, in addition to you, to your knowledge were there any
18 other Rubens that worked in the warehouse?
19 A Never. I never met anyone.
20 Q Now you testified -- you started testifying about the fact
21 that you spoke with your supervisor, Isidro Garcia about this
22 document. Well, let me -- let me clarify -- let me ask you a
23 few questions. Do you know an employee -- when you were a
24 lead, and again, I want you to focus on the time period of
25 September, October of 2017. Did you know an employee with the

1 name Jose Rosas?
2 A No, I didn't know.
3 Q Was there a Jose Rosas that worked in your department --
4 in the dry department?
5 A No.
6 Q To your knowledge, was there a Jose Rosas that worked in
7 the warehouse, but in another department?
8 A I didn't know who he was, but he did work there.
9 Q So there was a person with the name of Jose Rosas, but you
10 just didn't know him?
11 A Yes.
12 Q And do you remember in which department he worked?
13 A Yes.
14 Q At -- and again focus on the time period of September,
15 October of 2017. During that time period, did you interact
16 with this person, Jose Rosas, at work, or outside of work?
17 A Never. I didn't even know who he was.
18 Q You started testifying about the fact that you went and
19 spoke to your supervisor, Isidro Garcia.
20 A Yes.
21 Q Before you spoke with Isidro Garcia, do you remember
22 speaking with any employees about this document, the document
23 that is before you?
24 A No, he was the first one I reported it to, as a
25 supervisor.

1 Q No. But my question is, did you speak with any employees
2 before you spoke with your supervisor about what was being said
3 in this document?
4 A Yes. I talked to the person that mentioned to me that my
5 name was on here.
6 Q Did you speak with -- aside from that person that you
7 spoke with at the Union hall, did you speak with any employees
8 at the warehouse, about what was being said on this document?
9 A I didn't speak, but the rumor went throughout the whole
10 warehouse, that my name appeared here.
11 Q Do you recall having a conversation with employee, Walter
12 Vargas, about this document?
13 A Mr. Walter Vargas about this? No. Not about this
14 document.
15 Q Before going to Mr. Isidro, do you remember speaking with
16 Mr. Walter Vargas about a work incident?
17 A It was afterwards. It was after.
18 Q So you spoke to Walter after you spoke to your supervisor,
19 Isidro Garcia?
20 A Yes.
21 Q Okay, Mr. Munoz, at this point, I would like you to look
22 at the back of page -- page five, the handwritten notes.
23 A Yes.
24 Q And Your Honor, I'm not sure how you would like us to do
25 this. If you would like for the interpreter to, at this point,

1 translate what I guess the 3.1, there's another point in the
2 following page, but maybe you can just focus on these two
3 points at this moment.
4 JUDGE LAWS: Sure. But first I think we need to get a
5 little foundation.
6 MS. PEREDA: Okay, sure.
7 JUDGE LAWS: About who wrote it, and when.
8 MS. PEREDA: Okay, that's fine.
9 Q BY MS. PEREDA: Mr. Munoz, did you see the handwritten
10 notes on the back of page five?
11 A Yes.
12 Q Who wrote those notes?
13 A I wrote them.
14 Q And do you remember about when you wrote those notes on
15 the back of page five?
16 A Yes.
17 Q Can you give us -- can you tell us about when you wrote
18 them?
19 A It was 10/12 of '17.
20 JUDGE LAWS: And so do we want the entire portion read
21 into the record, or did you just want parts?
22 MS. PEREDA: Well, I'm going to be asking him some
23 questions about them, so I -- for the benefit of the parties
24 who don't -- don't understand the document, I think would be
25 helpful to have the interpreter translate this document at this

1 moment.

2 JUDGE LAWS: Okay.

3 INTERPRETER: If I can just take one minute?

4 JUDGE LAWS: Sure. Why don't you review it? Let's go off

5 the record, so you don't have to do it with us all staring at

6 you. And if you want to take it --

7 INTERPRETER: I can just --

8 JUDGE LAWS: Do it here?

9 (Off the record at 10:18 a.m.)

10 JUDGE LAWS: All right. Our interpreter has reviewed the

11 document. And so at this point, if you could translate, that

12 would be helpful to all of us.

13 INTERPRETER: Okay, I'm going to start at the top left in

14 the corner. Excuse the interpreter, it says, "Day, and then

15 the number one." Actually,

16 "Report of an accusation. I reported to my manager,

17 10/2/17, Isidro Garcia, a bribe that one of the men

18 from the Union buster tried to do to a fellow

19 coworker, to sign a letter against me, that I had

20 hurt him with a machine at work. And he did not want

21 to sign anything because it was completely false.

22 The report, I made it at 9:30 p.m. in which my

23 manager confirmed to me that he has no report against

24 me, of any accident. The date in which I found out

25 about this the person who gave this false testimony

1 was Mr. Oscar Ortiz, a Union buster.
2 "I went" -- excuse the interpreter -- "Number
3 two. I went to give my report at human resources the
4 next day, 10/13/17 at 3:30 in the afternoon while
5 Mr. Frank Matheu was a witness. The main supervisor
6 at Wismettac."
7 Q BY MS. PEREDA: I might as well just finish the -- sorry,
8 I should have mentioned this. If you -- Mr. Munoz, can you
9 turn to the back of page six. Mr. Munoz, whose -- whose
10 handwritten notes are these?
11 A Excuse the interpreter, repeat the question. They're
12 mine.
13 Q And do you remember about when you wrote on the back of
14 page six?
15 A It was in the same week, in the month of October.
16 Q No, I'm sorry. Can I also ask the interpreter to
17 translate this portion?
18 JUDGE LAWS: And are we starting with the part that's
19 crossed out, or starting with the part that is below the part
20 that's crossed out?
21 MS. PEREDA: The part that is below the --
22 MR. WILSON: Your Honor, we object if he's going to put
23 the -- they're going to I assume want to put this document in
24 evidence. The fact that he crossed something out doesn't mean
25 it wasn't written on there. It should all be translated.

1 JUDGE LAWS: We should probably explain it all, and then
2 why don't you get any testimony you want as to what the
3 demarcations mean.
4 MS. PEREDA: That's fine, Your Honor.
5 JUDGE LAWS: Just so that it's all -- otherwise we're
6 going to have it in the record, and not know why.
7 MS. PEREDA: That's fine.
8 JUDGE LAWS: Why it's there, or why it was crossed out.
9 INTERPRETER: If I can just take a minute, Your Honor?
10 JUDGE LAWS: Sure.
11 INTERPRETER: Thank you.
12 (Interpreter reads document)
13 INTERPRETER: I'm ready, Your Honor.
14 JUDGE LAWS: Okay.
15 INTERPRETER: "Day in which I" -- excuse the interpreter,
16 I'm going to read the handwritten note of Mr. Munoz now.
17 "Day in which I reported to my manager the accusation
18 that the man from the Union buster tried to do
19 against me with Mr. Water between the times of 6:00
20 and 7:00 p.m. 10/12, October 12th, time 9:30 p.m.
21 I, Ben Munoz" --
22 JUDGE LAWS: Well, let's stop there because that's the end
23 of the part that's crossed out. And I asked you to get some
24 foundation as to what that means.
25 MS. PEREDA: I'm sorry, Your Honor, are you talking about

1 the part that is crossed out?
2 JUDGE LAWS: That was what was just read into the record,
3 yes.
4 Q BY MS. PEREDA: Mr. Munoz, the part that is crossed out,
5 who wrote that?
6 A I wrote it.
7 Q And who crossed it out?
8 A I did.
9 Q Do you remember about when you crossed -- about when you
10 wrote it?
11 A Yes, October the 12th of 2017.
12 Q And when did you cross it out?
13 A The same day. I was writing it -- I was just doing a
14 scrap. Trying to remember.
15 Q And what about the -- what's written below the part that
16 is crossed out. Who wrote that?
17 A I wrote it, also.
18 Q And when did you write it?
19 JUDGE LAWS: We have that already.
20 MS. PEREDA: Okay.
21 THE WITNESS: Same date.
22 JUDGE LAWS: I'm going to ask a question because this is
23 really what I was getting at. Why did you put an X through the
24 top portion of this?
25 THE WITNESS: Because I was trying to do it the best I

1 could.

2 JUDGE LAWS: But why did you X it out?

3 THE WITNESS: I didn't think it was perfect, the

4 description I had made.

5 JUDGE LAWS: All right, no, but go ahead and continue with

6 the bottom part.

7 INTERPRETER: "I Ben Munoz, deny in its totality all the

8 charges that I am accused of in this writ. I made a

9 claim against the man from the Union buster, all the

10 accusations that he tried to do against me."

11 JUDGE LAWS: All right. I'm going to stop you and --

12 because there's a circled number three that I want to be part

13 of the record, so let's start again with the bottom part.

14 INTERPRETER: Excuse the interpreter, I'm going to repeat.

15 "I Ruben Munoz deny in its totality all the charges that I am

16 accused of in this writ." Number three,

17 "I made a claim against the man from the Union

18 busters, all the accusations that he tried to do

19 against me, to sign a letter from Mr. Water and he

20 denied it in the presence of Frank Matheu. On

21 10/13/17 being the time 1:00 p.m."

22 Q BY MS. PEREDA: Mr. Ruben, the name that appears here as

23 Water, are you referring to --

24 A I'm sorry, it's Walter.

25 Q Thank you.

1 A I'm so sorry.
2 Q You mentioned here that according to what you wrote, they
3 were trying to get Walter to sign -- sign a letter.
4 MR. WILSON: Objection, leading.
5 JUDGE LAWS: She's just repeating what's on the -- what's
6 on the document. I assume there's a follow-up question that
7 we'll --
8 MS. PEREDA: There is.
9 INTERPRETER: Excuse the interpreter. I didn't interpret
10 his answer. It was yes.
11 Q BY MS. PEREDA: Did you talk to Walt -- was there a
12 conversation with Walter about the letter?
13 A I'm sorry, could you repeat the question?
14 Q You mentioned that they were trying to get Walter to sign
15 a letter.
16 A Yes.
17 Q My question is did you have a conversation with Mr. Walter
18 about what they were trying to get him to do?
19 A Yes.
20 Q When did you have that conversation with Walter?
21 A In the same days of that.
22 Q Where did this conversation with Walter take place?
23 A Inside the warehouse, and during work hours.
24 Q Do you know Walter's last name?
25 A I don't know it.

1 Q Do you recall if it's Vargas?
2 A I believe so.
3 Q And where did Walter work?
4 A In the same department with me.
5 Q When you spoke with Walter, was there anyone else who was
6 part of that conversation?
7 A No, just him and I alone.
8 Q And was this conversation in Spanish or English?
9 A In Spanish.
10 Q Does Mr. Walter speak Spanish?
11 A Yes.
12 Q What was said during this conversation between you and
13 Mr. Walter, and by whom?
14 A We had the conversation. I went to ask him that there was
15 a rumor that I had hurt him with a machine. I told him that
16 the Union buster had said that. That I had hurt him. I asked
17 him when did that happen. The incident that happened had
18 happened about three months prior. It wasn't a serious
19 incident. It was just a work incident with the pallet jack.
20 He just stopped and we said I'm sorry to each other, and we
21 continued to work. That's when I went to the supervisor and
22 asked him if he had a report of mine about an accident. And my
23 supervisor, Isidro Garcia, said to me that he didn't have any
24 report about me of any type.
25 JUDGE LAWS: I want to stop because I'm confused about --

1 MS. PEREDA: Sure.
2 JUDGE LAWS: Hold on. Let me finish. I'm confused about
3 whether this was relating the conversation that was the topic
4 of your question, or whether we veered onto something else. So
5 let's go back and clarify.
6 MS. PEREDA: I understand. Thank you, Your Honor.
7 Q BY MS. PEREDA: I'm sorry, Mr. Munoz, have there been --
8 you mentioned that there had been an incident between you and
9 Walter three months before you were speaking with him. Do you
10 remember when you said that?
11 JUDGE LAWS: All right. I'm going to stop here, because I
12 asked to clarify. I'll go ahead and do it. The testimony you
13 just gave, was that about the conversation you had with
14 Mr. Walter in October of 2017, or was that about an incident
15 that happened beforehand?
16 THE WITNESS: I had never reported about that.
17 JUDGE LAWS: I'm going to stop him again. A very specific
18 question. When you were just testifying about the incident
19 with Mr. Walter, were you talking about what had happened in
20 the past, or were you talking about the conversation you had
21 with Mr. Walter in September, October of 2017? I guess I can
22 make it more specific. October of 2017?
23 THE WITNESS: Yes.
24 JUDGE LAWS: Which one was it?
25 THE WITNESS: When I made a claim to the Union buster,

1 that's when I found out that he came down with a letter to have
2 it signed against me, that I had hurt him.
3 JUDGE LAWS: I don't think we're going to get what I was
4 looking at, so let's just go ahead and re-ask your last
5 question. Is there a way to have that read back? Okay, let's
6 do that?
7 COURT REPORTER: "Q You mentioned that they were trying
8 to get Walter to sign a letter. My question is, did
9 you have a conversation with Mr. Walter about what
10 they were trying to get him to do?
11 "A Yes."
12 Q BY MS. PEREDA: So Mr. Munoz, I want you to focus on the
13 conversation that you had with Mr. Walter in October of 2017.
14 So just tell us what was said during that conversation. When
15 you spoke with Walter, what did he say, and what did you say?
16 MR. WILSON: I'm going to object on grounds of hearsay.
17 JUDGE LAWS: And I will allow the testimony. Any
18 statements that are offered for the truth of the matter
19 asserted will only be considered for such if corroborated by
20 other reliable evidence, or otherwise bear indicia of inherent
21 reliability.
22 THE WITNESS: I addressed Mr. Walter, and I asked him. I
23 asked him that I was being accused about a blow that I had
24 given him with the machines. I didn't remember when it was
25 because it had happened three months before I found out about

1 that. Mr. Walter reminded me that I remembered when I turned
2 and I touched his machine. I tried to remember, and yes, I
3 remembered.
4 JUDGE LAWS: No, let's ask -- let's keep focused on this
5 conversation, because I sense we're about to stray.
6 Q BY MS. PEREDA: Okay. And what else did you say to Walter
7 during this conversation when he reminded you of the incident
8 that you guys had had in the past, what did you tell him during
9 this conversation in October?
10 A I told him that, yes, I remembered. That I did, I
11 remembered the incident, the slight incident that we had.
12 Q What else do you remember Walter saying to you during this
13 conversation with him?
14 A He just told me that that he told the Union bosses that it
15 wasn't a serious accident, it was just a work accident. We
16 apologized to each other and we continued to work and that was
17 it.
18 Q How long did this conversation with Walter last?
19 A A minute, max.
20 MS. PEREDA: And excuse -- the interpreter, he used the
21 word -- you translated it as blow. Are you able to check on
22 the translation for "golpe"? Thank you.
23 I'm not sure, should we wait or should -- okay, thank you.
24 JUDGE LAWS: No, let's wait.
25 THE INTERPRETER: Excuse, the interpreter, would you like

1 me to read out the words? It's blow, hit, punch, stroke, shot,
2 strike, shock.
3 JUDGE LAWS: And what -- just identify the source.
4 THE INTERPRETER: I'm sorry.
5 JUDGE LAWS: It's all right.
6 THE INTERPRETER: It's a dictionary called Reverso, goes
7 from Spanish to --
8 MS. SANCHEZ: May I ask what --
9 THE INTERPRETER: -- English.
10 MS. SANCHEZ: -- the original word in Spanish was?
11 THE INTERPRETER: Sure.
12 MS. PEREDA: It was golpe.
13 MS. SANCHEZ: Golpe. Okay.
14 JUDGE LAWS: Okay. Let's --
15 THE INTERPRETER: Golpe --
16 JUDGE LAWS: -- move on.
17 THE INTERPRETER: -- G-O --
18 MS. SANCHEZ: It --
19 THE INTERPRETER: -- L-P-E. Excuse me, interpreter, he is
20 making some hand signals.
21 MS. PEREDA: I'm just not sure that blow is the most
22 accurate description. I would say that it's hit, given sort of
23 what the nature of the -- of what was happening, but I will
24 leave it up to the interpreter to decide whether or not she
25 feels that there is -- that blow is the accurate translation of

1 that word.
2 THE INTERPRETER: Excuse the interpreter, I'll agree, and
3 correct. Golpe, G-O-L-P-E, "hit" is the interpretation. Thank
4 you.
5 Q BY MS. PEREDA: Now Mr. Munoz, you mentioned that after
6 you spoke with Mr. Walter, you --
7 MR. WILSON: Okay, again, at this point, Your Honor, I
8 will object and move to strike the previous testimony about the
9 conversation, once again on the grounds of hearsay.
10 JUDGE LAWS: And I -- or I made my ruling with regard to
11 any hearsay. It will be evaluated to determine if, indeed, I'm
12 relying on it for the truth of the matter asserted, whether it
13 is corroborated or otherwise can be deemed reliable.
14 MS. PEREDA: Thank you, Your Honor.
15 Q BY MS. PEREDA: You testified that after you spoke with
16 Walter, you spoke with Isidro. When did you speak with Isidro?
17 A Yes, that same day.
18 Q And where did you speak with Isidro? Where did that
19 conversation take place?
20 A At his office.
21 Q Now who was present for this meeting with Isidro?
22 A Just him and I.
23 Q Was this conversation in Spanish or in another language?
24 A In Spanish.
25 Q Now, Mr. Munoz, I want you to focus on this conversation

1 only.
2 A Yes.
3 Q In this conversation with Mr. Isidro, what did you say and
4 what did he say?
5 A I asked him, Mr. Isidro, my manager, if he had a report
6 about me that I had heard Mr. Walter in the past. He was
7 shocked and said no, that he didn't have any report about me
8 and an accident. That's when I explained to him that the Union
9 busters tried to go --
10 MR. WILSON: Objection, Your Honor --
11 THE WITNESS: -- with --
12 MR. WILSON: -- nonresponsive.
13 THE WITNESS: -- with a letter --
14 MS. PEREDA: It is responsive.
15 JUDGE LAWS: Overruled. Go ahead.
16 THE INTERPRETER: Oh.
17 THE WITNESS: That's when I explained to Mr. Oscar,
18 Mr. Isidro, my manager, that -- about that incident that they
19 were accusing me of, that they had reported. Because the Union
20 busters came down with a letter trying to bribe Mr. Walter to
21 sign a letter that I had hurt him in the past.
22 Q BY MS. PEREDA: What if anything did Mr. Isidro respond to
23 that last comment you made?
24 A He was shocked and said he had no report about me. I was
25 completely clean in my 10, 11 years of work there.

1 Q During this conversation with Mr. Isidro Garcia, did you
2 discuss with him the document that is before you?
3 A Sorry?
4 Q When you spoke with Isidro, did you mention him -- mention
5 to him this document that is before you, the offer of proof?
6 A No, I didn't mention this document to Isidro.
7 Q Did you have this document with you when you spoke with
8 Isidro?
9 A Yes, I believe I had it, I did have it.
10 Q And what if anything did you do with that document with --
11 when you met with Isidro?
12 A This document? I didn't talk to him about it because it
13 doesn't mention Mr. Walter in this document. It only mentions
14 Mr. Jose Rosas.
15 Q Did Mr. Isidro -- how long did that conversation with
16 Mr. Isidro last?
17 A Between five and 10 minutes, the most.
18 Q Did he -- did Mr. Isidro tell you what you should do
19 regarding the allegations that were being made against you?
20 Did he give you any instructions?
21 A He didn't tell me, he just told me that it was false,
22 everything that it said.
23 Q In addition to Isidro, did you speak with anyone else --
24 I'm sorry, what -- who did you speak -- what did you do after
25 you spoke with Mr. Isidro about the complaints that were being

1 made against you?
2 A After speaking with Isidro, I met with the Union buster
3 man and with Mr. Frank, and I asked Mr. Union Buster why he was
4 trying to hurt me, going down to try and have an employee sign
5 a letter against me. I told him that was not his function, to
6 interrogate employees about work incidents. We had a manager,
7 where all types of incidents were reported to in work. That
8 was not his job to interrogate employees that way. Mr. Union
9 Buster denied completely that he had gone down with a letter
10 for the man to sign.
11 Q Did you -- when did this conversation -- first of all,
12 when you say union buster, who are you referring to? Did you
13 know that person's name?
14 A I knew one, his name was Gustavo.
15 Q And --
16 A He was the one that would give the talks in Spanish.
17 Q When you spoke with Mr. Gustavo and Mr. Frank, what date
18 was that?
19 A It was the same dates, that same week of October.
20 Q Do you remember if you spoke with them before or after you
21 spoke with your supervisor, Isidro?
22 A It was the same dates of this. It was afterwards. One or
23 two days after having spoken with Isidro.
24 Q And where did that conversation with Gustavo and Frank
25 take place?

1 A At the company office, an office in the --
2 Q We --
3 A -- on the first floor.
4 Q Was this conversation in Spanish or English?
5 A In Spanish.
6 Q While you were having this conversation with Gustavo and
7 Frank, did Frank say anything in response to what you were
8 telling them?
9 A Frank didn't say any word, he only listened to what I --
10 the claim I was making.
11 MR. WILSON: Your Honor, can we take a brief break?
12 JUDGE LAWS: Sure. It's 10:45 -- actually, we haven't
13 really taken a stretch break yet, so why don't we take 10, come
14 back at 10:55.
15 (Off the record at 10:45 a.m.)
16 JUDGE LAWS: All right, let's go back on the record and
17 just continue with direct whenever you're ready.
18 MS. PEREDA: Your Honor, at this moment I would like to
19 move GC-47 into evidence.
20 JUDGE LAWS: All right.
21 Any objection?
22 MR. WILSON: Your Honor, we won't object with the
23 understanding that the document is only admitted for -- as it
24 relates to the paragraph where his name is mentioned and the
25 Spanish speaking notes that he made. Other than that, we think

1 the document's irrelevant.

2 JUDGE LAWS: I assume it's being offered to --

3 MS. PEREDA: Well, Your Honor --

4 JUDGE LAWS: -- put into context his testimony and the

5 conversations that he had about what had happened to him. I

6 haven't taken a look --

7 MS. PEREDA: Well, Your Honor --

8 JUDGE LAWS: -- critically at pages 1, 2, 3, and 4. If

9 they're being offered to prove anything with regard to those

10 pages, that would be something I would want testimony about.

11 MS. PEREDA: Sure, Your Honor, and perhaps -- I mean, we

12 believe that this document also goes to show knowledge of the

13 Employer's Union activities, given that he testified that he's

14 the only Ruben and his name appears on page 5, so we do believe

15 that it is relevant for that purpose.

16 JUDGE LAWS: Understood --

17 MR. WILSON: I --

18 JUDGE LAWS: -- but I'm not looking at pages 1 through 4.

19 MS. PEREDA: That's fine.

20 JUDGE LAWS: Okay.

21 All right, well, with that limitation, then I will admit

22 General Counsel Exhibit 47.

23 **(General Counsel Exhibit Number 47 Received into Evidence)**

24 (Counsel confer)

25 MS. PEREDA: Your Honor, I'm sorry, I think I misplaced an

1 exhibit. Can we go off the record for two minutes?
2 JUDGE LAWS: Sure, go ahead and find it.
3 (Off the record at 11:00 a.m.)
4 JUDGE LAWS: Okay, let's go back on the record.
5 MS. PEREDA: Mr. Court Reporter, are you able to show this
6 witness General Counsel Exhibit 2?
7 Q BY MS. PEREDA: Mr. Munoz, you have before you what's been
8 mark as General Counsel 2. Can you turn to page 6 of that
9 document? And page 6 and 7 are part of the same document.
10 Have you seen page -- can you also see page 7, Mr. Munoz?
11 A Yes.
12 Q Okay. Mr. Do -- Mr. Munoz, did you recognize pages 6 and
13 7?
14 A Yes.
15 Q What are they?
16 A It was the document I was given at HR on October the 23rd.
17 **(General Counsel Exhibit Number 48 Marked for Identification)**
18 MS. PEREDA: Your Honor, at this moment, I'm going to hand
19 the parties what's been marked as GC Exhibit 48.
20 JUDGE LAWS: Okay.
21 Q BY MS. PEREDA: Mr. Munoz, can you take a look at what's
22 been marked as General Counsel Exhibit 48? Did you take a --
23 were you able to review that document, Mr. Munoz?
24 A Yes.
25 Q And what is General Counsel Exhibit 48?

1 A This document I also -- I acquired it when they assigned
2 to me the change of schedule.
3 Q The document, GC-48, which is -- it's regarding the
4 position change notice. This document and the written warning,
5 dated October 23rd, 2017, which is again, General Counsel
6 Exhibit 2, pages 6 and 7, did you receive those documents on
7 the same day or separate days?
8 A The same day.
9 Q Who issued you these documents?
10 A The one in charge of HR, Ms. Hikari -- Hikikari -- Hikari,
11 something like that.
12 Q These documents are dated October 23rd, 2017. Is that
13 about when you received the documents from Hikari?
14 A Yes.
15 Q Was there a meeting with Hikari to discuss these
16 documents?
17 A Yes.
18 Q Where did this meeting take place?
19 A The second floor of the company in an office.
20 Q In addition to you and Hikari, who else was present for
21 this meeting?
22 A Ms. Hikari was there, another person, I don't know that
23 name, and another interpreter by the name of Himay (phonetic).
24 Q Do you recall if any other managers or supervisor was
25 present at this meeting, either in person or through some other

1 method?
2 A Yes, I do remember.
3 Q Who else was present?
4 A Mr. Frank Matheu was present through satellite.
5 Q Now Mr. Munoz, I want you to focus on this meeting with
6 Ms. Hikari. What was said at this meeting with Hikari and by
7 whom?
8 A Ms. Hikari called me to HR. It was a great shock to me.
9 I am -- never could think of what she wanted me for. When I
10 arrived upstairs, she gave me a document where she said that
11 she had to -- some charges for me. I asked her what kind of
12 charges they were. She read the charges to me, Mr. Himay
13 interpreted for me. At that moment, I was surprised because of
14 the accusations that were being made against me. I asked her
15 to give me some type of evidence about the charges that she was
16 assigning to me, because I didn't know all these accusations
17 that were being made against me.
18 I repeated three or four times that this was false, all of
19 this. False rumors that they received there. She replied that
20 the document was already made and to sign it. I completely
21 denied to sign it, because I was sure that this was something
22 false, since they were not presenting any evidence to me or
23 want to bring any witness from the company to me.
24 At that time, Mr. Frank Matheu shows up through the
25 satellite and tells me that I have no other option but to sign

1 the warning. That is a -- that it was a decision made on
2 behalf of the company, that he could not change anything, that
3 everything was already done.
4 I continued to decline signing it, the warning.
5 Ms. Hikari gave me the option to write a note on the back of
6 the warning the reasons why I wasn't signing it.
7 Q So if you turned -- if you're looking at General Counsel
8 Exhibit 2 on page 7 --
9 THE INTERPRETER: Excuse, the interpreter, you said GC --
10 MS. PEREDA: GC-2, page 7. It's the top --
11 JUDGE LAWS: It's right in front of him.
12 MS. PEREDA: -- the top document, the one below that one.
13 Yep, that one.
14 Q BY MS. PEREDA: Mr. Munoz, whose hand -- where is this
15 comments (sic), whose handwritten comments are those?
16 A They're mine.
17 Q And did you write them on the day that you met with
18 Hikari?
19 A Yes. At the same time.
20 MS. PEREDA: And if I could please ask the interpreter
21 similarly to please translate the comments that are written on
22 GC Exhibit 2, page 7.
23 THE INTERPRETER: Excuse the interpreter.
24 "I decline to sign this report that is against me
25 because I don't understand the reason why I'm being

1 accused of these facts. I never cause an accident to
2 anyone, nor have I offended my coworkers."
3 Q BY MS. PEREDA: How long was this meeting with Hikari and
4 the other people present?
5 A Between 15 and 20 minutes, maximum half an hour, I don't
6 know.
7 Q Can you take a look at page 6 of General Counsel Exhibit
8 2, so just flip the page back?
9 Mr. Munoz, when you were the lead -- as a lead, did you
10 operate the forklift?
11 A No. Only the pallet jack.
12 Q Do you re --
13 A In an -- in an emergency, I have used the forklift. In 10
14 years, no more than 15 times.
15 Q And how long have you operated the pallet jack?
16 A Eleven years.
17 Q Mr. Munoz, as a lead, did you have the authority to fire
18 employees?
19 THE INTERPRETER: Excuse the interpreter.
20 THE WITNESS: No.
21 Q BY MS. PEREDA: Now before you received this written
22 warning, dated October 23rd, 2017, have you ever before been
23 disciplined by the company?
24 A No, never.
25 Q Before you received this written warning from the company,

1 did anyone from the company talk to you about the alleged
2 complaints that coworkers were making against you?
3 A No.
4 Q Before you received this written warning, did anyone from
5 the company tell you that there were issues with your work
6 performance as a lead?
7 A Yes, once. Mr. Vasquez spoke to me, and told me that
8 there were rumors, and I asked him -- I asked him to tell me
9 who it was that -- if there was a person who wasn't happy with
10 me at work to let me know, so that I could try and solve the
11 problem.
12 Q That conversation with Vasquez, when did that conversation
13 take place?
14 A It was before October, before the action.
15 Q And did Mr. Vasquez specify as to which employees were
16 complaining against you?
17 A No, he didn't say.
18 JUDGE LAWS: I want to get a better handle on the time
19 frame, because before October, it could date back 11 years.
20 So how close to October 2017?
21 THE WITNESS: Between April and October of 2017.
22 JUDGE LAWS: Thanks.
23 Q BY MS. PEREDA: Did Mr. Vasquez ever issue you any type of
24 discipline as a result of the -- of these complaints that he
25 was hearing from other employees?

1 A No, never. Nothing.
2 Q Did he mention to you that you were going to be
3 disciplined?
4 A No.
5 Q Now after you received this written warning on October
6 23rd, how did your work schedule change?
7 A They changed it from 6 to 3 in the afternoon, with the
8 option of working overtime.
9 Q So Mr. Munoz, if I understand correctly, you went from
10 working the night shift to working the day shift?
11 A Yes.
12 Q And how, if at all, did your hourly rate change after you
13 received this written warning?
14 A Yes, they changed it. They took away -- they took away
15 one dollar from the night shift, plus the raise that I had
16 gotten for being a lead. I remember it was $1.60 altogether,
17 approximately.
18 Q Now after you received this written warning, were you
19 prohibited from operating any machines at work?
20 A No. I continued to work regular and normal.
21 Q After you received this written warning, did you continue
22 to operate the pallet jack?
23 A Like regular, the same.
24 Q After you received this written warning, were you ever
25 told that you were required to take any type of safety

1 equipment training?

2 A Nothing, just regular, work -- regular work.

3 MS. PEREDA: Your Honor, at this moment I would like to

4 move GC-48 into evidence.

5 JUDGE LAWS: Okay.

6 Any objection?

7 MR. WILSON: No objection.

8 JUDGE LAWS: General Counsel 48 is admitted.

9 **(General Counsel Exhibit Number 48 Received into Evidence)**

10 MS. PEREDA: No further questions, Your Honor.

11 JUDGE LAWS: Okay.

12 Does the Union have any questions?

13 MS. SANCHEZ: Yes, thank you.

14 **CROSS-EXAMINATION**

15 Q BY MS. SANCHEZ: Mr. Munoz, good morning. My name is

16 Renee Sanchez. I'm counsel for Teamsters Local 630. I'm going

17 to ask you a few questions.

18 A Of course.

19 Q You testified earlier about a delegation that occurred in

20 August of 2017. Do you --

21 A Sorry, I didn't hear you.

22 THE INTERPRETER: Excuse the interpreter. I'll repeat the

23 question.

24 THE WITNESS: Are you talking about when we met at the

25 company?

1 Q BY MS. SANCHEZ: Yes, a delegation to the company.
2 A Yes.
3 Q Do you recall the purpose of that delegation?
4 A The purpose of that meeting that we made was so there
5 would be justice to try -- for there to be justice with all of
6 those at the company Wismettac.
7 Q Was the purpose of that delegation to cause trouble in any
8 way?
9 A No. Not at all.
10 Q Would you say that that delegation was peaceful?
11 MR. WILSON: Objection. Leading question.
12 JUDGE LAWS: Sustained.
13 Q BY MS. SANCHEZ: What would you say the feeling amongst
14 the employees was at that delegation?
15 MR. WILSON: Objection. Vague and ambiguous.
16 JUDGE LAWS: I'll answer -- I will construe the answer
17 just as to this witness' perception not actually how others
18 were feeling.
19 THE WITNESS: The protest was for there to be justice and
20 for our rights to be respected as workers.
21 Q BY MS. SANCHEZ: And how did you feel personally, that
22 day?
23 A I felt positive with the support of all of us coworkers.
24 Q You testified earlier about somebody you called a Union
25 buster named Gustavo. Do you know if Gustavo also goes by Gus?

1 A I believe so. I believe that's him, yes.
2 Q As a lead, did you ever receive cash or sign for daily
3 reports of the drivers?
4 A No.
5 Q When you used the word "golpe" earlier, did you mean that
6 as a strike or as a bump?
7 THE INTERPRETER: Excuse the interpreter. I'm going to
8 have to look those words up.
9 JUDGE LAWS: And I am going to jump in here because we had
10 the interpretation clarified on the record using neither of
11 those terms. So --
12 MS. SANCHEZ: Okay.
13 JUDGE LAWS: -- I'm not sure where we're going here other
14 than to confuse the record even more.
15 MS. SANCHEZ: Okay. That's not my intention, Your Honor.
16 THE INTERPRETER: So --
17 MS. SANCHEZ: Okay. I will withdraw the question.
18 JUDGE LAWS: Okay.
19 MS. SANCHEZ: And ask one last question.
20 JUDGE LAWS: Go ahead.
21 Q BY MS. SANCHEZ: When you testified about the incident
22 earlier where you used the word "golpe" that was used with
23 regard to equipment touching, not people touching; is that
24 correct?
25 A No. Never people. It was equipment. It was a machine

1 against a machine, pallet jack against pallet jack.
2 MS. SANCHEZ: Thank you, Your Honor. I just needed that
3 clarification. No further questions.
4 JUDGE LAWS: Okay.
5 MR. WILSON: We just need the statements.
6 JUDGE LAWS: Cross the statements. Let's take a look at
7 how long they are and determine whether -- I guess I'll let
8 counsel determine whether you want to review them and try to
9 wrap up your cross before we break for lunch, or whether you
10 want to review them in coordination with a lunch break.
11 MS. PEREDA: We have only one affidavit --
12 JUDGE LAWS: Okay.
13 MS. PEREDA: -- from this witness, and it's
14 three-and-a-half pages long.
15 JUDGE LAWS: Okay. Let's go off the record.
16 (Off the record at 11:22 a.m.)
17 **CROSS-EXAMINATION**
18 Q BY MR. WILSON: Good morning, Mr. Munoz. My name is Scott
19 Wilson. I'm an attorney for the company. Thank you for coming
20 here this morning, and I'm going to ask you a few questions,
21 okay?
22 A Yes.
23 Q So was your job position, prior to being demoted in
24 October 2017, were you described as a lead employee?
25 A Yes.

1 Q And a lead is a team leader is it not?
2 A Yes.
3 Q Okay. And how do you understand the job of a team
4 leader?
5 MS. PEREDA: Objection as to relevance. I mean, he can
6 testify as to what his job duties were as a lead, but he used a
7 different term that may or may not be --
8 MR. WILSON: He just said he knew what a team leader was.
9 JUDGE LAWS: He did. Overruled. Go ahead and answer.
10 THE WITNESS: When I was assigned as a lead, the job,
11 Mr. Frank told me Mr. Vazquez and Mr. Isidro were going to give
12 me the instructions. They never told me the rules or a list to
13 follow, never. I continued to work as normal, training new
14 people when they arrived as long as my manager Isidro required
15 it.
16 Q BY MR. WILSON: And can you explain how you trained new
17 employees when they arrived?
18 A Oh, sure, of course. Giving them a tour throughout the
19 whole warehouse, showing them how to drive the pallet jack to
20 those that didn't know how, showing them the locations, and
21 trying to show them how it was that you lifted the orders.
22 Even on how to --
23 THE INTERPRETER: -- excuse the interpreter. I'm going to
24 have to ask for him to repeat that.
25 THE WITNESS: Showing them how to put the merchandise on

1 the floor so that the next day the drivers could load their
2 merchandise.
3 Q BY MR. WILSON: Okay. And the training was for new
4 employees, as I understand it, correct?
5 A New employees because all the employees we had had been
6 there for many years already. Before this movement, there was
7 a long time where the employees were not changed.
8 Q Okay. And what if a new employee came in and you trained
9 him, and that person still didn't know how to do to the job,
10 what would you do then?
11 A I'm sorry, could you repeat the question?
12 Q Well, if you trained a new employee and the employee still
13 didn't know how to perform the job after the training, what
14 action would you take?
15 A Okay. Perfect. After a few days, after the personnel was
16 trained, my manager Isidro Garcia would ask me how the new
17 employee was carrying out the work. I would give him the
18 report of how the person was carrying out the work. He would
19 decide if the new employee stayed or he fired him.
20 Q And he made that decision based on the report you gave
21 him, correct?
22 MS. PEREDA: Objection. If he knows.
23 JUDGE LAWS: Okay. Answer only if you know what he based
24 his decision on.
25 THE INTERPRETER: Excuse the interpreter. The answer was

1 I suppose so.
2 MR. WILSON: Okay. That's fine.
3 Q BY MR. WILSON: And you mentioned that you knew the
4 employee Walter Vargas?
5 A Yes.
6 Q Okay. Do you know when Walter Vargas started at the
7 company?
8 A I believe in 2017. I don't know the month.
9 Q Okay. Do you know how long before the election Mr. Vargas
10 started at the company?
11 A 2017, from January to April. I don't -- can't decide when
12 it happened, but I believe it was in 2017. I never paid
13 attention to the dates of when new employees arrived.
14 Q Okay. Did you train Walter Vargas?
15 A Yes. In English 100 percent. Completely, he personally
16 is one of the people that is the most thankful that I trained
17 him, because when he arrived he was such a humble person that
18 he was thinking of leaving because he didn't understand
19 anything. And I told him to calm down, to calm down that I was
20 going to teach him how to work. And he is a constant worker, a
21 good worker.
22 Q Now, and as a team leader, if you see an employee who's
23 not doing his job, do you report that to your supervisor?
24 A Yes. To Isidro.
25 Q Okay. And what sort of things would you report to Isidro

1 is someone wasn't doing their job?
2 A Things like using the phone, talking too much during work
3 hours, yeah.
4 Q And why do you tell those things to Isidro?
5 A Because it was a rule. It was a rule that phones should
6 not be used during work hours.
7 Q Okay. And are there other types of employee misconduct
8 that you would report to Isidro, if you recall?
9 A I never -- I don't remember ever having reported him any
10 misconduct on behalf of the employees except for Mr. Oscar
11 Ortiz.
12 Q Okay. And what sort of misconduct did you report
13 regarding Oscar Ortiz?
14 A I reported several times the use of the phone, using
15 obscene words against coworkers and against me also. Trying to
16 turn the employees against me as a person, saying that I was a
17 person that was -- I don't know if it's too serious for me to
18 use the words that I should say or not. They are vulgar words
19 and serious.
20 Q Okay. So you said that you drove a pallet jack; is that
21 correct?
22 A Yes.
23 Q Okay. And are there safety rules for operating a pallet
24 jack?
25 A Yes, there were, yes.

1 Q And other employees drove pallet jacks also, correct?
2 A Yes, all of us.
3 Q Okay. So as a team leader, if you saw an employee
4 operating a pallet jack in an unsafe manner, what would you
5 do?
6 A Tell him to try and operate it in the safest way possible
7 for everyone. Accidents happen regularly, excuse me, incidents
8 happen regularly every week regularly.
9 Q Did you ever -- and you reported incidents sometimes to
10 Isidro, did you not?
11 MS. SANCHEZ: Objection. Irrelevancy and asked and
12 answered.
13 JUDGE LAWS: Overruled.
14 THE WITNESS: Serious incidents, I did report them. Not
15 accidents, they're just routine, like, in the traffic.
16 Q BY MR. WILSON: Okay. Why did you report serious
17 incidents to Isidro?
18 A There was never any serious incidents that needed to be
19 reported except for one accident. A black man hit a person
20 with the name of Rodolfo Gutierrez. There was another serious
21 accident; Mr. Oscar Ortiz did it hurting an employee, a man,
22 with a forklift by the name of David. I think his name was
23 David. Even to this day that man is disabled. He didn't
24 return to work. He hurt his legs.
25 Q Okay. So those are serious accidents that you reported to

1 Isidro, correct?
2 A Yes. Two.
3 Q Okay. So do you still have in front of you General
4 Counsel 47? Could you take another look at that? And you
5 testified earlier about this document, do you recall?
6 A Yes.
7 Q Okay. And as I understand your testimony, you thought
8 that some of the statements in this document were untrue; is
9 that correct?
10 A Yes.
11 Q And you -- and after you looked at the document, you
12 discussed it with Isidro, did you not?
13 A Yes. True.
14 Q And Isidro told you to go to HR did he not?
15 A Yes.
16 Q And did you go to HR after you first saw this document?
17 A Yes.
18 Q And do you recall when you went?
19 A It was October the 12th or 13th, 13th.
20 Q And who did you speak to in HR?
21 A With the person in charge of HR, Ms. Hikari.
22 Q Okay. And what did you tell Ms. Hikari?
23 A That there was this document where they involved me. They
24 were staining my name. What they were saying that I
25 intimidated Mr. Jose Rosas with a forklift. I cleared up that

1 I never drove forklift; just in cases of emergency. And that I
2 didn't know who Mr. Vazquez was. I had no idea who that was.
3 JUDGE LAWS: Mr. Vazquez?
4 THE WITNESS: No, Mr. Rosas.
5 MR. WILSON: Okay.
6 Q BY MR. WILSON: And what did Ms. -- how did Ms. Hikari
7 respond?
8 A She replied to me that this document was already written,
9 that she had nothing to do with that document, that if I was
10 dissatisfied with this document to come and make a complaint at
11 this department.
12 Q Okay. Did you make a complaint at that department?
13 A That's when the Union called me.
14 THE INTERPRETER: Excuse the interpreter. He said
15 something at the end that I didn't catch.
16 THE WITNESS: Sorry. Ms. Hikari told me that if I was
17 dissatisfied with this document to make a complaint at this
18 department.
19 JUDGE LAWS: And I'm going to jump in here and say what
20 department was this department?
21 THE WITNESS: The national labor.
22 MR. WILSON: Oh, okay. I'm sorry. I misunderstood you.
23 MR. WILSON: I think that's all, Your Honor. Just let
24 me --
25 JUDGE LAWS: Take your time.

1 MS. PEREDA: I'm sorry, Scott, did you say you were
2 finished?
3 JUDGE LAWS: He's --
4 MR. WILSON: I'm finished. That's correct, yeah.
5 MS. PEREDA: Oh.
6 JUDGE LAWS: You are? Okay.
7 All right, any redirect?
8 MS. PEREDA: Can I have a minute, Your Honor?
9 JUDGE LAWS: Sure. Bless you.
10 (Counsel confer)
11 MS. PEREDA: I'm ready, Your Honor.
12 JUDGE LAWS: Okay. Go ahead.
13 **REDIRECT EXAMINATION**
14 Q BY MS. PEREDA: Mr. Munoz, when you were a lead, how many
15 employees total would you say you trained?
16 A I don't have any idea. It was between April and October.
17 I don't have any idea.
18 Q Was it more than 10? Was --
19 A Oh, yeah, yes.
20 Q Can you give us an estimate as to about how many employees
21 you trained during that period of time when you were a lead?
22 A It could be 20 approximately.
23 Q Now, you mentioned that there was an incident between
24 employee Oscar Ortiz, and I believe you said another employee
25 named David?

1 A Yes. David, I think his name is David.
2 Q Do you remember when that incident happened, the month and
3 year?
4 A It could have been two years.
5 Q Who did you report that incident to?
6 A We found out when Mr. Oscar Ortiz was ran over by the
7 machine. We went to report. I made the report when Mr. Oscar
8 was going and he ran him over. There were other people who saw
9 it before I did.
10 JUDGE LAWS: All right. I'm going to stop him here and
11 clarify the previous testimony, because you asked when, and the
12 response was it could have been two years. Two years from
13 what?
14 THE WITNESS: Start -- from today. I don't have the exact
15 date but I think two years at the most.
16 JUDGE LAWS: Okay. That's sufficient.
17 THE WITNESS: Two or two-and-a-half.
18 JUDGE LAWS: And you were not a lead during that time?
19 THE WITNESS: No.
20 JUDGE LAWS: Okay. Please proceed.
21 THE WITNESS: I just talked about the accident.
22 Q BY MS. PEREDA: And, I'm sorry, who did you report the
23 incident to?
24 A With -- when the crash happened, we all looked, we all
25 saw.

1 JUDGE LAWS: All right, I'm going to jump in with a
2 question here. Were you the person who reported the incident
3 to management?
4 THE WITNESS: No.
5 JUDGE LAWS: Okay.
6 THE WITNESS: We all -- we all saw.
7 JUDGE LAWS: Okay.
8 Q BY MS. PEREDA: To your knowledge, was the incident
9 reported to a manager or supervisor?
10 A Oh, yes, yes, it was serious.
11 Q And to your knowledge, was employee Oscar Ortiz
12 disciplined as a result of this incident?
13 A That I know of? No.
14 Q You mentioned that there was another incident involving
15 two other employees, and I believe you said it was an
16 African-American man and someone else. Do you remember
17 testifying about that?
18 A No. It was -- no, I didn't testify --
19 Q You mentioned --
20 A -- anything. I don't think I was a lead yet. I don't
21 think so.
22 Q Mr. Munoz, you mentioned that in addition to the incident
23 involving employee Oscar Ortiz, there was another serious
24 accident, do you remember testifying about that?
25 A Another serious accident? There wasn't. I don't

1 remember. I remember two, Rodolfo and I believe David.
2 Q Okay. I'm sorry, the one with Rodolfo, which employees
3 did that involve?
4 A Just the one that caused the crash and him.
5 Q Who caused the crash?
6 A Mr. James.
7 Q Do you remember when that incident took place?
8 A I don't remember the date but I believe about a
9 year-and-a-half, two. I don't remember.
10 JUDGE LAWS: From now?
11 THE WITNESS: Yes.
12 Q BY MS. PEREDA: To your knowledge, was that incident
13 reported to a manager or a supervisor?
14 A Yes.
15 Q And to your knowledge, was any of the employees involved
16 in the incident disciplined as a result of the incident?
17 A No. Rumor was passed that Mr. James was sent to get a
18 drug test done because of the accident. I'm not sure though.
19 Q You mentioned that Oscar Ortiz was using obscene words in
20 the facility. When did you -- did you hear these words from
21 Mr. Ortiz, Oscar Ortiz?
22 A Yes, of course.
23 Q When did you first hear him make these or say these
24 obscene words?
25 A All the time that I've known him.

1 Q For how long did he make these obscene comments?
2 A All the time that he worked there.
3 Q To your knowledge, how long did he -- do you remember when
4 he first started working at the company?
5 A I don't remember, but I believe he was between three and
6 five years that he had been working.
7 Q Did you ever report the obscene comments that he was
8 making to a manager or a supervisor?
9 A When I was a leader, yes.
10 Q And who did you report that to?
11 A To Mr. Isidro Garcia, the manager.
12 Q What kind of obscene language was Mr. Oscar Ortiz using at
13 the warehouse?
14 A Well, he would use words like -- while I was a lead, words
15 like he would tell the employees that I was a piece of shit, to
16 send me to hell, to not listen to me. It was several times
17 that I reported it to Mr. Isidro, three times.
18 The last time I reported it, an employee, when he arrived
19 to work, he told me that to go directly to Isidro because they
20 were tired. He had tired (sic) the employees that when I left
21 to go home, he always would speak badly about me, including he
22 would insult me and to tell me to go fuck my mother. I went
23 with Isidro and I reported that I couldn't bear that -- those
24 insults anymore, that I was going to take the witnesses to
25 him.

1 I took him three witnesses, Mr. Walter, Mr. William, and
2 Mr. Pedro. The three people told him the same comment.
3 Q When did you present those three witnesses to Mr. Isidro
4 Garcia, do you remember?
5 A It was between April and October. We were already in the
6 movement of the Union.
7 Q And this --
8 A Around I believe September, I believe. We were within the
9 Union. We were already registered with the Union.
10 Q So to your knowledge, you presented the witnesses to
11 Isidro sometime around the first election?
12 A Yes.
13 Q And, to your knowledge, was Mr. Oscar Ortiz disciplined as
14 a result of the obscene comments that he was making at the
15 warehouse?
16 A I don't believe so ever.
17 Q And how often would you hear him make these comments in
18 the warehouse?
19 A Every day, he would comment. He had a dirty and obscene
20 vocabulary.
21 Q Did you ever hear Mr. Oscar Ortiz call other employees
22 names?
23 A Regularly, yes, but it was nothing about -- not serious,
24 just several occasions he would all -- they would also call me
25 names. It was never serious the nicknames.

1 Q In addition to Mr. Oscar Ortiz, did other employees use
2 obscene or vulgar words or language in the warehouse?
3 A No. Regular vocabulary, normal. We all sometimes use bad
4 words but without insulting other people, second parties.
5 Q Did you say these words in a joking manner?
6 A Yes, you could say like a joke.
7 Q And what kind of words were you -- what kind of words
8 would you guys use in a joking manner?
9 A Words, like, common ones that you speak in Spanish, but
10 without insulting second persons without being disrespectful to
11 another person.
12 Q Can you give us an example of the types of words that you
13 guys would use towards one another in a joking manner?
14 A Sure, of course. Like asshole move, or don't fuck, or --
15 THE INTERPRETER: -- excuse the interpreter. He said one
16 more.
17 THE WITNESS: Asshole, ass.
18 MS. PEREDA: No further questions, Your Honor.
19 JUDGE LAWS: All right.
20 Any redirect from Charging Party?
21 MS. SANCHEZ: Yes, thank you, Your Honor.
22 **RECROSS-EXAMINATION**
23 Q BY MS. SANCHEZ: Mr. Munoz, you -- about the two serious
24 incidents you discussed earlier, you said Mr. James was
25 involved in one of them, and that the rumor was that he was

1 sent to a drug test. My quest- -- correct?
2 A That was the rumor that he was taken, but I -- that was
3 the rumor that was spread.
4 Q Fine. There was a second serious incident regarding Oscar
5 Ortiz, correct?
6 A Yes.
7 Q Was there also a rumor about him being sent to a drug
8 test?
9 A I didn't find that out.
10 Q As far as you know, was Oscar Ortiz given a drug test
11 after his serious incident?
12 A I don't know.
13 Q Were you supportive of the Union?
14 A Yes.
15 Q Do you know whether --
16 A Oh, sorry. When the accident happened or --
17 Q No. Thank you for the clarification. During the Union
18 activity, were you supportive of the Union?
19 A During the Union activities, yes.
20 Q Are you aware whether other employees knew of your
21 support?
22 MR. WILSON: Objection. Lack of foundation.
23 MS. SANCHEZ: I withdraw the question.
24 JUDGE LAWS: Okay.
25 Q BY MS. SANCHEZ: You testified earlier that you engaged

1 with the Union when you went to the delegation, correct?
2 A True.
3 Q And you wore the Union's T-shirt?
4 A Yes.
5 Q Do you know whether Oscar Ortiz was also supportive of the
6 Union during this time?
7 A I believe no.
8 Q You don't know or you don't think he was supportive?
9 A I don't believe so. I didn't see him.
10 Q Do you know if he supported the Union?
11 A I believe no.
12 Q Did you ever see Oscar Ortiz wearing a Union T-shirt?
13 A No, never.
14 Q Did he go to the delegation with you?
15 A I didn't see him.
16 MS. SANCHEZ: Okay. Thank you.
17 MS. PEREDA: I believe she said she was done. Renee
18 did --
19 MS. SANCHEZ: I did.
20 JUDGE LAWS: Oh, I'm sorry.
21 MS. PEREDA: Oh, okay.
22 JUDGE LAWS: Any recross?
23 MR. WILSON: Yes, Your Honor, just very briefly. I'm
24 going to show the witness, and we're running off more copies.
25 JUDGE LAWS: Okay.

1 MR. WILSON: I just want her to do it while you were
2 testifying.
3 JUDGE LAWS: Sure, and if you could show counsel a copy to
4 look at.
5 MR. WILSON: Right.
6 JUDGE LAWS: It's only one page. I can share with the
7 witness.
8 MR. WILSON: I've got to run off two more copies.
9 JUDGE LAWS: If you can take a look at it?
10 MR. WILSON: If you want to wait, we can run them off
11 right now, I just didn't want her running out while --
12 MS. PEREDA: Scott, this is actually in evidence.
13 JUDGE LAWS: Okay.
14 MS. PEREDA: This is GC-2 page 2.
15 JUDGE LAWS: Oh, perfect.
16 MR. WILSON: Oh, okay.
17 MS. PEREDA: Let me just double-check. I believe so.
18 MR. WILSON: Because I looked for that and didn't see it.
19 JUDGE LAWS: It is.
20 MS. PEREDA: Yeah.
21 MR. WILSON: Okay. All right, very good.
22 JUDGE LAWS: All right, so if the court reporter could
23 hand the witness -- oh, I think he still has General Counsel
24 Exhibit 2 in front of him. Can you try to find that?
25 MR. WILSON: Yeah, I see it was because it was a packet of

1 stuff.

2 MS. PEREDA: Yes.

3 MR. WILSON: And so -- okay. So which page is --

4 MS. PEREDA: It's page 2.

5 MR. WILSON: Page 2, yeah.

6 JUDGE LAWS: Okay.

7 THE INTERPRETER: Excuse the interpreter. What page

8 again?

9 JUDGE LAWS: 2.

10 MS. PEREDA: Yeah, page 2.

11 JUDGE LAWS: There you go.

12 **RECROSS-EXAMINATION**

13 Q BY MR. WILSON: Can you review that document?

14 MS. PEREDA: Your Honor, I'm just going to ask Mr. Scott

15 Wilson to step back.

16 MR. WILSON: Oh, I'm sorry.

17 JUDGE LAWS: Well, he needs to anyway because --

18 MS. PEREDA: Thank you.

19 JUDGE LAWS: -- of the court reporter.

20 MR. WILSON: Oh. Okay.

21 JUDGE LAWS: Needs to -- you need to be in front of your

22 microphone.

23 MR. WILSON: You're right.

24 THE WITNESS: It's in English. I can't interpret it 100

25 percent.

1 MR. WILSON: Can we have the interpreter read him the
2 document?
3 JUDGE LAWS: Is there -- is it a part or do you want him
4 to see the -- do you want him to hear the whole document?
5 MR. WILSON: Well, he signed it. So I was going to ask
6 him if that's his signature.
7 MS. PEREDA: We'll stipulate that that's his signature.
8 JUDGE LAWS: Okay.
9 MR. WILSON: Okay. So we can stipulate that that's the
10 document he received to offer him a lead position. If we'll
11 stipulate to that then we can -- I have no further questions.
12 JUDGE LAWS: Okay.
13 MS. PEREDA: Yes, we will. Thank you, Your Honor.
14 JUDGE LAWS: All right, so stipulated that General Counsel
15 Exhibit 2, page 2 is an offer for the lead position that
16 Mr. Hernandez signed on 3/21/17.
17 All right, is that the only question?
18 MR. WILSON: Yes. Thank you, Your Honor.
19 JUDGE LAWS: All right, very good then.
20 Thank you for providing your testimony. Please don't
21 discuss what you testified here about with any other witnesses
22 or any potential witnesses. Thanks.
23 Off the record.
24 (Off the record at 11:58 a.m.)
25 Whereupon,

1 **PEDRO HERNANDEZ**

2 having been duly sworn, was called as a witness herein and was
3 examined and testified as follows:
4 JUDGE LAWS: Can you please have a seat? And when you're
5 ready, state your name for the record and spell it.
6 THE WITNESS: Okay. My name is Pedro Hernandez.
7 JUDGE LAWS: Is it spelled the traditional way?
8 THE WITNESS: Hernandez?
9 JUDGE LAWS: Yes.
10 THE WITNESS: Yes.
11 JUDGE LAWS: Okay. Then no need. Mr. Hernandez, a couple
12 of things before the attorneys ask you questions. The first is
13 if you're asked something and you don't know, or you're not
14 really sure, just say I don't know.
15 THE WITNESS: Okay.
16 JUDGE LAWS: Only take a guess if you're asked to give
17 your best guess or your best estimate. Second, if you ask --
18 if you're asked a question that you don't completely
19 understanding, lawyers sometimes like to use words that nobody
20 in the universe uses. So just say I don't understand and it
21 will be re-asked for you.
22 THE WITNESS: Okay.
23 JUDGE LAWS: Thanks. And then, finally, to your left is
24 our court reporter. He has to take down everything we say when
25 we're on the record. So as best you can, try to make sure you

1 don't start your answer until the question you're being asked
2 is completely finished.
3 THE WITNESS: Okay.
4 JUDGE LAWS: Thanks. Okay.
5 THE WITNESS: Okay.
6 **DIRECT EXAMINATION**
7 Q BY MR. RIMBACH: Good afternoon, Mr. Hernandez. Are you
8 familiar with a company called Randstad General Partner?
9 A Yes.
10 Q Is Randstad a temporary stocking agency?
11 A Yes.
12 Q How are you familiar with Randstad?
13 A I got a job through them, job offer.
14 Q Where did you get a job offer through them?
15 A Wismettac.
16 Q Wismettac Asian Foods?
17 A Yes.
18 Q Where was the Wismettac facility located?
19 A Sante Fe Springs.
20 Q When were you first referred by Randstad to work for
21 Wismettac?
22 A June 2017.
23 Q Are you presently working for Wismettac?
24 A No.
25 Q When did you stop working for Wismettac?

1 A October 31st, 2017.
2 Q What was your position when you first started working for
3 the company?
4 A Order picker.
5 Q What were your job duties as an order picker?
6 A You pick orders for stores.
7 Q What kind of equipment did you use for that job?
8 A Pallet jack.
9 Q Did you hold any other positions?
10 A Yes, after that, yeah.
11 Q What other position?
12 A Forklift, forklift driver.
13 Q How long were you an order selector for?
14 A Three days.
15 Q And then after that you became a forklift driver?
16 A Yes.
17 Q What were your duties as a forklift driver?
18 A Pulling product down for the pickers.
19 Q What equipment did you use as a forklift driver?
20 A High reach forklift.
21 Q High reach is just the name of the forklift?
22 A Yeah.
23 Q Or the type of forklift?
24 A Yeah.
25 Q What shift did you work when you were at Wismettac?

1 A Night shift.
2 Q What were the hours?
3 A From 5 till we finish, 3 in the morning.
4 Q About how many hours a week total did you work on average?
5 A Sixty hours a week.
6 Q What days of the week did you work?
7 A Monday through Friday.
8 Q Do you recall how many -- do you recall if there were
9 other employees from Randstad who also worked the night shift
10 at Wismettac?
11 A Yes.
12 Q About how many other employees were referred by Randstad
13 for the night shift at Wismettac when you were there?
14 MR. WILSON: Objection. Vague as to time.
15 Q BY MR. RIMBACH: So you said you stopped working for
16 Wismettac at -- on October 31st, 2017; is that right?
17 A Yes.
18 Q Okay. So I'd like to reference just the month of October
19 of 2017, the last month you were there. During that duration
20 of time, about how many other employees from Randstad worked
21 the night shift at Wismettac with you, roughly?
22 A I can't remember.
23 Q Do you recall whether it was more than five?
24 A More than five, yeah.
25 Q Was it more than 10?

1 A I can't remember.
2 Q How many forklift drivers worked during the night shift
3 around that month?
4 A It was just me.
5 Q Did you work in a particular section of the warehouse?
6 A The dry section.
7 Q Who was your supervisor when you worked for Wismettac?
8 A Isidro Garcia.
9 Q Do you know his job title?
10 A Supervisor.
11 Q Did you have any other supervisors?
12 A No.
13 Q Are you familiar with Teamsters Local 630?
14 A Yes.
15 Q When did you first hear about them?
16 A From a coworker.
17 Q Do you recall when you first heard from a coworker about
18 that Union, the month or the year?
19 A August. It was in August.
20 Q August of 2017?
21 A Yes.
22 Q Do you recall the specific employee who told you about the
23 Union?
24 A Yes.
25 Q Who was that?

1 A Well, I called him Tim. I don't know his real name. He
2 was Asian.
3 Q He goes by Tim?
4 A Yeah.
5 Q Do you know Tim's job title?
6 A He was a forklift driver.
7 Q What did you discuss with Tim in August of 2017?
8 A About the Union, how --
9 Q Sorry. What did he tell you in his conversation?
10 A That it was going to be better for the company. It would
11 better benefits, more pay, that's pretty much it.
12 Q Do you recall discussing anything else with Tim during
13 that conversation?
14 A No.
15 Q Do you recall a Union election taking place at the
16 Wismettac facility?
17 A Yes.
18 Q Do you recall that it was September 19th, 2017?
19 A Yes.
20 Q Prior to that election on September 19th, were you
21 involved with the Union in any way?
22 A Yes.
23 Q How were you involved?
24 A Wearing the T-shirt.
25 Q Do you recall when -- what T-shirt are you referring to?

1 A The one they gave us to wear.
2 Q Who gave you?
3 A One of the drivers.
4 Q A driver gave it to you?
5 A Yes.
6 Q Can you describe this T-shirt?
7 A It's black with blue and white and yellow letters, and the
8 360 on the back.
9 Q It said 360 on the back?
10 A Yeah.
11 Q Did it say anything else that you can remember?
12 A It said Local 360 on the back. That's all I remember.
13 Q What was the -- what was the logo?
14 A I think it was a -- I can't remember.
15 Q This was from the Union?
16 A Yes.
17 Q Do you recall when you first started wearing the T-shirt?
18 A Yes.
19 Q Was it before the election or after the election?
20 A After the election -- before the election.
21 Q How long before the election did you begin wearing that
22 T-shirt?
23 A Every Friday.
24 Q How many weeks or months before the Union election did you
25 start wearing the T-shirt?

1 A When I got let go. When I got fired.
2 Q Oh, sorry. So you said you started wearing the T-shirt
3 sometime before the election on September 19th?
4 A Yes.
5 Q Do you recall the date or the month that you first started
6 wearing the T-shirt?
7 A No. I can't remember.
8 Q About how many weeks prior to the election did you first
9 start wearing a T-shirt, if you remember?
10 A Two weeks.
11 Q How often did you wear it?
12 A Every Friday.
13 Q Did you wear the T-shirt after the Union election?
14 A Yes.
15 Q How often did you wear it after that election?
16 A Every Friday.
17 Q Did you wear it on any other days of the week?
18 A No.
19 Q At any point when you first began wearing the T-shirt, did
20 you stop wearing the Union T-shirt?
21 A No, I always wearing (sic) it.
22 Q You continually wore it after that --
23 A Yes.
24 Q -- every Friday?
25 A Yes.

1 Q Could you please speak up a little bit so the microphone
2 picks up everything you're saying?
3 A Okay.
4 Q Thank you. When you wore the Union T-shirt, where did you
5 wear it exactly?
6 A In the warehouse.
7 Q When you wore the T-shirt, did you wear a jacket or a
8 sweater or anything that covered it up?
9 A No.
10 Q The shirt was visible when you were working?
11 A Yes.
12 Q Before the Union election on September 19th, did you see
13 any of your coworkers on the night shift also wear the Union
14 T-shirt to work?
15 A Yes.
16 Q About how many of your coworkers, would you say, on the
17 night shift wore the Union T-shirt regularly before the
18 election?
19 A Ten.
20 Q After the Union election on September 19th, did you also
21 see your coworkers continue to wear the Union T-shirt at work?
22 A Yes.
23 Q About how many continued to wear it after that election of
24 those 10 or so?
25 A Ten.

1 Q All of them were -- continued to wear it?
2 A There were some that didn't wear it, but I can't remember
3 how many it was.
4 Q do you remember specifically any individuals that
5 continued to wear their Union T-shirt on the night shift with
6 you?
7 A On the night shift? No, I can't.
8 Q Do you know how many employees there are on the night
9 shift total?
10 A Night shift total?
11 Q Right. How many employees there were in your section?
12 A No. I can't.
13 Q What about the entire warehouse?
14 A I have no --
15 Q You don't remember.
16 A -- idea.
17 Q You said a few of the employees stopped wearing the
18 T-shirt after the Union election. Do you know -- if you know,
19 do you know why they stopped?
20 A I don't --
21 MR. WILSON: Objection. Lack of foundation.
22 JUDGE LAWS: He said he doesn't know so I'd move to --
23 Q BY MR. RIMBACH: Do you recall ever discussing the Union
24 with your coworkers?
25 A No.

1 Q You never discussed the Union with your coworkers at work?
2 A No.
3 Q What about outside of work?
4 A Nope.
5 Q Did you go to any Union meetings?
6 A No.
7 Q Did you ever have any discussions during your breaks or --
8 A Yes.
9 Q -- outside of work?
10 A Yes.
11 Q With your coworkers?
12 A Yes.
13 Q And you had these discussions about the Union?
14 A Yes.
15 Q Do you recall any specific instances where you discussed
16 the Union with your coworkers?
17 A What was that again?
18 Q Yeah. Do you recall any specific meetings or instances
19 where you talked about the Union or your coworkers were talking
20 about the Union?
21 A Yes. It was held in the parking lot in the warehouse.
22 Q And this is the only instance you remember?
23 A Yes.
24 Q About when was this meeting?
25 A After the election.

1 Q So the election was September 19th, 2017, and you were
2 terminated October 31st, 2017. Do you remember during that
3 span of time when that meeting was?
4 A Middle of October.
5 Q And where was the meeting again?
6 A In the parking lot.
7 Q How many people were at this meeting?
8 A Fifteen. Yeah, 15.
9 Q Do you remember what time the meeting was?
10 A I was on lunch when they -- when the meeting was going on.
11 It was 5:20.
12 Q So even though it was 5:20, that was your lunch break?
13 A Yes.
14 Q And that's the lunch break for the night shift?
15 A Yes.
16 Q Do you recall any of the other specific employees' names
17 that were at that meeting?
18 A Yes. Luis and Ronaldo (sic).
19 Q Do you recall their last names?
20 A No, I don't.
21 Q Do you know what their job positions were?
22 A Drivers.
23 Q Were you clocked out during that break?
24 A Yes.
25 Q Were there any Union representatives there at the time?

1 A No.
2 Q Can you please describe what happened at that meeting?
3 A They were talking about that we won the first election,
4 just to keep working hard, be patient, and everything's going
5 to turn out good.
6 Q Do you recall who specifically was speaking?
7 A Luis.
8 Q Luis? Do you recall anything else that was discussed?
9 A No.
10 Q Do you recall what language they were speaking?
11 A Spanish.
12 Q Are you fluent in Spanish?
13 A Yes.
14 Q How long were you out there during your break for the
15 meeting?
16 A Ten minutes.
17 Q What happened after that?
18 A I went back to work because my lunch was over.
19 Q Did the meeting end when you went back to work?
20 A No, it was still going on when I went back inside.
21 Q So you only attended a portion of the meeting?
22 A Yes.
23 Q When you went back to work -- I withdraw that question.
24 Q Were there any supervisors or managers present at that
25 meeting?

1 A Nope.
2 Q Did you see any supervisors or managers around in the
3 vicinity?
4 A When I went inside, yes.
5 Q Can you describe what happened when you walked back inside
6 the warehouse?
7 A They were looking through a garage door window.
8 MR. WILSON: Objection. Lack of foundation.
9 JUDGE LAWS: Well, we'll get to where they were I assume?
10 Q BY MR. RIMBACH: Who did you see specifically?
11 A Isidro Garcia and Jose Vazquez.
12 Q And you may have already mentioned this but who is Isidro
13 Garcia?
14 A Night shift supervisor.
15 Q And who is Jose Vazquez?
16 A Day shift supervisor.
17 Q Where, exactly, did you see them?
18 A On the left side of the door when I was going in.
19 Q Are there any windows in that area?
20 A Yes.
21 Q Could you see them from the parking lot even though they
22 were inside the facility?
23 A No. I didn't see them.
24 Q Okay. Sorry. Were they visible to the outside --
25 A No.

1 Q -- through the window?
2 A No.
3 Q All right. So when you passed by them, what did you see
4 them doing, if anything?
5 A They were just looking out the window.
6 Q They were looking out the window?
7 A Yes.
8 Q What were -- do you know what they were looking at?
9 A They were --
10 Q Could you tell?
11 A The meeting that was going on outside.
12 Q So you didn't see them from outside, but once you got
13 inside the facility, you saw them looking out the window?
14 A Yes.
15 Q Okay. Do you know how long they were standing there for?
16 A No.
17 Q Did you speak to either of them when you passed by?
18 A No.
19 Q You testified that -- just to switch topics for a minute,
20 you testified that your employment with Wismettac ended on
21 October 31st, 2017; is that correct?
22 A Yes.
23 Q How did you find out that your employment ended?
24 A We had a meeting with the supervisors.
25 Q Who called you to that meeting?

1 A It was Frank and Jose Vazquez.
2 Q Are you referring to Frank Matheu?
3 A Yes.
4 Q Do you know his job title?
5 A Supervisor.
6 Q Do you know if he's based at the Santa Fe Springs
7 facility? Do you know where he's based out of?
8 A I don't know.
9 Q Does he regularly work at the Santa Fe Springs warehouse?
10 A No.
11 Q You don't know where else he would work, or where he
12 works?
13 A No, I don't.
14 Q Okay. What time was this meeting?
15 A 6.
16 Q 6 a.m. or 6 p.m.?
17 A It was at night.
18 Q When they approached you about the meeting, did they lead
19 you anywhere?
20 A To one of the offices inside.
21 Q In addition to Frank and Jose Vazquez, was there anyone
22 else at the meeting?
23 A No.
24 Q Do you recall whether there were any other coworkers or
25 employees at the meeting?

1 A Yes.
2 Q But no other supervisors?
3 A No. No other supervisors.
4 Q How many other coworkers or employees were at this
5 meeting?
6 A Fifteen.
7 Q Do you recall any specific individuals who were there?
8 A Fanor, Jeremiah, Pablo, Mario, that's it.
9 Q Do you know Fanor's last name?
10 A I don't.
11 Q You said Jeremiah?
12 A Yes.
13 Q Do you know his last name?
14 A No, I don't.
15 Q And what about you said Mario and Pablo. Do you know
16 their last names?
17 A I don't.
18 Q Of those roughly 15 or so employees, do you know how many
19 employees were from the day shift versus the night shift?
20 A There were more night shift than day shift.
21 Q But you don't know the specific ratio?
22 A I don't.
23 Q Do you know whether these employees were Wismettac
24 permanent employees, or were they temporary employees from an
25 agency?

1 A They were all temps.
2 Q Were they all from the same agency?
3 A Yes.
4 MR. WILSON: Objection. No foundation.
5 JUDGE LAWS: Yeah, if --
6 Q BY MR. RIMBACH: Do you know what agency they were
7 referred from?
8 A Randstad.
9 JUDGE LAWS: And how do you know that?
10 THE WITNESS: Because we got fired that day.
11 Q BY MR. RIMBACH: What language was this meeting in?
12 A English.
13 Q Could you please describe how the meeting started?
14 A Frank said they had a -- he had good news and bad news.
15 Q And then what did he say?
16 A The bad news is that Randstad terminated our contract.
17 Q Did Frank give a reason for that or explain more?
18 A No, he didn't.
19 Q Then what did he say?
20 A The thing is we can apply online at Wismettac, at
21 Wismettac online.
22 Q What he said apply online, do you know what he was
23 referring to exactly?
24 A To get a job through Wismettac.
25 Q What happened next?

1 A Fanor asked the question, saying --
2 Q What did he ask?
3 A Oh, sorry.
4 Q Go ahead.
5 A Saying if we can apply through another temp agency.
6 Q And how did Frank respond?
7 A He didn't say anything.
8 Q Then what happened?
9 A Then I went back to work.
10 Q Okay. Do you recall whether there was any discussion of
11 the night shift versus the day shift?
12 A Yes. Well, the night shift could still work for one more
13 month.
14 Q I'm sorry. Who was speaking?
15 A Frank.
16 Q And what specifically did he say? What did he say exactly
17 about that?
18 A He didn't say anything. All he kept saying is just apply
19 online. That's it.
20 Q Sorry. You said the night shift, though. What about the
21 night shift?
22 A He said that the night shift could still work for another
23 month until the contract is over.
24 Q And did he say anything about the day shift specifically?
25 A No.

1 Q What happened next?
2 A I went back to work.
3 Q Do you recall anything else that was said at the meeting?
4 A Yes. One of the employees asked if we can apply through
5 another agency.
6 Q That was Fanor or someone else?
7 A Fanor.
8 Q I think you already stated how Frank responded, but how
9 did he respond?
10 A He didn't say anything.
11 Q Do you recall any other employees speaking at the meeting?
12 A No.
13 Q About how long was the meeting?
14 A 45 minutes.
15 Q What did you do after the meeting?
16 A I went back to work.
17 Q Do you know whether both the day shift and the night shift
18 went back to work?
19 A No. Just night shift.
20 MR. WILSON: Objection. No foundation.
21 Q BY MR. RIMBACH: Do you know whether the night shift went
22 back to work?
23 A Well, I went back to work. I didn't really pay attention
24 to the other people.
25 Q And was the day shift -- do you know whether the day shift

1 was over at that point, at 6 p.m.?
2 A Yes. They went home.
3 Q What happened after this meeting?
4 A Went back to work.
5 Q Then what happened?
6 A Then a few minutes later Frank approached me.
7 Q Where were you when he approached you?
8 A In the warehouse.
9 Q Where in the warehouse were you?
10 A In front of the office.
11 Q Was he by himself when he approached you?
12 A Yes.
13 Q What happened after he approached you?
14 A We went to the lunchroom.
15 Q Then what happened?
16 A He told me that my contract was over, that I no longer
17 work there.
18 Q Do you recall whether he said anything else?
19 A He just told me to apply online.
20 Q When he said apply online, is he referring to -- do you
21 know whether he was referring to --
22 JUDGE LAWS: Do you know what he was referring to.
23 Q BY MR. RIMBACH: Do you know what he was referring to
24 exactly?
25 A Yes.

1 Q What was he referring to?
2 A Apply on the Wismettac line to -- for a job.
3 Q Did you respond?
4 A No, I didn't.
5 Q What happened next?
6 A I clocked out, grabbed my stuff, and went home.
7 Q About how long was that conversation between you and
8 Frank?
9 A Ten minutes.
10 Q Did the Company --
11 MR. WILSON: Wait. I'm sorry. I didn't hear how the --
12 you speak in a low voice.
13 THE WITNESS: Ten minutes.
14 MR. WILSON: Ten minutes. Okay. Yeah.
15 Q BY MR. RIMBACH: Did the Company give you any other reason
16 for terminating your employment other than the fact that the
17 Randstad contract was ending?
18 A No.
19 Q Do you know whether any other -- any other night shift
20 employees from Randstad were also terminated that same day?
21 A No, I don't know. I don't know.
22 Q After you were told you were being terminated and you went
23 home on October 31st, 2017, did you make any attempts to
24 reapply to work at Wismettac?
25 A Yes.

1 Q When did you first apply?
2 A November 1st.
3 Q The next day?
4 A Yes.
5 Q How did you apply?
6 A Online. Wismettac Asian Foods.
7 Q And why did you apply online through the Wismettac
8 website?
9 A Because Frank told us that they were hiring for warehouse
10 worker.
11 **(General Counsel Exhibit Number 49 Marked for Identification)**
12 MR. RIMBACH: Your Honor, I would like to approach the
13 witness with GC Exhibit 49.
14 JUDGE LAWS: Okay.
15 Q BY MR. RIMBACH: Could you please take a minute and review
16 this document, and let me know when you've finished?
17 A Yes.
18 Q Do you recognize this document?
19 A Yes.
20 Q How do you recognize it?
21 A I applied for this position.
22 Q When did you see this document?
23 A When I was filling out the application.
24 Q Was this online or on paper?
25 A Online.

1 Q This was an internet website?
2 A Yes.
3 Q The document says warehouse worker. Does not include --
4 do you know whether that includes your position as an order
5 selector?
6 A Yes.
7 Q Or -- I'm sorry. A forklift driver?
8 A Yes.
9 Q I'm sorry. Were you a forklift driver or an order
10 selector?
11 A Forklift driver.
12 Q So that position is included in a warehouse worker?
13 A Yes.
14 Q If you look, it says, "Knowledge, Skills, and Ability."
15 Did you review that section when you applied?
16 A Yes.
17 Q Do you -- did you fill those requirements?
18 A Yes.
19 Q Did you review the experience, training, and education
20 section?
21 A Yes.
22 Q Did you also fulfill those requirements?
23 A Yes.
24 MR. RIMBACH: Your Honor, I would like to move -- offer GC
25 Exhibit 49 into evidence.

1 JUDGE LAWS: Any objection?

2 MR. WILSON: No objection.

3 JUDGE LAWS: General Counsel 49 is admitted.

4 **(General Counsel Exhibit Number 49 Received into Evidence)**

5 Q BY MR. RIMBACH: After you applied for the job through

6 Wismettac's website, did you receive a response?

7 A By email. I got an email.

8 **(General Counsel Exhibit Number 50 Marked for Identification)**

9 MR. RIMBACH: Your Honor, I would like to approach the

10 witness with GC Exhibit 50.

11 JUDGE LAWS: Okay.

12 Q BY MR. RIMBACH: Could you please take a minute and review

13 this document, and let me know when you've finished?

14 A Okay.

15 Q Do you recognize this document?

16 A Yes.

17 Q How do you recognize it?

18 A I got it in an email when I applied online for a job.

19 Q Is perktwo02@gmail.com your email address?

20 A Yes.

21 Q And it appears at the top -- did you forward that email to

22 me on September 20th, 2018, just for the record?

23 A Yes.

24 Q The forwarded message at the bottom, it's dated Wednesday,

25 November 1st, 2017. Do you recall whether that's the date that

1 you received this email?
2 A Yes.
3 MR. RIMBACH: Your Honor, I would like to move to enter GC
4 Exhibit 50 into evidence.
5 JUDGE LAWS: Okay. Any objection?
6 MR. WILSON: Objection.
7 JUDGE LAWS: General Counsel 50 is admitted.
8 **(General Counsel Exhibit Number 50 Received into Evidence)**
9 MR. RIMBACH: If I could please ask Mr. Ray, the court
10 reporter, to hand the witness GC Exhibit 6.
11 Q BY MR. RIMBACH: Could you please turn to page 3 in that
12 packet? And could you please review pages 3 through 6?
13 A Okay.
14 Q This exhibit was previously admitted by the Respondent as
15 a job application submitted by employees. Do you recognize
16 this as your job application online?
17 A Yes.
18 Q Did you fill out the answers to these questions yourself?
19 A Yes.
20 Q If you could please turn to page 5. Did you enter in
21 that -- this sentence when you applied online?
22 A Yes.
23 Q And could you please turn to page 6? Did you also enter
24 in this personal identifying information online?
25 A Yes.

1 Q Did you follow up with anyone from Wismettac about the
2 application you submitted online through the Company website?
3 A Yes.
4 Q When?
5 A The next day.
6 Q Do you recall what time you followed up?
7 A I don't.
8 Q How did you follow-up the next day?
9 A I called the warehouse.
10 Q Do you recall who you spoke with?
11 A It was an Asian lady.
12 Q How do you know the women was Asian?
13 A Her accent.
14 Q Do you know that person's name?
15 A I don't.
16 Q Could you please describe that conversation?
17 A I just told her that I filled out my application, and I
18 got an email saying that it was being reviewed. And she didn't
19 know what to say.
20 Q Did she respond?
21 A Yeah. I asked her if I can apply through another agency.
22 She said, yes.
23 Q Do you recall -- did you discuss any specific agencies
24 with her?
25 A No.

1 Q Do you recall any other specific statements from that
2 phone conversation?
3 A No.
4 Q About how long was that phone call?
5 A Four minutes.
6 Q What did you do after that phone call?
7 A I applied at another agency.
8 Q When?
9 A That same day.
10 Q Do you recall which agency?
11 A CornerStone.
12 Q Why did you call CornerStone?
13 A One of the coworkers told me that he worked for that
14 agency.
15 Q When you say the same day, are you referring to
16 November 1st?
17 A Yes.
18 Q Who told you about CornerStone?
19 A I can't remember his name.
20 Q How did you contact CornerStone?
21 A By phone.
22 Q Do you recall what time you called CornerStone?
23 A No.
24 Q Do you recall who you spoke with?
25 A It was a lady, but I don't know her name.

1 Q Could you please describe that phone conversation?
2 A I told her what was going on, that Randstad had let us go.
3 They terminated our contract. And she told me to fill out the
4 application online.
5 Q Do you recall what happened next on the -- during the
6 phone conversation or what else was discussed, if anything?
7 A We discussed about -- she called me the next day, because
8 I was ready to do my drug screen, and she told me to hold off
9 on that because Wismettac didn't want me back.
10 Q So going back to that first phone conversation, though,
11 you don't remember any other statements from that first phone
12 conversation on November 1st?
13 A No.
14 Q How long was that phone conversation?
15 A A couple minutes.
16 Q When did you actually fill out that job application with
17 CornerStone? What day?
18 A Two days -- two days after.
19 Q That same day or --
20 A That same day. It was everything that same day.
21 Q So that was also November 1st?
22 A Yes.
23 Q And then you got another phone call -- or you had another
24 phone call with CornerStone the following day, on November 2nd?
25 A Yes.

1 Q Could we go through that phone conversation again? What
2 happened -- did CornerStone call you or did you call
3 CornerStone?
4 A CornerStone called me.
5 Q And who called you?
6 A The same lady.
7 Q Could you please describe that conversation?
8 MR. WILSON: Objection. Hearsay.
9 JUDGE LAWS: And my ruling on hearsay will be the same as
10 I've previously stated.
11 MR. RIMBACH: You can answer.
12 THE WITNESS: Oh. She told me to hold off on the drug
13 screen because Wismettac didn't want me back, to work back at
14 their warehouse.
15 Q BY MR. RIMBACH: Do you recall whether you discussed
16 anything else during that second phone conversation with
17 CornerStone?
18 A No.
19 MR. RIMBACH: If I could please ask Mr. Ray to hand the
20 witness GC-28, please.
21 Q BY MR. RIMBACH: Could you please take a minute and review
22 pages 4, 5, and 6? And let me know when you're finished.
23 A Okay.
24 Q This exhibit was previously entered into evidence as
25 employee job applications for Wismettac through CornerStone.

1 Do you recognize these pages that I specified as an application
2 that you filled out with CornerStone?
3 A Yes.
4 Q It's dated November 1st, 2017 at the top. Is that the
5 date that you submitted this application online with
6 CornerStone?
7 A Yes.
8 Q In any of your conversations with CornerStone, did they
9 give you a reason why Wismettac did not want you back?
10 MR. WILSON: Objection. Hearsay.
11 JUDGE LAWS: And the same ruling.
12 Go ahead. I will allow you to answer.
13 THE WITNESS: No.
14 Q BY MR. RIMBACH: After October 31st, 2017, did you apply
15 for a job at Wismettac through any other method?
16 A Another agency.
17 Q What other agency?
18 A Horizon.
19 Q And when did you apply for a job at Wismettac through
20 Horizon?
21 A November 6.
22 Q How did you apply through Horizon?
23 A I went to the agency.
24 Q In person?
25 A Yes.

1 Q Do you recall what time you went into the --
2 A Morning.
3 Q -- agency?
4 A Morning.
5 Q Were you by yourself?
6 A I went with Fanor.
7 Q Your coworker?
8 A Yes.
9 Q Could you please describe what happened when you went
10 Horizon?
11 A I filled out applications and had a little interview.
12 Q Who did you meet with?
13 A I don't know her name. It was one of the representatives.
14 Q What happened after you filled out the application?
15 A They said they were going to let us know if they had
16 anything.
17 Q Did you have any discussion with anyone at Horizon?
18 A No.
19 Q You just filled out the job application?
20 A Yes.
21 Q After you turned in the job application, did you get any
22 instructions or did they tell you anything after you turned it
23 in?
24 A They just told us to wait.
25 Q Why did you apply through Horizon?

1 A One of the coworkers told me that he was working for that
2 agency, too.
3 Q Do you know whether Fanor also applied through Horizon?
4 A Yes, he applied.
5 Q That same day?
6 A Yes.
7 Q Did you ever hear back from Horizon about your application
8 to Wismettac?
9 A No.
10 Q After you applied for a job through Horizon, did you
11 follow up with anyone at Wismettac about your applications?
12 A Yes.
13 Q Who did you follow up with?
14 A Jose Vasquez.
15 Q How did you follow up with him?
16 A I called him on his cell phone.
17 Q Do you recall when you called him?
18 A When I filled out the application at Horizon.
19 Q That same day or after that day?
20 A The same day.
21 Q Do you recall what time you called him?
22 A I can't remember.
23 Q Could you please describe that conversation with Jose
24 Vasquez?
25 A I told him that I filled out an application at Horizon.

1 He told me that they were waiting for an email to send to
2 Horizon to see if it was okay for me to go back to work.
3 Q Did you respond to that?
4 A No.
5 Q Do you recall any further statements from that
6 conversation?
7 A No.
8 Q In addition to the discussing the Horizon application,
9 well, did you -- do you discuss any of your other two
10 applications --
11 A Yes.
12 Q -- with him?
13 A Yes.
14 Q What were those discussions?
15 A I told him that I filled it out, I filled out the
16 application. He told me to wait. That's pretty much what he
17 said, just to wait.
18 Q His response was just to wait?
19 A Yeah.
20 Q Do you recall anything else from that conversation?
21 A No.
22 Q How long was that phone call?
23 A A few minutes.
24 Q Did you specify during that phone call how you applied to
25 Wismettac?

1 A Yes.
2 Q What specifically did you say --
3 A Online.
4 Q -- about how you applied?
5 A Online.
6 Q After your phone call with Mr. Vasquez, have you had any
7 further discussions with anyone from Wismettac about any of
8 your job applications?
9 A No.
10 Q While you worked for Wismettac, were you ever written up?
11 A Nope.
12 Q Were you ever suspended?
13 A No.
14 Q Did the Company ever interview you about your behavior or
15 your work performance?
16 A No.
17 Q Were you ever subject to any kind of investigation by the
18 Company?
19 A No.
20 Q Did you ever receive any complaints about your work from a
21 coworker or a supervisor?
22 A No.
23 Q You don't recall whether any of your coworkers had any
24 issues with your work?
25 A Yes. Oscar -- I can't remember his last name.

1 Q Are you referring to Oscar Ortiz?
2 A Yes.
3 Q How did you hear about -- how did you hear that this
4 coworker had issues with you?
5 A He had told the supervisor.
6 Q How do you know that?
7 A The supervisor came up to me.
8 Q Who is that supervisor?
9 A Isidro.
10 Q When did he tell you about this?
11 A I can't remember.
12 Q Do you recall about how long your supervisor, Isidro --
13 how long before you were terminated did he bring up this issue
14 with Oscar, if you remember?
15 A After the -- the election.
16 Q Sometime after the Union election?
17 A Yes.
18 Q What did Isidro tell you specifically?
19 A He told me if I was doing okay. And I told him, yes. And
20 that's pretty much it. That's all he said.
21 Q How did you know he was referring to Oscar then?
22 A He --
23 Q How did you know this conversation was about Oscar?
24 A Because he told me it was Oscar.
25 Q So specifically what did he say about Oscar?

1 A He told me that I wasn't refilling the locations, I wasn't
2 doing my job.
3 Q Did Isidro say that -- was that coming from Isidro or
4 Isidro was just relaying what Oscar told him?
5 A That's all he said to me.
6 Q Is that true about what Isidro told you about not -- I'm
7 sorry. What did he say specifically again?
8 A He said I wasn't doing my job, I wasn't filling up
9 locations.
10 Q You weren't -- I'm sorry. You have to --
11 A That --
12 Q Can you please speak --
13 A That I wasn't --
14 Q -- up a little bit?
15 A -- doing my job. I wasn't doing my job.
16 Q And you said something else?
17 A Filling up locations.
18 Q Filling up locations?
19 A Yes.
20 Q Okay. Is that true that you were not doing your job?
21 A No.
22 MR. WILSON: Objection. Lack of foundation.
23 JUDGE LAWS: Overruled.
24 Q BY MR. RIMBACH: Is that true that you were not doing your
25 job?

1 A No.
2 Q Is that true that you were not filling up locations?
3 A No.
4 Q Were you ever disciplined in relation to this
5 conversation?
6 A No.
7 JUDGE LAWS: I guess I'm still not clear whose voice in
8 conversation was in. So if we could get some clarification
9 there.
10 MR. RIMBACH: Sure.
11 Q BY MR. RIMBACH: When Isidro told you that you weren't
12 doing your job, was that coming from Isidro or was Isidro
13 relaying what Oscar had told Isidro?
14 A That's all he told me.
15 Q So --
16 JUDGE LAWS: Which way is how he told you?
17 THE WITNESS: That I wasn't doing my job.
18 JUDGE LAWS: And that was his belief?
19 THE WITNESS: Yes.
20 JUDGE LAWS: Isidro's belief?
21 THE WITNESS: Yes.
22 JUDGE LAWS: Okay.
23 Q BY MR. RIMBACH: Was he asking you or tell you this?
24 A He was asking me.
25 Q He is asking you whether you were doing your job?

1 A Yes.
2 Q And how did you respond?
3 A I told him, yes, I was doing my job. I'm doing my job.
4 Q So you don't know whether it was his belief or not? He
5 was just questioning you?
6 A Yes.
7 JUDGE LAWS: I'm going to jump in here because I'm
8 completely confused as to what Oscar has to do with this whole
9 interaction.
10 How -- when you testified earlier, you said this has --
11 had to do with somebody named Oscar, but yet his name didn't
12 come up in the conversation you had with Isidro. So can you
13 help me figure out how this relates to Oscar at all?
14 THE WITNESS: Oscar told Isidro Garcia, my supervisor,
15 that I wasn't doing my job.
16 JUDGE LAWS: How do you know that?
17 THE WITNESS: Because my supervisor came up to me.
18 JUDGE LAWS: And told you what?
19 THE WITNESS: If I was doing my job.
20 JUDGE LAWS: But how do you know that was generated by
21 Oscar? How do you know Oscar was the reason the supervisor
22 came up to you?
23 THE WITNESS: I don't know.
24 JUDGE LAWS: You don't know. So you're guessing?
25 THE WITNESS: I don't know.

1 Q BY MR. RIMBACH: So Isidro never mentioned Oscar to you?
2 A No.
3 Q So you don't know whether that conversation has anything
4 to do with Oscar?
5 A Yes.
6 Q Okay.
7 MR. WILSON: Your Honor, I'd move to strike all this
8 testimony regarding Isidro and Oscar. There's simply no
9 foundation or explanation as to how this happened or where it
10 came from. And it's also hearsay through Oscar.
11 JUDGE LAWS: I -- I'm not going to strike it, but I'm also
12 not going to consider, and I can't consider, given how the
13 testimony has gone, that anything that Isidro said to him
14 relates to anything Oscar reported at all.
15 MR. WILSON: Okay.
16 MS. SANCHEZ: Your Honor, may I speak to the objection?
17 JUDGE LAWS: Sure.
18 MS. SANCHEZ: My notes tell me, and I believe the record
19 will reflect, that the witness said, "Oscar told supervisor
20 Isidro that Oscar had issues with me."
21 JUDGE LAWS: Well, that's -- the --
22 MS. SANCHEZ: That's how --
23 JUDGE LAWS: -- transcript --
24 MS. SANCHEZ: -- we got here.
25 JUDGE LAWS: -- will say what it says. But then when we

1 drilled down into the basis of that knowledge, it also said
2 that he did not know what is -- the basis for his knowledge
3 was. So that's where the testimony stands.
4 MS. SANCHEZ: Thank you, Your Honor.
5 MR. RIMBACH: No further questions, Your Honor.
6 JUDGE LAWS: Okay. Any direct from the Charging Party?
7 MS. SANCHEZ: Yes. Thank you.
8 JUDGE LAWS: Okay. Go ahead.
9 **CROSS-EXAMINATION**
10 Q BY MS. SANCHEZ: Mr. Hernandez, my name is Renee Sanchez.
11 I'm counsel for Teamsters, Local 630. I have a few follow-up
12 questions.
13 A Okay.
14 Q When you first started talking -- started testifying, you
15 discussed how you wore the Union T-shirt on Fridays. Do you
16 recall that testimony?
17 A Yes.
18 Q I thought I heard you say that the T-shirt had a 360 on
19 it, and I want to clarify that. You testified a little bit
20 about the -- on logo?
21 A Yes.
22 Q Do you recall the logo on the T-shirt?
23 A Yes.
24 Q Do you know the gentleman sitting to my right?
25 A Yes.

1 Q Do you know what -- can you tell me his name?
2 A Carlos Quinonez.
3 Q And do you know who he is?
4 A The Union representative.
5 Q Do you see that he's wearing a T-shirt with a logo on it?
6 A Yes.
7 Q Does this logo look familiar to you?
8 A It was different.
9 Q It was different?
10 A Yes.
11 Q Did it have horses like this one?
12 A Yes.
13 Q Okay. And do you know if it had the same number as the
14 one Carlos is wearing?
15 A Yes.
16 Q Okay. So it had a 630 and not a 360?
17 A Yes.
18 Q Okay.
19 MS. SANCHEZ: I would like the record to reflect that
20 Mr. Quinonez is wearing a Teamsters, Local 630 T-shirt with a
21 logo with the Teamster horses.
22 MR. WILSON: Can he stand up so we --
23 JUDGE LAWS: Yeah.
24 MR. WILSON: Okay. Thank you.
25 JUDGE LAWS: Thanks.

1 MS. SANCHEZ: Thank you, Carlos.
2 JUDGE LAWS: So reflected.
3 Q BY MS. SANCHEZ: So you wore the T-shirts on Fridays
4 because you supported the Union; is that correct?
5 A Yes.
6 Q Are you aware of others who supported the Union, other
7 coworkers that is?
8 A Some.
9 Q And do you know if other coworkers on the night shift
10 supported -- on your night shift alongside you supported the
11 Union?
12 A Yes.
13 Q Do you know if they were regular or temporary employees?
14 A They were temps and full time.
15 Q Were you aware of any employees who did not support the
16 Union?
17 A No, I wasn't aware.
18 Q Do you know one way or the other whether Oscar Ortiz
19 supported the Union?
20 A I never seen him with a shirt, T-shirt.
21 Q Did you ever hear him talking about the Union in any way?
22 A No.
23 Q Did you -- you said you talked to somebody named Tim about
24 the Union; is that correct?
25 A Yes.

1 Q How often do you talk to Tim about the Union?
2 A Every day when I went to work.
3 Q So every day you talked to Tim about the Union?
4 A Um-hum. Yes.
5 Q Did you also talk to Luis about the Union?
6 A Yes.
7 Q And how often did you talk to Luis about the Union?
8 A Not often.
9 Q Okay. So -- but Tim is who you spoke to every day about
10 it?
11 A Yes.
12 Q And that's every day that you worked?
13 A Yes.
14 Q You also testified a moment ago about the meeting with
15 Frank Matheu and Jose Vasquez when you learned that you would
16 be terminated?
17 A Yes.
18 Q You said that you knew the others -- the -- if I
19 understand your testimony, you said that you knew the other
20 employees at that meeting were also from Randstad because, we
21 all got terminated?
22 A Yes.
23 Q When you said, we got terminated, who got terminated?
24 A All Randstad employees.
25 Q Was that all Randstad employees on the night shift or all

1 in general?
2 A There were days and nights.
3 Q Do you know about how many got terminated?
4 A 20.
5 Q All at the same time?
6 A Yes.
7 Q Do you know whether they were Union supporters or not?
8 MR. WILSON: Objection. Lack of foundation.
9 MS. SANCHEZ: If he knows.
10 JUDGE LAWS: If -- well, if he says yes, we'll get the
11 foundation.
12 THE WITNESS: Could you repeat that question?
13 MS. SANCHEZ: Sure.
14 Q BY MS. SANCHEZ: Do you know if all of those folks that
15 you said got terminated were supportive of the Union?
16 A No.
17 Q You don't know?
18 A I don't know.
19 Q Do you know if Oscar Ortiz knew you supported the Union?
20 A Yes.
21 Q How do you know that?
22 A He will always see me with my shirt on --
23 Q Did he --
24 A -- Fridays.
25 Q Did he ever say anything about your shirt?

1 A No.

2 Q Okay.

3 MS. SANCHEZ: No further questions.

4 JUDGE LAWS: All right.

5 MR. WILSON: Can I see those statements first?

6 JUDGE LAWS: Let's go off the record while counsel

7 receives the Jencks material.

8 (Off the record at 2:12 p.m.)

9 JUDGE LAWS: And proceed with cross whenever you're ready.

10 **CROSS-EXAMINATION**

11 Q BY MR. WILSON: Good afternoon, Mr. Hernandez. My name

12 the Scott Wilson. I'm an attorney for Wismettac. I want to

13 thank you for coming here today. I just have a few very brief

14 questions for you.

15 You still have General Counsel Exhibit 6 in front of you,

16 correct?

17 JUDGE LAWS: Take a look at the front page. Yes, that's

18 it.

19 THE WITNESS: Yes.

20 Q BY MR. WILSON: Okay. Can you --

21 MS. SANCHEZ: Counsel, give me a moment to --

22 JUDGE LAWS: Sure.

23 MS. SANCHEZ: -- find mine.

24 MR. WILSON: Sure. Sure.

25 JUDGE LAWS: Just speak up when you're -- when you've

1 found it.
2 MS. SANCHEZ: Okay. Thank you.
3 Q BY MR. WILSON: Can you turn to page 6 of that document?
4 And you recognize this to be the -- one of the applications you
5 submitted for employment?
6 A Yes.
7 Q Okay. And at the bottom of page 6 it says, employment
8 history. And then you list Randstad. And it says, start date,
9 end date, 6/22/17, 10/31/17. Are those dates accurate?
10 A Yes.
11 Q Okay. And then right above it, it said, okay to contact
12 this employer?, You stated, no. Why did you say no?
13 MR. RIMBACH: Objection. Relevance.
14 JUDGE LAWS: Overruled.
15 Q BY MR. WILSON: Do you know why you put no if it was okay
16 for the Employer -- or any person reviewing that application to
17 contact Randstad?
18 A Because I didn't have the phone number.
19 Q Because what?
20 A The phone number. I didn't have a phone number.
21 Q A phone number for who?
22 A For Randstad --
23 Q All right.
24 A -- to contact.
25 Q All right. That's fine. And I want to just direct your

1 attention to the 10/31 meeting where Mr. Vasquez and Mr. Matheu
2 were present and the announcement of the layoff occurred. Do
3 you recall that meeting?
4 A Yes.
5 Q Okay. So when that announcement was made, did you speak
6 at the meeting? Did you say anything in response to that?
7 A I did not say anything.
8 Q Okay. So through that whole meeting where they announced
9 that there was going to be a layoff, there were questions about
10 whether you could apply online, you didn't say anything?
11 A No.
12 Q Okay. And then as I understand your testimony, you had a
13 separate meeting with Mr. Matheu after the group meeting; is
14 that correct?
15 A Yes.
16 Q Okay. And how did that meeting come about?
17 A That my contract was over and it was --
18 Q No, no.
19 A -- terminated.
20 Q Did Mr. Matheu initiate that meeting or did you?
21 A He did.
22 Q Okay. And where did the meeting take place?
23 A In the lunchroom.
24 Q Okay. And how long did it last?
25 A A few minutes.

1 Q Okay. And can you tell me what Mr. Matheu said at that
2 meeting?
3 A He said that Randstad had terminated our -- my contract.
4 Q Okay. Do you know why he pulled you aside and no other
5 employees?
6 A No idea.
7 MS. SANCHEZ: Objection. Calls for speculation.
8 JUDGE LAWS: Yeah. And he said no. So --
9 MR. WILSON: Okay.
10 JUDGE LAWS: -- let's move --
11 MR. WILSON: All right. I have no further questions.
12 JUDGE LAWS: All right. Any follow-up?
13 MR. RIMBACH: No, Your Honor.
14 JUDGE LAWS: Okay.
15 MS. SANCHEZ: No, Your Honor.
16 JUDGE LAWS: All right. Well, thank you for providing
17 your testimony. Please don't discuss what you testified about
18 here today with any other witnesses, or any potential
19 witnesses.
20 THE WITNESS: Okay.
21 JUDGE LAWS: Thank you.
22 And is it my understanding that this is the last witness
23 for today?
24 MR. RIMBACH: Yes, Your Honor.
25 JUDGE LAWS: Okay. So we will reconvene tomorrow ready to

1 go on the record as soon as possible, at 8:30 a.m.
2 MS. PEREDA: Thank you, Your Honor.
3 JUDGE LAWS: Thank you.
4 MS. SANCHEZ: Thank you, Your Honor.
5 MR. RIMBACH: Thank you.
6 JUDGE LAWS: Off the record.
7 **(Whereupon, the hearing in the above-entitled matter was**
8 **recessed at 2:22 p.m. until Friday, October 5, 2018 at 8:30**
9 **a.m.)**
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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Thursday, October 4, 2018, at 9:14 a.m.,
11 was held according to the record, and that this is the
12 original, complete, and true and accurate transcript that has
13 been compared to the reporting or recording, accomplished at
14 the hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
18
19
20
21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

_____

_____

Place: Los Angeles, California

Dates: October 5, 2018

Pages: 511 through 570

Volume: 4

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:	
WISMETTAC ASIAN FOODS, INC., Employer,	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union,	
and	
ROLANDO LOPEZ, An Individual,	
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Friday, October 5, 2018, at 8:25 a.m.**

1 **APPEARANCES**

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2

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
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1 **PROCEEDINGS**

2 JUDGE LAWS: And if we could go on the record.

3 I'm going to swear you in first.

4 Whereupon,

5 **THAO HO**

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

7 examined and testified as follows:

8 JUDGE LAWS: Can you please have a seat.

9 THE WITNESS: Thank you.

10 JUDGE LAWS: And then state and spell your name.

11 THE WITNESS: First name is Thao, T-H-A-O. Last name is

12 Ho, H-O.

13 JUDGE LAWS: Thank you, Mr. Ho. Just a couple things

14 before I turn things over to the lawyers, who will ask you some

15 questions.

16 THE WITNESS: Yes.

17 JUDGE LAWS: The first is that if you are asked a question

18 and you're not really sure of the answer, just say, I don't

19 know, or I'm not sure.

20 THE WITNESS: Okay.

21 JUDGE LAWS: Only take a guess if you're asked by one the

22 attorneys or myself to take a guess.

23 THE WITNESS: Yes.

24 JUDGE LAWS: And if you don't understand a question that's

25 asked of you, just say, I don't understand what you're saying,

1 and it'll be rephrased in a way that hopefully is more clear.
2 THE WITNESS: Yes.
3 JUDGE LAWS: Okay? And then finally, to your left is our
4 court reporter, and his job is to take down everything we say
5 while we're on the record. And because of that, try as best
6 you can to make sure the question you're being asked is
7 completely finished before you start answering, because he
8 can't record two voices at once.
9 THE WITNESS: Yes.
10 JUDGE LAWS: Okay. Thanks.
11 THE WITNESS: You're welcome.
12 **DIRECT EXAMINATION**
13 Q BY MR. RIMBACH: Good morning, Mr. Ho.
14 A Good morning.
15 Q First, I'd like to just ask you to speak loudly and
16 clearly so the microphone in front of you picks up your voice
17 and the court reporter is able to transcribe everything, and
18 also so everyone in the room can hear you.
19 A Okay.
20 Q Thank you.
21 A You're welcome.
22 Q Are you currently employed?
23 A Yes, I am.
24 Q Where do you work?
25 A I work for Wismettac Asian Food.

1 Q How long have you worked for Wismettac?
2 A I've been work there for 27 year.
3 Q Are you currently working for Wismettac?
4 A Yes, I am.
5 Q What city is the Company located in?
6 A The city belong in the Santa Fe Springs.
7 Q At work, do your coworkers call you by any other name
8 besides Thao?
9 A They call me by Tim.
10 Q Do you know whether there are any other employees at work
11 who go by Tim?
12 A Not that I know of, no.
13 Q Do you work directly for Wismettac, or through a staffing
14 agency?
15 A With the -- straight with the Company.
16 Q Directly with the Company?
17 A Yes.
18 Q What is your current job title?
19 A My job title -- I'm a stocker -- warehouse stocker.
20 Q What are your job duties as a warehouse stocker?
21 A I put stuff away on the shelf and load stuff --
22 merchandise on the shelf.
23 Q What equipment do you use?
24 A I use a stand-up forklift.
25 Q What are your work hours?

1 A My work hours from 7 to 6 --
2 Q Is that 7 --
3 A -- Monday through Friday.
4 Q Is that 7 a.m. to 6 p.m.?
5 A That's correct.
6 Q Is that the day shift?
7 A Yes.
8 Q About how many hours a week on average, do you work,
9 total?
10 A Probably 50 hour.
11 Q Who is your supervisor?
12 A My supervisor is Mr. Jose Vasquez.
13 Q What is Mr. Vasquez's job title?
14 A He's the warehouse manager.
15 Q Are you familiar with Teamsters Local 630?
16 A Yes, I am.
17 Q Do you remember when you first heard about the Union?
18 A Yes, from my coworker.
19 Q Do you remember what month and year you first heard about
20 the Union?
21 A I believe it was last year in April.
22 Q Do you know who Robert Susaki is?
23 A Yes, he's the Company owner.
24 Q Have you met him before?
25 A No, I haven't met him before.

1 Q Have you seen him before?
2 A No, I haven't seen him before.
3 Q How do you know who he is, then?
4 A Yeah, because we have a meeting last year. For the first
5 time I saw him, is the -- when we have meeting with -- with all
6 the Company.
7 Q So you did see him before?
8 A Yes, just one time at the meeting. Yes.
9 Q Okay. One time at one meeting.
10 A Yes.
11 Q Do you know -- so he's not based at the Santa Fe Springs
12 facility?
13 A No. I think he's most of the time in Japan.
14 Q This meeting that you're referring to, do you remember
15 when it was?
16 A It was on September 15, seven -- last year. '17.
17 Q 2017?
18 A Yes.
19 Q Do you recall a Union election on September 19th, 2017?
20 A Yes.
21 Q So this meeting was a few days before then?
22 A That's correct.
23 Q Do you recall what time the meeting took place?
24 A Was in the afternoon, after lunch. Was, like, 1
25 something.

1 Q I'm sorry, what was that?
2 A Probably 1:00 in the afternoon -- afternoon.
3 Q Where was the meeting?
4 A The meeting was in the lunchroom -- cafeteria.
5 Q In addition to Robert Susaki, do you recall any other --
6 do you recall any managers or supervisors present?
7 A I believe all -- everybody, the warehouse manager was
8 there too.
9 Q Who is that?
10 A I think Mr. Jose Vasquez was there, assistant manager. I
11 don't remember, so --
12 Q Do you recall anyone else?
13 A Was the ware -- warehouse people and the office people and
14 the attorney from both side -- attorney at the Company. And
15 Mr. Frank Matheu and also Yoshie Narimoto.
16 Q Who is Frank Matheu?
17 A I think he's the region coordinate -- he control some of
18 the branch.
19 Q I'm sorry, what was his job title, as best as you know?
20 A I believe he's the, how you call it -- because he have --
21 we have 19 different branch --
22 Q Okay.
23 A -- and we have three guys to take care of those 19
24 branches, so they divide it by -- I don't know what the -- his
25 title is, though.

1 Q So he oversees certain branches?
2 A Yes.
3 Q Is he based out of the Santa Fe Springs facility?
4 A No. He doesn't live there. He lives in Florida.
5 Q How often do you see him --
6 A I --
7 Q -- around this time in September 2017, how often did you
8 see him in Santa Fe Springs?
9 A Maybe, like, a whole week. He fly over, and he stay the
10 whole week. And then he fly back over there.
11 Q So he was only at the facility about one week at a time?
12 A Yes, one week at a time. That's it. Uh-huh.
13 Q And you mentioned Yoshie Narimoto. Do you know his job
14 title?
15 A It's general manager.
16 Q Where is he based?
17 A He's in the L.A. -- L.A. branch.
18 Q Is the L.A. branch the same thing as Santa Fe Springs?
19 A That's correct.
20 Q You also mentioned a lawyer. Do you know who that lawyer
21 is?
22 A I think it was the Company lawyer. I don't know his name.
23 I -- some people said it was the Company lawyer, so --
24 Q You also mentioned that there were other employees
25 present. About how many other employees?

1 A I think it was, like, about 60, 70.
2 Q What department do these employees come from?
3 A Most of them is in the office and the warehouse.
4 Q About how many warehouse employees were there?
5 A Maybe about 20, 25, 30. The most of rest of is in the
6 office.
7 Q And the rest were from the office?
8 A Yes.
9 Q Do you recall whether there were any driver employees
10 present at this meeting?
11 A No, because they went out to drive on that day, so nobody
12 in the warehouse. Only inside the warehouse employee.
13 Q Do you recall who spoke at the meeting?
14 A The owner, Mr. Robert Susaki, spoke. And also Frank
15 Matheu and Narimoto.
16 Q What language was the meeting in?
17 A It was in English.
18 Q Do you recall whether there was any translation of the
19 meeting?
20 A Yes, there was. There was a Chinese interpreter, Korean,
21 Japanese, Vietnamese, and Spanish.
22 Q Did you use an interpreter, or did you just listen to the
23 English version?
24 A I just listened to the English version.
25 Q What happened at the beginning of the meeting? Who spoke

1 first?
2 A It was Mr. Robert Susaki who spoke first.
3 Q Do you recall what he said first?
4 A He said something about -- talk about the Company history,
5 then how the Company started. And also, he say he would not
6 let the -- the third party come in to control the -- his
7 company, and he wouldn't -- promised he would not sign any
8 document from the -- the third party, the Union.
9 Q Do you recall anything else that Robert Susaki said at the
10 meeting?
11 A No, not really.
12 Q About how long did he speak for?
13 A He spoke for maybe 15, 20 minute.
14 Q What happened next?
15 A Mr. Frank Matheu spoke next.
16 Q Do you recall what he said at first?
17 A He said something about the -- let -- to tell us that let
18 the Company help us instead of Union. And in the -- he also
19 said that Narimoto -- let him control the Company. The Company
20 belonged to him. That he would make any changes that he
21 needed -- we needed.
22 Q Do you recall anything else that Mr. Frank Matheu said at
23 the meeting?
24 A That's all I remember.
25 Q What happened next?

1 A I think it was Mr. Narimoto Yoshie spoke next.
2 Q What do you call -- what do you recall that he said at the
3 meeting?
4 A At the meeting, he was -- I couldn't understand what he
5 say. He was nervous, and he spoke. I can't understand what
6 he's saying.
7 Q Why couldn't you understand him?
8 A Because English was -- he have accent on them, so I can't
9 understand what he's saying.
10 Q He has an accent?
11 A Yeah, he does. Very bad, though.
12 Q I can't remember if I asked you this, but how long did
13 Mr. Frank Matheu speak for?
14 A He spoke for maybe 15, 20 minute.
15 Q And about how long did Mr. Yoshie Narimoto speak for?
16 A Maybe about -- about 10, 15 minutes. I don't know.
17 Q After Mr. Narimoto spoke, do you recall what happened
18 next?
19 A Then they have the -- some other peoples -- I don't
20 remember that.
21 Q What happened next?
22 A I left early. I had -- I was have -- I have to use the
23 restroom, so I left early. I didn't -- I didn't finish the
24 meeting.
25 Q How long were you at the meeting for?

1 A I was there for, like, maybe, half an hour.
2 Q Do you recall whether any employees -- other of your
3 coworkers -- spoke at the meeting?
4 A Not I remember. No.
5 Q Do you recall anything else -- any other statements from
6 this meeting?
7 A No.
8 MR. RIMBACH: No further questions, Your Honor.
9 JUDGE LAWS: All right.
10 Does the Union have any questions for this witness?
11 MS. SANCHEZ: Yes, thank you.
12 JUDGE LAWS: Okay, please proceed.
13 **CROSS-EXAMINATION**
14 Q BY MS. SANCHEZ: Good morning, Mr. Ho. I'm Renee --
15 A Good morning.
16 Q -- Sanchez. I'm counsel for the Union.
17 A Yes.
18 Q You testified earlier that your supervisor is Jose
19 Vasquez. Is that correct?
20 A That's correct.
21 Q Do you know if Jose also goes by Anthony?
22 A Yes.
23 Q Okay. Thank you. And about this meeting in September of
24 last year, where you met the owner for the first time --
25 A Yeah.

1 Q -- I take that back. About that meeting you were just
2 testifying, that was the first time that you met the owner in
3 the 27 years that you've worked there?
4 A Yes.
5 Q And so was -- that was an unusual meeting, then.
6 A Yes.
7 Q The attorney that you said attended that meeting, is he
8 present in the room today? Do you see him anywhere in this
9 room?
10 A Yes.
11 Q Can you identify that attorney?
12 A I think that's him.
13 Q The gentleman that you're pointing --
14 A Yes.
15 Q -- at -- is across from you on the right?
16 A Yes.
17 MS. SANCHEZ: Okay. Let the record reflect that the
18 witness has identified counsel for Wismettac.
19 Thank you. No further questions.
20 JUDGE LAWS: All right. We have --
21 MR. WILSON: Okay. Do you have a statement from this
22 witness?
23 MS. PAREDA: We have a -- just one affidavit from this
24 witness, and it's about two-and-a-half pages long.
25 MR. WILSON: Thank you.

1 JUDGE LAWS: All right. And I want to go off the record,
2 let counsel review the statement, and have a little discussion.
3 So let's go off the record.
4 (Off the record at 8:39 a.m.)
5 **CROSS-EXAMINATION**
6 Q BY MR. WILSON: Good morning, Mr. Ho. My name's Scott
7 Wilson.
8 A Good morning, sir.
9 Q I'm the Company attorney. And thank you for coming today.
10 I just have a couple of very brief questions for you.
11 So you testified about the meeting where Mr. Susaki was
12 there. Do you recall that?
13 A Yes.
14 Q Okay. And how close to him were you?
15 A Well, not very close. I never see him.
16 Q But when he was speaking at the meeting, how close were
17 you?
18 MS. SANCHEZ: Objection as to the word "close." I'm not
19 sure if he means, like, close in friendship or close in --
20 JUDGE LAWS: I'm assuming distance.
21 THE WITNESS: That's what I think --
22 MS. SANCHEZ: -- proximity?
23 Q BY MR. WILSON: Just what -- how far of a distance was
24 there --
25 A Maybe from here to that wall over there behind.

1 Q Okay.

2 JUDGE LAWS: So essentially the --

3 THE WITNESS: I don't know.

4 JUDGE LAWS: -- size of the hearing room. I'm terrible at

5 estimating, but 30, 40 feet.

6 MR. WILSON: I'd say 40 feet. Okay.

7 Q BY MR. WILSON: And when he gave the speech, was he

8 standing or sitting?

9 A He was standing, sir.

10 Q Okay. Was he, like, at a podium where you would give a

11 speech?

12 A Yes. He have his podium, yes.

13 Q Okay. And if you could tell, did it appear to you that he

14 was reading from a paper?

15 A That's correct, sir. He was reading from the paper.

16 MR. WILSON: Okay. All right. I have no further

17 questions.

18 JUDGE LAWS: Okay. Any redirect?

19 MR. RIMBACH: No, Your Honor.

20 MS. SANCHEZ: No, thank you.

21 JUDGE LAWS: All right, well, thank you for providing your

22 testimony. Please don't discuss what you testified about with

23 any other witnesses or anybody who could be called as a

24 witness.

25 THE WITNESS: Yes.

1 JUDGE LAWS: Okay. Off the record.
2 (Off the record at 8:43 a.m.)
3 JUDGE LAWS: I just want to recount a brief off-the-record
4 discussion we had with regard to the witness, Mr. Ho, who
5 identified Attorney for the Respondent, Mr. Wilson, as being at
6 the meeting. And I perceived Mr. Wilson shook his head and
7 looked a little confused and off the record, said he was not at
8 that meeting. I indicated to the parties that I did not think
9 it was really a material issue at this point. The parties
10 agreed.
11 But if it does appear to be a dispute that either party
12 thinks is going to factor into the outcome of this case,
13 they're to let me know. And if I, upon seeing further
14 evidence, determine that it's somehow material, I will let the
15 parties know. But for now, I just don't see it as material in
16 any way.
17 MR. WILSON: Thank you, Your Honor.
18 JUDGE LAWS: Thank you.
19 MR. RIMBACH: Thank you.
20 JUDGE LAWS: Okay. All right, let's get the next witness.
21 Thanks.
22 MS. PAREDA: Just while he's getting the next witness,
23 Your Honor, we're still anticipating to have only one witness
24 on Tuesday. That should take one or two hours. I'm not sure
25 if at that point, Respondent would begin their case on

1 Tuesday.

2 MR. WILSON: Your Honor, we would request that we be able

3 to start Wednesday morning, simply because we're going to start

4 at noon. We aren't sure how that witness is going to take --

5 to bring someone up here in the middle of the afternoon when

6 they have to leave work, then maybe turn around and drive back.

7 And it would just be much more convenient for us.

8 JUDGE LAWS: I'm amenable to that, particularly because

9 we're not sure how long the witness is going to take, as long

10 as -- I'm amenable to that as long as you think you can still

11 wrap up by that Friday, just so that we don't spill into the

12 time after break for the ULP defense.

13 MR. WILSON: We can wrap up our response to the General

14 Counsel's case. I guess the only issue is, if they want to put

15 on a rebuttal witness, as I can't control that.

16 JUDGE LAWS: Okay. In my experience, for what that's

17 worth, that generally doesn't take -- tend to take very long,

18 in part because it, by nature, doesn't tend to take very long;

19 in part because I generally don't permit it to take very long,

20 except if it's truly warranted, which goes back to, in my

21 experience, it generally is not. A lengthy rebuttal is not

22 usually terribly instructive. There are usually few points

23 that maybe want to be hit on, and that can generally happen

24 in a pretty efficient fashion.

25 MR. WILSON: Your Honor, our case should wrap up by noon

1 on Friday.

2 JUDGE LAWS: Okay.

3 MR. WILSON: Now obviously, I can't control the length of

4 the cross-examination, whether there's other documents, but the

5 way that witnesses are scheduled, then I would anticipate it

6 would be done Friday.

7 JUDGE LAWS: Okay. And with that, let's plan, then, on

8 starting the defense ULPs on Wednesday. If, somehow, things

9 take longer than anticipated, are parties able to stay a little

10 past 5, maybe 5:30?

11 MR. WILSON: Sure.

12 JUDGE LAWS: Okay. Then I think with that, we should be

13 able to get that done.

14 MR. WILSON: Do you mean on Wednesday or Friday?

15 JUDGE LAWS: On, I would say, either Wednesday or

16 Thursday, if things start to feel --

17 MR. WILSON: Oh, okay, sure. Yeah.

18 JUDGE LAWS: -- like we're not going to wrap by Friday

19 noon, 1-ish --

20 MR. WILSON: Yeah. That's fine.

21 JUDGE LAWS: -- okay.

22 Good morning.

23 MR. LINARES: Good morning.

24 JUDGE LAWS: You don't have to concern yourself with

25 anything --

1 MR. LINARES: Exactly.

2 JUDGE LAWS: -- we were just saying at all.

3 But I am going to now swear you in, because you have to

4 concern yourself with what's to come. So if you could raise

5 your right hand.

6 Whereupon,

7 **GUSTAVO LINARES**

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

9 examined and testified as follows:

10 JUDGE LAWS: Can you please have a seat and state and

11 spell your name for the record?

12 THE WITNESS: My name is Gustavo Linares, G-U-S-T-A-V-O,

13 L-I-N-A-R-E-S.

14 JUDGE LAWS: Thank you. Couple things before the lawyers

15 start asking you questions. The first is if you're asked a

16 question and you're not sure what the answer is, just say, I

17 don't know, or I'm not sure. Only take a guess if one of the

18 attorneys says, give me your best estimate, or give me your

19 best guess.

20 THE WITNESS: Okay.

21 JUDGE LAWS: If you don't understand a question, just say,

22 I don't know what you're saying, and it will be clarified for

23 you.

24 THE WITNESS: Yes.

25 JUDGE LAWS: And then finally, our court reporter, the

1 gentleman sitting to your left, has to take down everything
2 that is said while we are on the record. And he can't take
3 down two voices at once. More than we often realize, we tend
4 to talk over each other. Myself is guilty of that as well.
5 But as best you can, try to make sure the question you're being
6 asked is completely done before you jump in with your answer.
7 THE WITNESS: Okay.
8 JUDGE LAWS: Okay? Thank you.
9 **DIRECT EXAMINATION**
10 Q BY MR. RIMBACH: Good morning --
11 A Good morning.
12 Q -- Mr. Linares. Just quickly, there's a microphone in
13 front of you, so if you could speak loudly and clearly for the
14 microphone to pick up your voice and so the court reporter can
15 transcribe what you're saying and also so everyone in the room
16 can hear you.
17 A Okay.
18 Q Thank you.
19 Are you familiar with a company called Wismettac Asian
20 Foods?
21 A Yes.
22 Q How are you familiar with that company?
23 A I used to work for them.
24 Q When did you first start working for Wismettac?
25 A On November 6, 2016.

1 Q Are you currently working for Wismettac?
2 A No.
3 Q When did you stop working for the Company?
4 A May 25th.
5 Q Of what year?
6 A Of this year.
7 Q When you worked for Wismettac, did you work directly for
8 the Company, or through a staffing agency?
9 A Directly through the Company. I started off with the
10 staffing agency, then I went through the Company.
11 Q What staffing agency did you start working for the Company
12 through?
13 A Staffmark.
14 Q And about how long after you were working through
15 Staffmark did you become a permanent direct employee?
16 A Six months.
17 Q Where is the Wismettac facility located?
18 A Santa Fe Springs.
19 Q What was your position?
20 A I do not know my position, but I did several jobs right
21 there. I was stocker, a loader, unloading, receiving, picking
22 orders.
23 Q But generally, you were a warehouse employee?
24 A Yes, I was.
25 Q What were your work hours?

1 A My work hours -- I had several hours. They had changed my
2 hours every time. The earliest I started was 4 a.m. and I
3 worked until I finished.
4 Q Did you work the day shift or the night shift?
5 A Day shift.
6 A Throughout your whole employment, did you always work the
7 day shift?
8 A Day shift.
9 Q What days of the week did you work?
10 A Monday through Friday.
11 Q On average each week, how many hour --
12 A Fifty-five --
13 Q -- oh.
14 A -- to 60.
15 Q If you could please wait for me to --
16 A Oh, okay.
17 Q -- ask the whole question before you answer? Thank you.
18 About how many hours each week on average did you work?
19 A Fifty-five to 60 hours.
20 Q Who was your direct supervisor?
21 A I had two supervisors. Three, actually. And it was
22 Alfredo Ponce was with NBU Lucas Development. That's where I
23 started. And then I switched to loading trucks, so that --
24 that was Jesse Cruz. And then I guess my last sup was Jose
25 Vasquez.

1 Q You said your first supervisor was Alfredo Ponce. What
2 was his job title?
3 A He -- he was the lead for the NBU.
4 Q And can you please explain what NBU is?
5 A Yeah, they told me it was new business development.
6 Q Do you know what that means?
7 A Well, it's just -- well, basically, we took care of orders
8 that ship out of the country.
9 Q What is Jesse Cruz's job title?
10 A Well, he was the lead at the time. So right now, I don't
11 know what he is.
12 Q And then you mentioned Jose Vasquez.
13 A He's a manager.
14 Q Does Jose Vasquez also go by Anthony Vasquez?
15 A I don't know, to tell you the truth.
16 Q Have you heard of Teamsters Local 630?
17 A Yes, I have.
18 Q When did you first hear about that Union?
19 A July 17th of 2017.
20 Q Do you recall the September 19th, 2017, Union election?
21 A The -- repeat again?
22 Q Do you recall that there was a Union election?
23 A Oh, there -- there was one in 20 -- in '17 and one in '18.
24 Q Do you recall whether there was a Union election on
25 September 19th, 2017?

1 A I don't recall, but I know there was an election there.
2 Q Okay.
3 A And --
4 Q You were employed when there was an election there?
5 A -- oh, definitely. Yes.
6 Q Do you know what a Union authorization card is?
7 A Yeah.
8 Q Can you describe it?
9 A It's small card. White.
10 Q Do you know what it's for?
11 A Well, I guess it's for to submit your name and everything
12 and employees -- and have your -- that you agree with the
13 Union -- that -- that you're for it.
14 Q Did you ever attend a meeting at the Company where the
15 topic of Union authorization cards came up?
16 A Yes.
17 Q Do you recall when that meeting was?
18 A Middle of March. I don't recall the date, but it's the
19 middle of March.
20 Q The middle of March of what year?
21 A 2018.
22 Q This year?
23 A Yeah, this year.
24 Q Do you recall what time that meeting was?
25 A They told me -- I don't recall the time, but I think it

1 was on around 1 or 2.
2 Q Did someone call you in to that meeting?
3 A Jose Romero.
4 Q Who is Jose Romero?
5 A He was the manager at Wismettac.
6 Q Where was the meeting?
7 A In the backrooms where they have all the -- by the
8 offices.
9 Q Do you recall who attended the meeting?
10 A I know the guys are Alan, Boo, me, and three other
11 females.
12 Q Who is Alan?
13 A Alan is a warehouse employee.
14 Q Who is Boo?
15 A Another warehouse employee.
16 Q Do you recall any of the three female employees' names?
17 A I just know one that was Cheryl.
18 Q Cheryl?
19 A Yeah.
20 Q Do you recall whether there were any supervisors or
21 managers present?
22 A No. There weren't any managers present. It was just Gus,
23 Frank, and Laura Garza.
24 Q Who is Gus?
25 A A Union buster, I believe.

1 Q Is Gus -- are you referring to Gustavo?
2 A Gustavo.
3 Q Do you know whether his last name is Flores?
4 A I don't know his last name.
5 Q And you mentioned Frank.
6 A Uh-huh.
7 Q Are you referring to --
8 A Yes.
9 Q -- Frank Matheu?
10 A I don't know his last name either, to tell you the truth.
11 Q Who is Frank?
12 A Frank is one of the warehouse managers.
13 Q Do you know whether he's based at the Santa Fe Springs
14 facility?
15 A No. He -- I -- he's not.
16 Q Do you know where he's based out of?
17 A I heard he was from Miami, so I don't know where he's
18 based from.
19 Q You said Laura Garza?
20 A Yes.
21 Q Who is she?
22 A She's supposed to be the new HR lady.
23 Q Could you please describe the setup of the room you were
24 in?
25 A Pretty much table big -- much bigger than that. It was

1 just like that. I was sitting on this side, on the left side.
2 The three guys were sitting on the right. And the females were
3 going around.
4 Q What happened when you first got to the conference room?
5 A No, no. They asked us to sit down.
6 Q Then what happened?
7 A Then Gus started speaking.
8 Q What did he say?
9 A He started talking about the Union, the losses and all
10 that stuff. He was always talking negative.
11 Q Do you recall specifically what he said?
12 A Not really.
13 Q Then what happened?
14 A Then he started talking. Then he presented the paper that
15 he's saying, that if we wanted our cards back, go ahead and
16 sign it and mail it out, and we should get returned with our
17 cards.
18 Q Do you recall anything else he said about the paper?
19 A No. To tell you the truth, no.
20 MR. RIMBACH: Could I please ask Mr. Ray to hand the
21 witness GC Exhibit 21?
22 THE WITNESS: Thank you.
23 Q BY MR. RIMBACH: Can you please take a minute and review
24 this document?
25 A Yeah.

1 Q Do you recognize this document?
2 A I actually do.
3 Q What is it?
4 A It is the paper they tried to make us -- they gave us to
5 sign if we wanted to.
6 Q Is this the paper you were just referring to --
7 A Yeah.
8 Q -- that Gus handed out?
9 A Yes, sir.
10 Q Could you please describe what he did with the papers?
11 A Well, he was just saying if we wanted our cards back, and
12 then he placed them in the center of the table and to grab one
13 if we wanted to.
14 Q What happened next?
15 A And he kept on talking, and that's it. I just glanced at
16 it, looked at it, grabbed it, and that's it. I put it back.
17 Q What happened after that?
18 A Well, then he introduced Laura Garza, and then Frank
19 started talking and then Laura Garza started talking.
20 Q Do you recall what Frank said?
21 A To tell you the truth, no, because I wasn't paying
22 attention.
23 Q Do you recall what Laura Garza said?
24 A She introduced herself, and that's it. She said if we
25 ever need problems or have any problems, go up to her. And

1 that's it. And the day we -- I have a problem, I go up to her.
2 The next day I get fired.
3 Q Okay.
4 MR. RIMBACH: Move to strike as nonresponsive.
5 JUDGE LAWS: Well, I mean, it's part of the record. If
6 it -- I don't think it needs to be stricken particularly, but
7 if his termination isn't at issue I obviously won't be
8 concerned with that testimony.
9 MR. RIMBACH: Thank you, Your Honor.
10 Q BY MR. RIMBACH: Do you recall how long Frank -- I'm
11 sorry -- how long Gus spoke for? About how many minutes?
12 A He took the majority of the minutes, to tell you the
13 truth. I don't know how long, though.
14 Q Do you recall how long Frank spoke for?
15 A Maybe less than half an hour.
16 Q And do you recall how long Laura Garza spoke for?
17 A Less than half an hour too.
18 Q How long was the meeting in total?
19 A Probably an hour -- hour and 45, two hours.
20 Q I'm sorry. How long do you think it was? Just roughly.
21 A Maybe two hours, max.
22 Q How far away were you from the paper when you were shown
23 it?
24 A Less than three feet.
25 Q Do you recall whether any employees spoke at the meeting?

1 A No employees spoke at the meeting.
2 Q Do you recall any further specific statements from this
3 meeting?
4 A No.
5 Q Did you take a copy of the document in front of you?
6 A No.
7 Q Do you recall whether any other employees -- any of the
8 other employees took a copy of the document?
9 A To tell you the truth, I didn't see of any, but I just
10 heard that Boo signed the paper. That's it.
11 Q After the meeting, did you see any of these documents at
12 the warehouse anywhere?
13 A No, but in the meeting they said they were going to be
14 placed in the lunchroom or by the time clock. I never saw one.
15 Q Who said that at the meeting?
16 A I think it was Gus or Frank. I'm not positive.
17 Q Before the meeting, did you ever talk to a manager or
18 supervisor about Union authorization cards?
19 A Never.
20 MR. RIMBACH: No further questions, Your Honor.
21 JUDGE LAWS: Okay. Does the Union have any questions?
22 MS. SANCHEZ: No, thank you.
23 JUDGE LAWS: Okay. And I see counsel's getting the
24 statements, so why don't we go off the record?
25 (Off the record at 9:02 a.m.)

1 MR. WILSON: Okay. I have no questions for this witness.
2 JUDGE LAWS: Easy enough. Thank you for providing your
3 testimony. Please don't discuss what you testified here about
4 with any other witnesses or anybody who could be called as a
5 witness.
6 THE WITNESS: Okay.
7 JUDGE LAWS: Okay. Thanks. Off the record.
8 (Off the record at 9:06 a.m.)
9 JUDGE LAWS: I'm going to swear you in.
10 Whereupon,
11 **YADER ALVARADO**
12 having been duly sworn, was called as a witness herein and was
13 examined and testified as follows:
14 JUDGE LAWS: Can you please have a seat?
15 THE WITNESS: Thank you.
16 JUDGE LAWS: And can you please state and spell your name
17 for the record?
18 THE WITNESS: Yader Alvarado. Y-A-D-E-R, A-L-V-A-R-A-D-O.
19 JUDGE LAWS: Thank you. Just a couple of quick
20 instructions. If one of the attorneys asks you a question and
21 you don't know the answer, just say I don't know. Only guess
22 if you're asked to take a guess.
23 If you don't understand a question, just say I don't
24 understand, and it will be re-asked for you.
25 THE WITNESS: Okay.

1 JUDGE LAWS: Okay. Thanks.

2 **DIRECT EXAMINATION**

3 Q BY MS. PEREDA: Good morning, Mr. Alvarado.

4 A Good morning.

5 Q Mr. Alvarado, who do you work for?

6 A For Wismettac Asian Foods.

7 Q How long have you worked for this company?

8 A Thirteen years.

9 Q Currently, what's your job title?

10 A Driver.

11 Q How long have you worked as a driver for the Company?

12 A Thirteen years.

13 Q Briefly, can you tell us what you do as a driver? What

14 are your duties?

15 A Yes. My duties as a driver is to separate the

16 merchandise, load it on my truck, and deliver it.

17 Q Who do you report to?

18 A To Mr. Jose Vasquez. Anthony Vasquez.

19 Q Jose Vasquez and Anthony Vasquez -- is that the same

20 person?

21 A Yes.

22 Q And do you know his job title?

23 A Branch manager.

24 Q Do you know a person named Frank Matheu?

25 A Yes.

1 Q Who is he?
2 A In reality, I think he's -- he's overall the branches,
3 over all the areas.
4 Q Do you know a person named Gustavo Flores?
5 A Yes.
6 Q Who is he?
7 A He's a person that came to the Company to talk to us
8 negative things about the Union.
9 Q Do you remember when you first saw Mr. Gustavo Flores at
10 the Company?
11 A Yes.
12 Q And when was that? When was that?
13 A It was exactly after the action happened in -- I don't
14 remember exactly, but he came after the action that we did.
15 Q Do you remember if Mr. Gustavo Flores came to the Company
16 before the first election?
17 A If he came before the first elections?
18 Q Yes. Do you remember when -- do you remember -- how many
19 elections have there been at the Company?
20 A Two.
21 Q Do you remember when the first election took place?
22 A Yes.
23 Q When was that?
24 A It was exactly -- sorry. I'm a little -- can I drink some
25 water?

1 Q Yes, of course.
2 A It was the 19th of August.
3 Q The election was in August, or was the action in August?
4 A The action was first.
5 Q Are you familiar with Teamsters Local 630?
6 A Yes.
7 Q When did you first hear about this Union?
8 A It was a Friday that my coworker, Ronald Mena, and Luis
9 Lopez mentioned to me about what was happening about the
10 Company, the abuses they were doing, and we wanted -- that we
11 had to do something so they wouldn't continue violating our
12 rights.
13 And they invited me to listen about the Union, to be able
14 to do something with all of our coworkers, for all of our
15 coworkers to protect us, to protect against the changes the
16 Company was going to make against us.
17 Q What, if any, has been your participation with this Local?
18 A Yes, I'm a member of the committee.
19 Q How many employees are members of the committee?
20 A About nine or ten people, more or less.
21 Q When was the committee formed? Do you remember?
22 A It was about in February.
23 Q Of what year?
24 A 2016.
25 Q What is 2016 or 2017 that the committee was formed?

1 A Sorry. 2017.
2 Q And what's the purpose of this committee?
3 A Inform our coworkers of all the things -- of all the
4 actions that the Company makes against us and how to protect
5 our rights.
6 Q When did you become a member of this committee?
7 A Exactly on that same date.
8 Q And by that date, do you mean February of 2017?
9 A Correct.
10 Q Does the committee hold meetings?
11 A Yes.
12 Q Where do these meetings take place?
13 A Many times we have them at -- we have them at the parking
14 lot off the clock.
15 Q When you say the parking lot, which parking lot are you
16 referring to?
17 A The parking lot at the Company.
18 Q Now, after the first election, do you recall -- how many
19 meetings has that committee had in the Company's parking lot?
20 A Could you repeat the question, please?
21 Q Yes. After the first election, how many meetings has a
22 committee had in the Company's parking lot?
23 A One.
24 Q Do you remember when this meeting in the parking lot took
25 place?

1 A Yes, it was in October.
2 Q Of what year?
3 A 2017.
4 Q How many employees were present for this meeting?
5 A Between 20 and 30, more or less.
6 Q And at what time did this meeting take place?
7 A Between 6 and 8 p.m.
8 Q You said that there were about 20 and 30 employees. Were
9 all of these employees present for the entire meeting?
10 A No.
11 Q Can you explain what you mean by 20 or 30?
12 A Yes. They would leave and they would come in small
13 groups, between six and ten.
14 Q Do you remember the names of any of the employees who were
15 present at this meeting?
16 A Yes.
17 Q Can you tell us the names of the people that you remember
18 who were present at this meeting?
19 A Yes. Fanor was there. Mr. Joe. Mr. Carlos was there.
20 Mr. Jeremias was there. And also Marvin Castillo was there.
21 And Pedro.
22 Q Do you know Pedro's last name?
23 A No.
24 Q Do you know Jeremiah's last name?
25 A No.

1 Q Do you know Fanor's last name?
2 A No.
3 Q What was said at this meeting in the parking lot?
4 A We were doing the updates. Mr. Luis was doing the updates
5 from what had happened from the election.
6 Q Do you remember anything specific that was said at this
7 meeting?
8 A I don't remember at this time.
9 Q How long did this meeting last?
10 A It was in different groups, like I said, I repeat.
11 Q How long were the group of employees in the parking lot
12 from beginning to end. How long -- about how long was that?
13 A Well, 10 to 15 minutes per group.
14 Q Do you remember about how many groups came to the parking
15 lot?
16 A It was several. Maybe four or five groups.
17 Q When the employees were having this meeting in the parking
18 lot, were there any managers or supervisors in the area?
19 A Yes. They were nearby.
20 Q Which managers or supervisors did you see in the area?
21 A Supervisor Isidro Garcia. Jose Vasquez was there.
22 Mr. Ron. I don't know his last name. And Mr. Narimoto.
23 Q Okay. So let me -- let's go one by one. Isidro Garcia,
24 where did you see him?
25 A He was about three to five feet distance away from our

1 group in the parking lot.
2 Q How long was Isidro in the parking lot?
3 A For about five minutes.
4 Q And what was he doing when he was outside in the parking
5 lot?
6 A Watching us.
7 MR. WILSON: Objection. Lack of foundation.
8 JUDGE LAWS: Overruled. I will take it as to this
9 witness's perception as to what he was doing.
10 Q BY MS. PEREDA: Mr. Narimoto, where did you see him?
11 A He was inside the warehouse.
12 Q Where inside the warehouse?
13 A He was looking at us through some windows that the door
14 has, the dock door.
15 MR. WILSON: Objection. Same objection. Foundation.
16 JUDGE LAWS: And same ruling as before. It will go to
17 this witness's perception of what Mr. Isidro is doing.
18 MS. PEREDA: Just a correction. He was talking about
19 Mr. Narimoto.
20 JUDGE LAWS: Oh, sorry. Mr. Narimoto. Thank you.
21 Q BY MS. PEREDA: Mr. Alvarado, what was the distance
22 between the group of employees and this window on the loading
23 dock that you described?
24 A About 15, 20 feet.
25 Q And can you describe this window for us? Can you describe

1 the dimensions?
2 A It could be about -- it could be about two feet or one
3 foot, more or less.
4 Q Is that width or length?
5 A The width.
6 Q And what about the length?
7 A About three feet.
8 Q How did you notice that Mr. Narimoto was standing behind
9 this window?
10 A To begin with, Mr. Jaime Martinez came. He walked by his
11 truck, and he went to the office. Once he comes out, he tells
12 us we're on the camera, and they're at the windows looking at
13 us.
14 MR. WILSON: Objection. Hearsay. Lack of foundation.
15 JUDGE LAWS: And again, with regard to the hearsay
16 testimony, I will not consider it for the truth of the matter
17 asserted unless it is corroborated or otherwise can be deemed
18 reliable.
19 Q BY MS. PEREDA: Mr. Alvarado, did you personally see
20 Mr. Narimoto behind this window?
21 A Yes.
22 Q What did you see he was doing?
23 A Watching us.
24 Q Was there anyone else standing with him?
25 A Yes.

1 Q Who was that?
2 A Mr. Ron.
3 Q Do you know Ron's last name?
4 A No.
5 Q Do you know his job title?
6 A Not directly.
7 Q For how long did you notice -- in addition to Narimoto and
8 Ron, was there anyone else, any other manager or supervisor,
9 standing with them?
10 A Mr. Jose Vasquez or Anthony Vasquez.
11 Q This window that you described, the loading dock window,
12 if you're standing from the outside, so if you're standing in
13 the parking lot looking into the window, are you able to see
14 through that window?
15 A Yes.
16 Q Is there anything covering this window?
17 A No.
18 Q What is the window made out of? Do you know?
19 A Clear plastic.
20 Q You testified earlier that there was an election. And do
21 you recall that election happening on, about September 19,
22 2017?
23 A Yes.
24 Q Now, before that election, do you recall attending any
25 meetings at the Company where the Union or election was

1 mentioned?
2 A Yes. One day prior to the elections.
3 Q Where did that meeting take place?
4 A At the cafeteria.
5 Q And about what time did that meeting take place?
6 A At 5 a.m.
7 Q Who, for the Company, was present at this meeting?
8 A Mr. Frank Matheu, Mr. Narimoto, Jose Vasquez -- Anthony
9 Vasquez, and a man by the name of the owner of the Company.
10 Q Which employees were present at this meeting?
11 A All the employees, drivers.
12 Q So this meeting was just for the drivers?
13 A Yes.
14 Q And how many drivers were present at this meeting?
15 A About 30.
16 Q Was this meeting in Spanish or English?
17 A English.
18 Q Were there any translating services being provided for
19 those -- for the people who needed it?
20 A Yes. Through some headphones we were getting it
21 translated into Spanish.
22 Q Did you, yourself, use the headphones?
23 A Yes.
24 Q What do you remember being said at this meeting and by
25 whom?

1 A Mr. Frank Matheu, he came. He got up -- sorry. He was
2 standing. He began to say that his father had taught him
3 respect and that what he saw on that video, all the employees
4 of this company, was not respect, that that was intolerable and
5 that he was not going to allow for that to happen.
6 THE INTERPRETER: Sorry.
7 MS. PEREDA: You can continue. It's all right.
8 THE WITNESS: So then he also said that he had traveled
9 from far away always to meet his family, to come and solve
10 their problems here in Los Angeles. And he also said for us to
11 vote no directly for the Union. He said it in an aggressive
12 tone.
13 Q BY MS. PEREDA: Do you remember -- you said that during
14 this meeting Frank said that he had seen that video. What
15 video was he referring to? Do you know?
16 A Yes, of course. He's talking about the video where we
17 walked toward the office of Mr. Narimoto asking them to sign a
18 contract for us, to accept us as a Union.
19 Q In this meeting with Frank Matheu, do you recall whether
20 or not the topic of changes came up?
21 A Yes.
22 Q What was said about that?
23 A He said he was the person -- he said --
24 THE INTERPRETER: Sorry.
25 MS. PEREDA: Take your time.

1 THE INTERPRETER: Excuse me.
2 THE WITNESS: Mr. Frank Matheu, he said that he had all
3 the authority to make the required changes necessary, but as
4 long as we voted no for the Union. That he had a green light,
5 on behalf of the owner of the Company, to do whatever was
6 necessary to help us to make the changes. But without a third
7 party.
8 Q BY MS. PEREDA: For how long did Mr. Frank Matheu speak at
9 this meeting?
10 A For about 10 minutes.
11 Q During this meeting did any employees ask any questions or
12 make comments?
13 A No, they wouldn't give us the authorization to speak.
14 Q Before this meeting that happened the day before the
15 election, do you recall attending any other meetings at the
16 Company where the Union or the election was discussed?
17 A Yes.
18 Q When did that meeting take place?
19 A It was about a week prior, approximately.
20 Q A week prior to what?
21 A The election.
22 Q Who for the Company was present for this meeting?
23 A Mr. Frank Matheu was and Mr. Gustavo Flores.
24 Q Were there employees present at this meeting?
25 A Yes.

1 Q Which employees?
2 A Mr. Ronald Mena was there, Frank Reyes (phonetic), Alex
3 Ayala (phonetic), Jaime Martinez, and some others.
4 Q Were you also present at this meeting?
5 A Yes.
6 Q Where did the meeting take place?
7 A In a room of the office.
8 Q And at what time did this meeting take place?
9 A In the morning.
10 Q Who spoke at this meeting?
11 A Mr. Frank Matheu.
12 Q And was this meeting in Spanish or English?
13 A In Spanish.
14 Q What was said at this meeting with Frank Matheu and
15 Gustavo Flores and who said it?
16 A Mr. Frank Matheu spoke, saying that he was coming from
17 very far away, Florida, leaving his family, that he was
18 (Spanish spoken) --
19 THE INTERPRETER: Excuse the interpreter, which means
20 "race" in English.
21 THE WITNESS: -- and that he was going to -- he said also
22 that he was going to do all the necessary changes. That he had
23 the green light, on behalf of the owner, to make all the
24 changes required, but he needed for us to give him time to make
25 those changes.

1 Q BY MS. PEREDA: You just testified that at this meeting
2 Frank said that he was race, what do you mean by that? What
3 did you understand that to mean?
4 A When he says that he is (Spanish spoken), it's like he's
5 saying that he's part of our family, like a Latino.
6 Q And to your knowledge, is Mr. Frank Matheu Latino?
7 A Yes.
8 Q At this meeting, did any employees speak?
9 A Yes, of course.
10 Q Who spoke? Which employees spoke?
11 A Mr. Ronald Mena.
12 Q What do you remember Ronald Mena saying at this meeting?
13 A Well, what he mentioned exactly was that he had all the
14 power, on behalf of the owner of the Company, so then why, if
15 we bring him the document that's legal, through an attorney, if
16 he would be willing to sign it.
17 And he said -- and he turned to look at Mr. Gustavo
18 Flores, and he said, no. And Ronald asks him why, if you have
19 the power from the owner, why do you have to look at him, when
20 he's someone who's not from the Company.
21 Q And when you're referring to the person that Mr. Ronald
22 Mena was talking to, was he talking to Frank Matheu?
23 A Yes.
24 Q How long did this meeting last?
25 A Thirty minutes.

1 Q In addition to the two meetings that you just testified
2 to, before the election did you have any conversations with any
3 managers or supervisors about the Union or the election that
4 was about to take place?
5 A With Mr. Frank Matheu.
6 Q Was this a meeting just between the two of you?
7 A Yes.
8 Q When did that meeting take place?
9 A It was the following week after the meeting that we had in
10 the room in the office, on Monday, in the morning. The man was
11 waiting, it was like he was waiting for me to clock in, to go
12 to work. And he approached me and he said to me that he had
13 now brought machines to help us work better, new machines.
14 I remember I mentioned to him and said to him, like,
15 "Frank, that's not going to change anything, but thank you
16 anyway." And the man basically said to me that those are the
17 beginning of the changes that he's going to do. And to give
18 him time to do all the necessary changes.
19 And he mentioned to me again that he had the green light
20 from the owner to make the changes, but he needed us to be
21 patient and give him time to make all the changes. He also
22 mentioned to me, in a conversation that we had about Mr. Ron,
23 and he mentioned to me something like he had already fired him.
24 Honestly, I don't know what Mr. Ron's position is at that
25 company.

1 Q Mr. Alvarado, I just want you to focus on this
2 conversation that you had with Frank. In this conversation
3 that you had with Frank, did the topic of bonuses come up at
4 all?
5 A Yes.
6 Q What was said about the bonuses?
7 A He said that he was going to do what was possible, within
8 his reach, to return the bonuses and the retro pay. I asked
9 him, "Frank, are you going to return the bonuses to us and the
10 retro pay?" "Well, he said, the bonus, I'm going to do
11 everything possible to give to you, but not the retro pay."
12 JUDGE LAWS: I'm going to jump in here just for a
13 clarification. When Mr. Matheu mentioned Ron, was that during
14 the same conversation, the Monday following the meeting that
15 you had just testified about or was that in a different
16 conversation?
17 THE WITNESS: In a different conversation.
18 JUDGE LAWS: Thank you.
19 Q BY MS. PEREDA: Mr. Alvarado, how long did this
20 conversation by the loading dock with Mr. Frank Matheu last?
21 A Between five and ten minutes.
22 Q Now we're going to change topics a little bit,
23 Mr. Alvarado. Let me direct your attention to December of
24 2017. Sometime in December of 2017, do you remember attending
25 a safety meeting at the Company?

1 A Yes.
2 Q Before the safety meeting, do you recall talking to your
3 coworkers about trucks being overweight?
4 A Yes.
5 Q Which employees were part of that conversation?
6 A Mr. Rolando Lopez and the man with the last name,
7 Troncoso, I forget this name right now.
8 Q Is that Augustine Troncoso?
9 A Yes.
10 Q Is Augustine Troncoso also a driver?
11 A Yes.
12 Q And is Rolando Lopez also a driver?
13 A Yes.
14 Q When did that conversation between your, Mr. Augustine
15 Troncoso, and Mr. Rolando Lopez take place?
16 A It was around a week before the meeting that we had.
17 Q Are you referring to the safety meeting?
18 A That's right.
19 Q Where did this conversation take place?
20 A It took place where we were loading, we were working. I
21 saw that Mr. Jose Vasquez and Mr. -- sorry, I'm a little bit --
22 can I drink some water?
23 A Sure.
24 Q Mr. Romero -- sorry -- approached Augustine and they were
25 talking to him. I saw that Augustine, like, he was upset.

1 Then Mr. Jose Vasquez left, I finished loading my truck, and I
2 approached him to help him. Mr. Rolando Lopez was already
3 there loading with him. And I said to him, you are carrying
4 too much merchandise, this truck is overweight. And he said to
5 me --
6 MR. WILSON: Objection. Hearsay.
7 JUDGE LAWS: And I won't consider the testimony for the
8 truth of the matter asserted, unless it is corroborated or
9 otherwise -- is reliable.
10 MS. PEREDA: I will just note that this goes to protected
11 constructive activities. They're discussing their working
12 conditions.
13 JUDGE LAWS: Yes, understood. Go ahead.
14 THE WITNESS: I was telling you that whether he told the
15 managers about this, and he said that he had already spoken to
16 them, and that they said that it wasn't overweight. I told him
17 that he was carrying a lot of merchandise, and that if it
18 wasn't enough, he could --
19 THE INTERPRETER: Excuse the interpreter.
20 THE WITNESS: That he could just leave certain clients if
21 it wasn't enough. And his concern was also because there was
22 one client that the problem is the pressure that there is.
23 There are some clients that want it at a certain time. And I
24 mentioned to him not to worry about that client, to do what he
25 could. That his safety is first.

1 Q BY MS. PEREDA: What, if anything, do you recall
2 Mr. Rolando Lopez saying during this conversation with you and
3 Mr. Augustine Troncoso?
4 A Mr. Ronaldo Lopez mentioned --
5 MR. WILSON: Same objection. Hearsay.
6 JUDGE LAWS: And same ruling.
7 Go ahead.
8 THE WITNESS: Mr. Rolando Lopez mentioned to him that he
9 was overweight and that he'd already had a similar case and to
10 speak to the managers. Not to worry about it, to calm down,
11 and if he had to leave some clients, to leave them.
12 Q BY MS. PEREDA: When you and Mr. Rolando and Mr. Augustine
13 were speaking, was this in Spanish or in English?
14 A Spanish.
15 Q And when you guys having this conversation were there any
16 managers or supervisors near you in the area?
17 A Mr. Romero was there.
18 Q Are you referring to Mr. Jose Romero?
19 A Yes.
20 Q How far was he from where you guys were having your
21 conversation?
22 A About five or ten feet maximum.
23 Q And what was he doing when he was there?
24 A Watching us.
25 Q To your knowledge, does Mr. Jose Romero understand

1 Spanish?
2 A Completely well.
3 Q Okay. Now, let's move forward to the safety meeting. Do
4 you recall when in September that safety meeting took place?
5 A It was in December.
6 Q Do you remember whether it was the beginning, the middle,
7 or the end of December.
8 A Beginning of December.
9 Q Which managers or supervisors were present for this
10 meeting?
11 A Mr. Jose Vasquez was there. Frank Matheu was there. Jose
12 Romero was there. And a lady by the name of Susan. Susan
13 Sands or something similar to that.
14 Q Which employees were present for this meeting?
15 A All the drivers.
16 Q And how many drivers was that at this meeting?
17 A Between 30 and 35.
18 Q Can you name some of the drivers that were present at this
19 meeting?
20 A Yes, Mr. Rolando Lopez, Augustine Troncoso, Marvin
21 Castillo, Jaime Martinez, all of us, lots of us.
22 Q Do you recall whether a driver named Giovani was present
23 at this meeting?
24 A Yes, he was present, Mr. Giovani.
25 Q Was this meeting in Spanish or English.

1 A In English.
2 Q What percentage, excuse me, of spoken English do you
3 understand?
4 A Between 50 and 70 percent.
5 Q Now, can you describe for us the layout of this meeting;
6 whether people were standing or sitting? Can you tell us,
7 again, the layout?
8 A We were all standing.
9 Q So the drivers were standing?
10 A All of us.
11 Q And were employees facing the supervisors and managers?
12 A Could you repeat the question?
13 Q Could you just tell us where were the managers standing in
14 relation to the employees?
15 A They were in front of the office.
16 Q And what was the distance between the drivers and the
17 managers and supervisors at this meeting?
18 A Between five and ten feet.
19 Q Now, can you tell us what was said at this meeting and by
20 whom?
21 A Mr. Matheu began to speak, Frank Matheu, about the safety
22 that had happened at another company, where some merchandise
23 had fallen out of a truck, that it got separated from the
24 loading dock. And he mentioned other things there, but I don't
25 remember exactly.

1 Q What happened after Mr. Frank Matheu spoke about those
2 issues?
3 A Mr. Rolando Lopez asked to be able to speak --
4 MR. WILSON: Objection. Hearsay.
5 JUDGE LAWS: Okay. Overruled.
6 THE WITNESS: Sorry, I don't understand.
7 JUDGE LAWS: You can continue.
8 THE WITNESS: Okay. Mr. Rolando Lopez asked permission to
9 speak from Mr. Frank Matheu and mentioned to him, "Frank, we
10 are talking about safety meeting, right?" "Yes." "And did we
11 forget to mention what had happened with Mr. Troncoso, that his
12 truck was overweight, and they were not helped." And Mr. Jose
13 Vasquez said, in a frustrated tone, that it's not overweight,
14 how do you know it's overweight. So he said to him, Vasquez,
15 I'm sorry. Some time ago something similar happened to me and
16 you sent me with a truck that way and you told me the truck was
17 not overweight and I have a ticket from the Highway Patrol
18 Department because the truck was overweight. That's why I'm
19 telling you.
20 After that, he came and Mr. Romero mentioned that
21 Augustine's problem to not bring here to the table something
22 that was a personal problem of Augustine's, in a general
23 meaning. That Augustine's thing was something individual, it
24 didn't have to do with what was happening at that meeting, and
25 besides, he said, that Augustine's problem was not the weight,

1 it was the air brakes. And that's when Mr. Giovani replied to
2 Mr. Romero, that the problem in California is no longer the air
3 brakes, because all the trucks have air brakes. The problem in
4 California is the weight, the regulation of the weight. And he
5 sent him to school. He said, go to school.
6 Q BY MS. PEREDA: Do you recall any other statements that
7 were said at this meeting?
8 A No.
9 Q Do you recall whether, at this meeting, there was a
10 discussion about Mr. Rolando Lopez's tone of voice?
11 A I don't understand your question.
12 Q Do you recall whether at any time during this meeting
13 Frank Matheu instructed Mr. Rolando to lower his voice?
14 A It was at the beginning when Rolando Lopez addressed
15 himself to Frank --
16 THE INTERPRETER: I'm sorry. To Mr. Jose Vasquez.
17 THE WITNESS: -- about the weight. And Mr. Frank Matheu
18 told him, "Lower your voice. Lower your voice." In an
19 aggressive tone. And he said to him, Rolando did, oh, he said,
20 "Don't come here to scream," Mr. Frank mentioned. And he said
21 that he wasn't screaming, that his tone of voice is loud.
22 Q BY MS. PEREDA: How long did the safety meeting last?
23 A Between 15 and 20 minutes.
24 Q In your opinion, how would you describe the tone of voice
25 of Mr. Rolando at this meeting?

1 A Normal.
2 Q Was Mr. Rolando Lopez yelling at this meeting?
3 A I don't consider that.
4 MS. PEREDA: No further questions, Your Honor.
5 JUDGE LAWS: Does the Union have any questions?
6 MS. SANCHEZ: Just a clarifying question.
7 **CROSS-EXAMINATION**
8 Q BY MS. SANCHEZ: Good morning. My name is Renee Sanchez,
9 I'm an attorney for the Teamsters Local 630. I'm going to ask
10 you just a couple of clarifying questions.
11 A Good morning.
12 Q You first began your testimony about a meeting in the
13 parking lot that occurred in October of 2017? You named some
14 of the employees that were present and then said that Luis
15 provided an update. Do you recall that testimony?
16 A Yes.
17 Q Do you know Luis's last name?
18 A Lopez.
19 Q So he was also present at that meeting?
20 A Luis was.
21 Q You also testified about a different meeting where the
22 owner of the Company was present. Can you tell us what
23 language the owner of the Company spoke in, if you know?
24 A In English.
25 MS. SANCHEZ: No further questions. Thank you.

1 JUDGE LAWS: All right. Let's go off the record while
2 counsel reviews the statements and go from there.
3 (Off the record at 10:01 a.m.)
4 JUDGE LAWS: Okay. Let's go back on the record.
5 MR. WILSON: Okay. I have no questions for this witness.
6 JUDGE LAWS: Well, you're off the hook. Thank you for
7 providing your testimony. Please don't discuss what you
8 testified about here today with any other witnesses or any
9 potential witnesses.
10 THE WITNESS: Thank you.
11 JUDGE LAWS: Thank you.
12 And while the witness is leaving, is there anything else
13 we need to discuss before breaking and reconvening next week?
14 I'm going to take the silence as a no.
15 MR. WILSON: I have no reply.
16 JUDGE LAWS: It's a sound I like to hear.
17 Is there anything counsel wants to add? No? Okay. We
18 will then -- I had initially said on the record, noon, but the
19 parties have all agreed that since it is only one witness, even
20 if that witness takes more than the couple of hours projected,
21 we'll be just fine starting at 1 p.m. on Tuesday, October 9th.
22 MS. PEREDA: Yeah, and just to clarify, we have one more
23 witness and the custodian of records. But I anticipate that
24 those four hours will be more than enough to have both of them
25 testify, if necessary.

1 JUDGE LAWS: Thank you for that clarification. I had
2 forgotten about the custodian of records. So, but we are still
3 okay starting at 1:00?
4 MS. PEREDA: Yes.
5 JUDGE LAWS: Okay. And if we need to go until it
6 finishes, we just will.
7 MR. WILSON: That's fine.
8 JUDGE LAWS: Okay. Very good. We will see everybody at
9 1:00 on Tuesday, October 9th.
10 Off the record.
11 **(Whereupon, the hearing in the above-entitled matter was**
12 **recessed at 10:12 a.m. until Tuesday, October 9, 2018 at 1:00**
13 **p.m.)**
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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Friday, October 5, 2018, at 8:25 a.m., was
11 held according to the record, and that this is the original,
12 complete, and true and accurate transcript that has been
13 compared to the reporting or recording, accomplished at the
14 hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
18
19
20
21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Food, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

_____

_____

Place: Los Angeles, California

Dates: October 9, 2018

Pages: 571 through 604

Volume: 5

OFFICIAL REPORTERS
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UNITED STATES OF AMERICA

BEFORE THENATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:	
WISMETTAC ASIAN FOODS, INC., Employer,	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union,	
and	
ROLANDO LOPEZ, An Individual,	
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Tuesday, October 9, 2018, 1:01 p.m.**

1 **APPEARANCES**

2 **On behalf of the General Counsel:**

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1 **INDEX**

2

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
Jeremiah Zermeno	584	600			

1 **EXHIBITS**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 **General Counsel:**		
5 GC-13	575	(Withdrawn)
6 GC-14	575	(Withdrawn)
7 GC-15	575	(Withdrawn)
8 GC-51	575	575
9 GC-52	575	575

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1 **PROCEEDINGS**

2 COURT REPORTER: All set.

3 JUDGE LAWS: Okay. Let's go back on the record.

4 All right. We have reconvened for the second week of
5 trial. There is only going to be one witness today. We had
6 some discussions off the record and counsel for the General
7 Counsel has determined they do not need to call the custodian
8 of records.

9 Just to take care of some things we talked about off the
10 record, General Counsel has distributed to myself and the
11 parties copies of General Counsel's Exhibit 51 and 52.

12 Is there any objection to 51?

13 MR. WILSON: No, Your Honor.

14 JUDGE LAWS: Okay. 51 is admitted. And how about 52?

15 **(General Counsel Exhibit Number 51 Received into Evidence)**

16 MR. WILSON: No, Your Honor.

17 JUDGE LAWS: Okay. Those are both, then, admitted into
18 the record.

19 **(General Counsel Exhibit Number 52 Received into Evidence)**

20 JUDGE LAWS: And it's my understanding because these two
21 documents are being admitted into the record, General Counsel's
22 13, 14, and 15 are withdrawn?

23 MS. PEREDA: Yes, Your Honor.

24 **(General Counsel Exhibits Number 13, 14, and 15 Withdrawn)**

25 JUDGE LAWS: Okay. Very good.

1 Before the witness comes to testify, counsel for the
2 General Counsel wanted to make some comments for the record.
3 So go ahead with that.
4 MR. WILSON: Well wait, Your Honor, I do have one
5 question.
6 JUDGE LAWS: Sure.
7 MR. WILSON: And we can fill this in, but it looks like
8 WAF-1611, and then 1613.
9 JUDGE LAWS: 1612 is on the back.
10 MR. WILSON: Oh, okay, it's on the back. Oh, okay, our
11 fault.
12 JUDGE LAWS: Yeah, no problem.
13 MR. WILSON: Senior moment there.
14 MR. RIMBACH: Save paper.
15 JUDGE LAWS: I make that same mistake regularly.
16 MS. PEREDA: And just to clarify, if a document is Bates
17 stamped, it's a document that was produced by Respondents.
18 JUDGE LAWS: Yes.
19 MS. PEREDA: A lot of our exhibits do have that marking.
20 JUDGE LAWS: Go ahead.
21 MR. RIMBACH: Good afternoon, Your Honor.
22 We wanted to bring to your attention on the record that
23 Respondent produced 38 pages of additional documents, as well
24 as what appears to be a newly created Excel spreadsheet
25 pursuant to our September 6th, 2018 subpoena late last night,

1 October 8th, a federal holiday, at 5:54 p.m. and 9:07 p.m. by
2 email. This was after Respondent notified us in writing this
3 past Friday, September 5th that -- excuse me, October 5th, that
4 it had produced a complete response to our subpoena, and after
5 we extended the Respondent the courtesy of producing additional
6 documents each day of the first four days of our direct
7 examination, most of the documents produced late last night
8 were directly responsive to paragraph 8 of our subpoena, which
9 requests documents including witness statements and email
10 communications relied upon or considered by the Respondent in
11 disciplining the 883 discriminatees named in the complaint.
12 At no time last week did Respondent indicate that these
13 additional documents were forthcoming. Most of the documents
14 produced late last night specifically pertained to Rolando
15 Lopez and Alberto Rodriguez. And the General Counsel is unduly
16 prejudiced by this untimely late production of documents, given
17 that these documents were produced after each of these
18 employee's testimony.
19 We would like to also note on the record that this late
20 production of clearly responsive documents -- that -- we would
21 like to note that the Respondent did not provide an adequate
22 explanation for this late production of documents, and given
23 this undue prejudice, we ask Your Honor to preserve our right
24 to permit questioning of witnesses that we may call for
25 rebuttal about any matters relevant to these late produced

1 documents.

2 And furthermore, in order to avoid any delay in the

3 matter, we ask that Your Honor permit the General Counsel to

4 specifically call Rolando Lopez or Alberto Rodriguez for

5 rebuttal testimony at the time they are called by the Union's

6 counsel as part of the related RC case if the Union intends to

7 call them. And then in the alternative, we ask that the GC's

8 case remain open for direct testimony until such time that we

9 are able to schedule and recall these witnesses for further

10 direct testimony.

11 We would also at this time ask that Respondent confirm on

12 the record that it has produced all responsive documents

13 pursuant to the GC's subpoena duces tecum.

14 JUDGE LAWS: And I will allow counsel for Respondent to

15 both make that confirmation or denial of confirmation, whatever

16 the case may be, and also provide any explanation you want on

17 the record for the later production.

18 MR. WILSON: Sure. Your Honor, we simply didn't locate

19 those documents until yesterday when we were interviewing

20 witnesses for the testimony this week. And one of the

21 documents relating to Mr. Lopez was a letter written to HR by a

22 person who witnessed the incident that's at issue here. For

23 whatever reason, it wasn't put in his file. And so when we

24 found it, we turned it in.

25 The other documents relate to Alberto Rodriguez. Once

1 again, they were emails to HR. They were not in the employee
2 file and when I interviewed the person who wrote them, you
3 know, indicated, yeah, I have these; I sent them to HR. I
4 guess, like I say, we just -- we didn't locate them. We're not
5 trying to sandbag anybody.
6 We have no objection to them leaving the record open, but
7 if the record is going to be open for them to come back and
8 testify, then we should be able to put the documents in
9 evidence.
10 JUDGE LAWS: And I think it sounds like everybody is
11 thinking along the same lines, which frankly is where I was
12 going to be going with this anyway. So either as rebuttal or
13 to make more convenient for the witnesses, and counsel for the
14 General Counsel and the Union can confer about this, I will
15 permit not just strict rebuttal but also any questions as they
16 pertain to newly produced documents. But I agree, I would want
17 to see the document just so that I can verify that this in fact
18 questioning on a document that we didn't previously have that
19 was later produced.
20 So whether the parties want to move them into the record,
21 I will leave to the parties, but I would want to see the
22 document that is the subject of the request to recall a witness
23 who has already testified, just to ensure for the record that
24 the testimony that might stray from being within the definition
25 of rebuttal is, in fact, responsive to a newly produced

1 document.

2 MR. RIMBACH: Thank you, Your Honor. And I would just

3 also like to note for the record that the subpoena request did

4 not limit documents that are in employees' personnel files. It

5 requested witness statements, complaints, interview notes,

6 investigatory documents, emails, and so on and so forth, relied

7 upon or considered by the Respondent in issuing the

8 disciplinary actions. And so we don't consider Respondent's

9 explanation adequate.

10 JUDGE LAWS: Well, and I don't want to go too into the

11 nitty gritty of the request and the search. Of course, it's

12 always better when documents are produced in a timely way. In

13 a trial of this size, however, it's not unusual that you find

14 something later, so I'm not going to assume that there was any

15 ill-will on anybody's part. Yes, in a perfect world, it's

16 better if everything comes at the beginning, but that just

17 isn't -- doesn't always happen.

18 MR. WILSON: Your Honor, we've provided over 2,000 pages

19 of documents.

20 JUDGE LAWS: Yeah.

21 MR. WILSON: It's indicated they have one person working

22 on this who also has other jobs. So it was just a mistake.

23 JUDGE LAWS: No, and that's why I said, especially in a

24 trial this size, it's -- it often happens that things are

25 missed. And you know, that's just a fact of life,

1 unfortunately.

2 All right. Are we -- anything else we want to, dare I

3 ask, discuss? Or are we ready with the next witness?

4 MS. PEREDA: I just want to note one other thing, Your

5 Honor. So there was another chart that was produced yesterday.

6 That has not been -- we have not offered that document into

7 evidence. And I did let Respondent know that we would want the

8 underlying documents that were used to create that chart.

9 JUDGE LAWS: Okay.

10 MS. PEREDA: So if they intend on moving that document

11 into evidence, unless those underlying documents are produced,

12 I would have an issue at that moment.

13 JUDGE LAWS: Absolutely. And to the extent that a chart

14 that has been produced for purposes of litigation is sought to

15 be introduced, by all means, the opposing party, in the rules

16 of evidence, have the right to request the underlying documents

17 and examine those to make sure that the chart says what it says

18 it says.

19 MR. WILSON: Your Honor, we have no problem with that, and

20 if we want to put it in, we'll do that. But just so we're clear

21 for the record, the chart she's referring to is something we

22 made.

23 JUDGE LAWS: Yup.

24 MR. WILSON: It's not a document that was in response to

25 their subpoena. It's something that we created, so --

1 JUDGE LAWS: And I think everybody understands that. It's
2 just that they do under the rules --
3 MR. WILSON: No, I understand.
4 JUDGE LAWS: -- have the right to look at the underlying
5 documents and just make sure the chart is accurate, and so --
6 MR. WILSON: Well, Your Honor, in the email to them, we
7 said will you stipulate to this? So it was hardly -- we sent
8 it to them for that reason. How does this look? Will you guys
9 stipulate to it as a compulation (sic)? So I don't know that
10 we need to go on the record about that.
11 JUDGE LAWS: Well, if you can, you can. If you can't,
12 we'll deal with it at the time.
13 MR. WILSON: Right.
14 JUDGE LAWS: Okay. Are we ready with our witness for
15 today?
16 MS. PEREDA: Yes, I'm going to go get him, Your Honor,
17 thank you.
18 JUDGE LAWS: Great. Thanks.
19 Is he ready, do you think, or should we go off the record
20 in case you need to find him?
21 MR. RIMBACH: He's right outside, Your Honor.
22 MS. PEREDA: I think he's ready, Your Honor. He's waiting
23 in the room.
24 JUDGE LAWS: Okay.
25 MS. PEREDA: So you're going to sit in that chair. Just

1 go around and go around the reporter, okay?
2 JUDGE LAWS: Oh, other way.
3 MS. PEREDA: Yup, that's fine too.
4 JUDGE LAWS: Oh, there we go. It's like a maze. Come on
5 around. I'm going to swear you in. Can you please raise your
6 right hand?
7 Whereupon,
8 **JEREMIAH ZERMENO**
9 having been duly sworn, was called as a witness herein and was
10 examined and testified as follows:
11 JUDGE LAWS: Can you please have a seat?
12 THE WITNESS: Thank you.
13 JUDGE LAWS: And when you're ready, state and spell your
14 name for the court reporter.
15 THE WITNESS: My name is Jeremiah Zermeno, J-E-R-E-M-I-A-H
16 Z-E-R-M-E-N-O.
17 JUDGE LAWS: Thank you, Mr. Zermeno. Just a couple things
18 before the lawyers start jumping in with their questions for
19 you. First is, if you're asked a question and you're not sure
20 of the response, just say I don't know or I'm not sure. Only
21 guess if one of the attorneys says, can you take your best
22 guess.
23 THE WITNESS: Okay.
24 JUDGE LAWS: If you don't understand a question, that's
25 absolutely fine, just say I don't understand and it will be

1 clarified and rephrased for you.

2 THE WITNESS: Okay.

3 JUDGE LAWS: And then finally, the gentleman to your left

4 is our court reporter. He has to take down everything we say

5 while we're on the record. And he can't record two voices at

6 once. So as best you can, try to make sure the question you're

7 being asked is completely done before you start with your

8 answer.

9 THE WITNESS: Okay.

10 JUDGE LAWS: Okay, thanks.

11 THE WITNESS: You got it.

12 **DIRECT EXAMINATION**

13 Q BY MS. PEREDA: Hi. Good afternoon, Mr. Zermeno.

14 A Good afternoon.

15 Q Mr. Zermeno, are you familiar with Randstad?

16 A Yes.

17 Q How are you familiar with this company?

18 A Randstad is a temporary employment agency.

19 Q Did you ever work for this company?

20 A Yes.

21 Q When did you last work for Randstad?

22 A The last day I worked for Randstad was October of 2017.

23 Q When did that assignment through Randstad start, that last

24 assignment?

25 A In March of 2017.

1 Q And where did Randstad send you to work?
2 A At Wismettac in Santa Fe Springs.
3 Q During that period of time from -- during that assignment,
4 the last assignment with Randstad, were you only sent to work
5 at Wismettac or did you work for any other companies through
6 Randstad?
7 A Only Wismettac.
8 Q Are you still working at Wismettac?
9 A No.
10 Q When did you stop working at Wismettac?
11 A October 31st, 2017.
12 Q When you were working at Wismettac, what type of work did
13 you do that -- there, excuse me?
14 A General warehouse work. I pulled orders, will-call,
15 things of that nature.
16 Q Were you considered a warehouse worker?
17 A Yes.
18 Q What shift did you work?
19 A Day shift.
20 Q And how many days a week did you work?
21 A Monday through Friday.
22 Q How many hours a week was that?
23 A It varied, but I worked -- I started work every day at 6
24 a.m. until about 5:30 p.m., sometimes 6 or 7 p.m.
25 Q When you worked at Wismettac, who did you report to?

1 A Jose Vasquez.
2 Q Is that the same person as Anthony Vasquez?
3 A Yes.
4 Q Do you know what is Mr. Jose Vasquez's job title?
5 A Warehouse manager.
6 Q Are you familiar with Teamsters, Local 630?
7 A Yes.
8 Q When did you first learn about this union?
9 A I first learned about the Union the day they made their
10 presence -- or actually, they showed up to the plant.
11 Q Do you remember about when that was?
12 A I do not recall.
13 Q After you saw the Union at the warehouse, did you have any
14 discussions with coworkers about Local 630?
15 A Actually, directly after that situation took place, I
16 asked one of the coworkers who was wearing one of the
17 Teamsters' shirts if I could take a picture of the shirt
18 because I liked the design. And then we discussed, you know --
19 I asked, actually, that they were organizing and I explained to
20 him that had previous experience with the Union.
21 Q And how so do you have previous experience with the Union?
22 A I worked with a Local Unite 11 at a hotel that I used to
23 work here in Beverly Hills.
24 Q Do you remember which coworker it was that you were
25 talking about the Union?

1 A Jesus De Leon.
2 Q Now, what, if any, was your involvement with Local 630
3 when you were working at Wismettac?
4 A I attended several meetings. I spoke to employees. I
5 signed a union card. I wore a pin. I wore a union shirt.
6 Q Okay. So let me break this down. You mentioned the
7 Union -- you wore a union T-shirt; can you describe that
8 union T-shirt for us?
9 A The union T-shirt was a Local 630 with insignia on the
10 front and a large logo on the back.
11 Q And where did you wear this T-shirt to?
12 A A T-shirt -- to work, sorry.
13 Q When you wore this T-shirt to work, did you -- was there
14 anything covering your union T-shirt?
15 A No.
16 Q When did you first wear the Union T-shirt?
17 A I want to say the first time I wore the Union T-shirt was
18 the week prior to the first -- the election.
19 Q And are you referring to the September 19 election?
20 A Correct.
21 Q How many times did you wear your union T-shirt?
22 A A handful of times. I want to say, maybe about three to
23 five times.
24 Q Did you ever stop wearing your union T-shirt?
25 A No.

1 Q Were there particular days when you wore your union
2 T-shirt to work?
3 A Specifically Fridays.
4 Q You mentioned a union pin, when did you start wearing the
5 Union pin?
6 A That was directly the week be- -- the week of the
7 election.
8 Q And how -- were there particular days when you wore your
9 union pin?
10 A Every day.
11 Q And can you describe this union pin for us? Can you
12 describe it both in size and what kind of a logo this pin has?
13 A If I remember correctly, it said "Union yes" and the pin
14 size was about this large. I wore it over the left side of my
15 chest.
16 Q Let the record ref -- just use inches to describe it to
17 the best of your ability.
18 A Maybe about like three-and-a-half.
19 Q In diameter?
20 A Yes.
21 Q Okay. And where did you wear this union pin?
22 A Usually on the left side of my chair (sic).
23 Q Was there anything covering your union pin?
24 A No.
25 Q Did you ever stop wearing your union pin?

1 A Not that I recall, no.
2 Q About how many union meetings did you attend?
3 A Quite a few. I want to say anywhere from maybe about
4 three to seven.
5 Q Where did these union meetings take place?
6 A Usually at the Local or, you know, restaurants nearby.
7 Q Aside from you, were there other employees who attended
8 these union meetings?
9 A Yes.
10 Q And you mentioned that you also spoke to your coworkers
11 about the Union; where did these conversations about the Union
12 take place?
13 A Typically, the lunch room, the parking lot, off-duty;
14 sometimes in the workplace if there was no managers or
15 supervisors around to hear the conversation; usually like
16 downtime.
17 Q About how many employees would you say you spoke to about
18 the Union?
19 A I would say roughly about ten.
20 Q And what was -- can you just tell us what was the nature
21 of the conversations that you had with them about the Union?
22 A Just based off of my overall experience and just, you
23 know, kind of monitoring different people. There was a lot of
24 people that seemed to be fearful of the -- of it -- of a union
25 fears. A lot of people have asked me questions of what my

1 prior experience was with the Union, how I felt about it, where
2 my stance was.
3 Q When did you stop working for Wismettac?
4 A October 2017.
5 Q Was there a meeting -- did you attend a meeting where your
6 assignment was discussed?
7 A Yes.
8 Q When did that meeting take place?
9 A October 31st, 2017.
10 Q Who from the Employer was present at this meeting?
11 A Jose Vasquez and Frank Matheu.
12 Q Who was Frank Matheu?
13 A Frank Matheu was the -- from my understanding, was the
14 operations manager from another plant who was coming in to take
15 over Jose Vasquez's position.
16 Q And which employees were present at this meeting?
17 A All Randstad temporary employees.
18 Q To your knowledge, did that include the daytime and the
19 nighttime Randstad employees?
20 A Yes.
21 Q And how many employees total?
22 A I want to say roughly about 20.
23 Q Can you name some of the employees who were present at
24 this meeting on October 31st?
25 A A lot of the nighttime employees I don't recall their

1 names because they were really new, but I definitely recall
2 sitting actually to my right, was Fanor Zamora and Pedro
3 Hernandez.
4 Q Where did this meeting take place?
5 A In one of the meeting rooms that they have inside the
6 building.
7 Q And about what time did it take place?
8 A That, I do not recall.
9 Q Was this meeting in Spanish or English?
10 A English.
11 Q Who from Wismettac spoke at this meeting?
12 A Frank Matheu.
13 Q What do you remember there being said at this meeting and
14 by whom?
15 A Frank Matheu had addressed the room and basically told us
16 that all Randstad temporary employees would no longer be
17 employed through Wismettac due to the contract ending. But
18 Frank also stated that the nighttime employees would be kept on
19 for the time being.
20 Q Did any employees speak at this meeting?
21 A Yes.
22 Q Which employees do you recall speaking at this meeting?
23 A Myself, Fanor, and Pedro.
24 Q What do you recall employee Fanor saying at this meeting?
25 A I remember Fanor asking, what about the employees that

1 were in the process of being hired on? You know, what is our
2 status? Or you know, where do we stand at this point? And to
3 which Frank Matheu replied that -- to submit an application
4 online and we'll see where we go from there.
5 Q What do you recall employee Pedro Hernandez saying at this
6 meeting?
7 A I'm sorry, I don't remember.
8 Q What do you recall you yourself saying at this meeting?
9 A I remember asking, you know, what was the status where we
10 could -- what was the status of the employees that were in the
11 process of being hired on? You know, and generally, that I had
12 passed up on other job opportunities, you know, with the
13 promise that I would be hired on to Wismettac as a full-time
14 employee. And to which Frank Matheu responded to me that
15 pretty much I should have followed up on other job
16 opportunities.
17 Q Do you recall any other statements that were said at this
18 meeting with Frank Matheu?
19 A Yes, actually. If there's a way I can return to the
20 previous question about Pedro Hernandez, I remember him asking
21 Frank Matheu if it was possible for us to seek employment
22 through Wismettac through other agencies since Randstad was no
23 longer going to be working with him. And which Frank responded
24 that basically, he can't legally oblige us to do so.
25 Q I'm sorry, what was the last part of your sentence. I

1 didn't hear it? That he can't legally what, I'm sorry?
2 A He can't legally, like, tell us to do so.
3 Q How long did this meeting last?
4 A About 30 to 45 minutes.
5 Q What happened once the meeting ended?
6 A We all walked out of the room, and I recall out of
7 frustration I said, this is -- excuse my language -- this is
8 bullshit.
9 Q Did you address that comment to anyone in particular?
10 A No. It was said in, you know, my tone of voice now, just
11 out of frustration; it wasn't directed towards anybody.
12 Q Did you say anything else in addition to that remark?
13 A No.
14 Q Did anyone respond to your remark?
15 A Not that I recall.
16 Q During the time that you worked at Wismettac, were you
17 ever written up?
18 A As far as I recall, once for --
19 Q And what was that --
20 A -- time and attendance.
21 Q And when did that happen; do you remember?
22 A I want to say mid to late June, beginning of July.
23 Q Aside from being written up for time and attendance
24 issues, did you have any other write-ups while you worked at --
25 A No.

1 Q I'm sorry, let me just finish -- while you worked at
2 Wismettac?
3 A No.
4 Q While you worked at Wismettac, were you ever told that
5 there were issues with your work performance?
6 A No.
7 Q When you worked at Wismettac, did the topic of you
8 becoming a permanent employee ever come up?
9 A Yes.
10 Q When did it first come up?
11 A The day before the election.
12 Q Did you speak to someone about that?
13 A I spoke to Frank Matheu and Jose Vasquez.
14 Q Where did that conversation take place?
15 A On the warehouse floor.
16 Q Who was present for that conversation?
17 A Frank Matheu and Jose Vasquez.
18 Q What was said during this -- I'm sorry, what was said
19 during this conversation with Frank Matheu and Jose Vasquez?
20 A I approached Frank Matheu and I brought to his attention
21 that I knew another employee was being hired on which had
22 started roughly around the same time and I asked Frank Matheu
23 basically what was the process or what is it that I needed to
24 do to begin the process to be converted from a temporary
25 employee to a full-time Wismettac employee. And which Frank

1 responded to me -- in questioning me, actually, when I had
2 started with the company.
3 And basically, once I gave him the information of when I
4 started, he told me that -- Frank told me that I should have
5 been converted after 90 days and that he would look into it and
6 get back to me.
7 Q How long did that conversation last?
8 A I want to say that conversation lasted maybe about all of
9 five minutes.
10 Q During that conversation with Frank Matheu and Anthony
11 Vasquez, did you reference which employee you had heard was
12 being -- was in the process of being converted to a permanent
13 employee?
14 A Yes, Fanor Zamora.
15 Q Did you have any other subsequent conversations with
16 anyone from the company about being converted to a permanent
17 Wismettac employee?
18 A The day after the election, I remember speaking to Jose
19 Vasquez in an office, and I basically asked him, you know,
20 following up what my status was, you know, with that. And Jose
21 Vasquez basically responded to me that he didn't have any
22 information on that.
23 Q When you spoke to Jose Vasquez, was there anyone else who
24 was present for that conversation?
25 A There was. I mean, it took place in their warehouse

1 office or like their operations office. But I do not recall
2 exactly who was in the room.
3 Q Were they part of the conversation between you and Jose
4 Vasquez?
5 A No.
6 Q Are you familiar with CornerStone?
7 A Yes.
8 Q All right.
9 MS. PEREDA: If I could ask the court reporter to show
10 this one, it's General Counsel Exhibit 28.
11 Q BY MS. PEREDA: Mr. Zermeno, do you have before you what's
12 been marked as General Counsel Exhibit 28?
13 A Yes.
14 Q If you can please look at pages 1, 2, and 3 of that
15 exhibit and let me know when you're done.
16 A Okay.
17 Q Do you recognize General Counsel Exhibit 28, pages 1
18 through 3?
19 A Yes.
20 Q What is that?
21 A This is my application to CornerStone.
22 Q If you look at the top right-hand corner next to date
23 entered, it has the date as 01 -- January 17th, 2017; what does
24 that date indicate?
25 A I recall this actually very vividly. This is when I was

1 actually searching for employment earlier in the year. This
2 was before Randstad reached out to me before CornerStone did,
3 which sended (sic) to assignment on Wismettac.
4 Q Is CornerStone also a staffing agency like Randstad to
5 your knowledge?
6 A Correct.
7 Q After your assignment with Wismettac ended, did you reach
8 out to CornerStone?
9 A I did.
10 Q When did that happen?
11 A Within the week after I was released.
12 Q So that would have been the beginning of November 2017?
13 A Correct.
14 Q And how did you reach out to them? Through what method?
15 A Via phone.
16 Q Who did you speak to; do you remember?
17 A I remember speaking to a Destiny (phonetic).
18 Q Do you know Destiny's last name?
19 A I do not.
20 Q What did you say when you called CornerStone and spoke to
21 this employee named Destiny?
22 A I told her lightly part of the situation, and I told her
23 that the assignment had ended, that they were no longer in
24 contract with Randstad at Wismettac, but that I wished to
25 continue working through Wismettac, just through a different

1 agency. In which response, Destiny told me she would reach out
2 to my supervisor, and if I left in good standing, I would be
3 able to return.
4 Q After that original phone conversation with Destiny, did
5 you have any other subsequent phone calls with CornerStone?
6 A Yes.
7 Q With who?
8 A With Destiny.
9 Q When did that happen?
10 A A couple days following.
11 Q And through what method?
12 A Via phone as well.
13 Q What was said during that second conversation with
14 Destiny?
15 MR. WILSON: Objection. Hearsay.
16 JUDGE LAWS: Overruled.
17 THE WITNESS: In that conversation, I was told that she
18 received an email that was very vague as to the response of why
19 I couldn't return, but basically that myself -- and she
20 mentioned the name Pedro Hernandez -- were not welcome to be
21 returned.
22 Q BY MS. PEREDA: Did she give you a reason as to why you
23 and employee Pedro Hernandez were not wanted back at Wismettac?
24 A She did not.
25 Q Did Destiny tell you who she was in contact with on

1 Wismettac's end?
2 A She did not.
3 Q Did CornerStone ever send you to work at Wismettac?
4 A No.
5 Q Did you submit a job application to work directly with
6 Wismettac?
7 A I did not.
8 Q And why not?
9 A Following that email and that information that she
10 disclosed to me about myself and Pedro Hernandez, I shed a
11 little more light as to the situation and the employees trying
12 to organize, and just based off of that meeting that was taking
13 place at Wismettac and the conversation through CornerStone, I
14 just didn't see it as worth my time, I saw it as me being
15 declined twice by Wismettac for employment. So I just didn't
16 follow it.
17 MS. PEREDA: Nothing further, Your Honor.
18 MR. WILSON: Do you have a statement for this witness?
19 JUDGE LAWS: First I want to see, does the Union have any
20 questions?
21 MS. SANCHEZ: No, Your Honor.
22 JUDGE LAWS: Okay. All right. Let's see how long this
23 statement is, and go from there.
24 MR. WILSON: Your Honor, I -- let's step out here first.
25 JUDGE LAWS: Okay. Sure. Let's go off the record.

1 (Off the record at 1:31 p.m.)

2 **CROSS-EXAMINATION**

3 Q BY MR. WILSON: Good afternoon, Mr. Zermeno. My name is
4 Scott Wilson. I'm an attorney for Wismettac. I appreciate you
5 coming here today. Just some very brief questions.
6 As I understand your testimony, before the election, you
7 wore a Teamster T-shirt every Friday?
8 A Yes, as well as after the election.
9 Q As well as -- okay. And in the time leading up to the
10 election, did a large number of employees wear Teamster
11 T-shirts on Fridays?
12 MS. SANCHEZ: Objection. Calls for speculation.
13 JUDGE LAWS: Answer only if you know, based on what you
14 observed.
15 THE WITNESS: From what I remember correctly, yes.
16 Q BY MR. WILSON: Okay. So -- and I'm sorry I didn't lay
17 more foundation, but did you observe then a practice on Fridays
18 of warehouse employees wearing Teamster T-shirts prior to the
19 September 19th, 2017 election?
20 A Occasionally, yes.
21 Q So are you saying there's some Fridays you didn't observe
22 other warehouse workers wearing Teamster T-shirts?
23 A As I stated earlier, there were some employees that were
24 very fearful of repercussions for supporting the Union, so yes,
25 some employees didn't.

1 MR. WILSON: I move to strike as nonresponsive. And that
2 was never stated to begin with. So I have no further questions
3 for this witness, Your Honor.
4 JUDGE LAWS: Okay. Any follow up?
5 MS. PEREDA: I have nothing, Your Honor.
6 MS. SANCHEZ: No, Your Honor.
7 JUDGE LAWS: All right. Well, thank you very much for
8 coming in this afternoon and providing your testimony. Please
9 don't discuss what you testified about with any other witnesses
10 or any potential witnesses.
11 THE WITNESS: Okay.
12 JUDGE LAWS: Okay? Thanks. Off the record. All right,
13 you are excused.
14 (Off the record at 1:40 p.m.)
15 JUDGE LAWS: Before we end for today, General Counsel
16 reminded me that we hadn't gotten on the record whether all
17 known responsive documents to the General Counsel's subpoenas
18 have been turned over. Off the record, counsel for Respondent
19 stated that they had. I just want to verify that's correct?
20 MR. WILSON: That's correct.
21 JUDGE LAWS: Okay. Great. Then subject to the caveat
22 with regard to the late produced documents and the potential
23 for some witness testimony about the topics of those documents
24 that hadn't been addressed in your case in chief -- that was a
25 long intro, but is there any other witnesses the General

1 Counsel intends to call at this juncture for the ULP?
2 MS. PEREDA: No, Your Honor.
3 JUDGE LAWS: All right. Then, we will reconvene
4 tomorrow --
5 MR. WILSON: Your Honor, just I want to -- so we will
6 start tomorrow; we have nine witnesses.
7 JUDGE LAWS: Okay.
8 MR. WILSON: One of those witnesses, however, doesn't work
9 for the company. They were on vacation this week; we could not
10 get them here. They were going testify both on the R case part
11 of the case and on the --
12 JUDGE LAWS: The Defense?
13 MR. WILSON: -- C case part of it. And so that witness'
14 name is Gina Baik. I would ask that we leave the record open,
15 and since it might be anyone until after the break, to allow
16 her to testify both as to the unfair labor practice case --
17 JUDGE LAWS: Yes.
18 MR. WILSON: -- and the R case.
19 JUDGE LAWS: I have no problem with that.
20 Is there any specific objection from either other party?
21 MS. PEREDA: No, Your Honor.
22 MS. SANCHEZ: No.
23 JUDGE LAWS: Okay. So we will let Ms. Baik testify both
24 to any R and C allegations at the end of October, beginning of
25 November.

1 MR. WILSON: And I asked counsel off the record if we
2 could -- the witness room could be reserved for our witnesses
3 tomorrow and she indicated it would be.
4 JUDGE LAWS: Great. So why don't we plan then to go on
5 the record at 9 tomorrow?
6 MR. WILSON: Okay. Thank you, Your Honor.
7 JUDGE LAWS: And we will start with the defense to the ULP
8 case.
9 MS. SANCHEZ: Thank you, Your Honor.
10 JUDGE LAWS: Okay. Thanks.
11 MR. RIMBACH: Thank you, Your Honor.
12 JUDGE LAWS: Off the record.
13 **(Whereupon, the hearing in the above-entitled matter was**
14 **recessed at 1:43 p.m. until Wednesday, October 10, 2018 at 9:00**
15 **a.m.)**
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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Tuesday, October 9, 2018, 1:01 p.m., was
11 held according to the record, and that this is the original,
12 complete, and true and accurate transcript that has been
13 compared to the reporting or recording, accomplished at the
14 hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
18
19
20
21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

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_____

Place: Los Angeles, California

Dates: October 10, 2018

Pages: 605 through 811

Volume: 6

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of: WISMETTAC ASIAN FOODS, INC., Employer, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union, and ROLANDO LOPEZ, An Individual, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Wednesday, October 10, 2018, 9:22 a.m.**

1 **APPEARANCES**

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1 **INDEX**

2

3 WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
4 Susan Sands	610	622	626	627	621
5 Anthony Vasquez	630 637	666 683	684 692	689	636
6 Christian McCormick	695 721 727 733	748	770		718 726 729
9 Frank Matheu	772				

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1 **EXHIBITS**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 **Employer:**		
5 E-3	620	621
6 E-4	631	637
7 E-5	637	648
8 E-6	709	(Withdrawn)
9 E-7	716	722
10 E-8	724	727
11 E-9	727	732
12 E-10	733	741
13 E-11	742	747
14 **General Counsel:**		
15 GC-53	752	754
16 GC-54	763	765

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1 **PROCEEDINGS**

2 JUDGE LAWS: We are reconvening for the start of the
3 defense of the unfair labor practices charges. The Employer
4 does have a company representative who will be present during
5 this portion of the hearing, at least, so I want to have him
6 make his appearance for the record.
7 MR. WILSON: Say who you are. Yeah.
8 MR. MATHEU: What's that?
9 MR. WILSON: Stand up and identify yourself.
10 MR. MATHEU: Frank Matheu.
11 JUDGE LAWS: Thank you.
12 And we have our first witness. I'm going to go ahead and
13 swear you in. Could you raise your right hand?
14 Whereupon,
15 **SUSAN SANDS**
16 having been duly sworn, was called as a witness herein and was
17 examined and testified as follows:
18 JUDGE LAWS: If you could please state and spell your name
19 for the record.
20 THE WITNESS: Susan Sands, S-U-S-A-N, S-A-N-D-S.
21 JUDGE LAWS: Thank you. A couple things before I turn
22 things over to the attorneys to ask questions. The first is if
23 you're asked a question and you're not really sure or you don't
24 know, just say "I don't know." Only guess or speculate if
25 you're asked to do so by counsel.

1 And then if you don't understand a question that's asked
2 of you, just say "I don't understand," and it'll be clarified.
3 And finally, seated to your left is the court reporter.
4 His job is to take down everything that is said while we're on
5 the record, and he can't take down two voices talking at once,
6 so as best you can, just make sure the question you're being
7 asked is completely done before you jump in with the answer.
8 Okay? Thanks.
9 **DIRECT EXAMINATION**
10 Q BY MR. WILSON: Good morning, Ms. Sands. Can you tell me
11 where you're currently employed?
12 A Wismettac Asians -- Asian Foods.
13 Q Okay. And where is that company located?
14 A Santa Fe Springs.
15 Q Okay. And what type of business are they in?
16 A Food distribution.
17 Q Okay. And how long have you worked there?
18 A Currently, it's a year.
19 Q Okay. And what is your position there?
20 A I am the assistant operations manager.
21 Q Okay. And can you tell me what that involves?
22 A It involves making sure that J-SOX compliant -- that we're
23 within J-SOX compliance standard operation procedures are being
24 followed. So a lot of the times, I am in training with other
25 departments as well to make sure that they're following the

1 proper protocol.
2 Q Now, for us who aren't in the food distribution business,
3 you used the term "J-SOX." What do you mean by that?
4 A J-SOX is -- well, for us in the U.S., it's just basically
5 SOX. It's the Sarbanes-Oxley Act of 2002.
6 Q Okay.
7 A So that we don't have another Enron or --
8 Q No, I understand.
9 A Yeah.
10 Q So is the company publicly traded?
11 A Yes. They went public last September.
12 Q Okay. Very good.
13 And so who do you report to?
14 A My direct report is Meiji.
15 Q Can you say that first and last name of that person?
16 A I have a hard time with his first name. I'm sorry.
17 Q Okay. What is -- so the first name you used was Meiji?
18 A Meiji -- Meiji is actually his last name.
19 Q Okay.
20 A Yeah.
21 Q So what do you refer him as when you talk to him?
22 A Meiji-san.
23 Q Meiji-san.
24 A Uh-huh.
25 Q Okay. And is Meiji M-I-G-I, or --

1 A M-E-I-J-I.
2 Q M-E-I-J-I.
3 A Yeah.
4 Q Okay. Very good. And what is his position?
5 A He is the operations manager for numerous facilities.
6 Q Okay.
7 A For Wismettac.
8 Q Okay. And you indicated you'd been there for a year. So
9 do you have occasion to interact with driver employees?
10 A I do.
11 Q Okay. Why would you interact with the drivers?
12 A To educate them on the operating -- the standard operating
13 procedures and make sure that we're in compliance with the
14 J-SOX rules.
15 Q Okay. Do you discuss with them the dealings with
16 customers?
17 A Not necessarily unless it pertained to a standard
18 operating procedure that wasn't being followed.
19 Q Okay. And how often do you attend driver meetings?
20 A My first three months of employment with Wismettac I did
21 weekly meetings with the warehouse, which included the drivers
22 to start that process.
23 Q Okay. So when you attended these meetings, did you speak,
24 or --
25 A Oh, yes. Absolutely.

1 Q Okay.
2 A Yes.
3 Q So I want to direct your attention to a meeting on
4 December 4th, 2017. Did you attend a meeting where drivers
5 were present?
6 JUDGE LAWS: Our court reporter is apparently leaving us.
7 Q BY MR. WILSON: Okay. So we're on -- okay. Okay. So
8 on -- back to where we were. So on December 4th, 2017, did you
9 attend a meeting involving drivers?
10 A Yes.
11 Q Do you recall where this meeting took place?
12 A Yes.
13 Q Was it on the Employer facility?
14 A Yes.
15 Q Can you recall what room in the Employer facility?
16 A It was in the warehouse.
17 Q Okay. Open in the warehouse or in a separate room?
18 A No, open in the warehouse on the dock floor in front of
19 the warehouse office.
20 Q Okay. And why did you go to this meeting?
21 A This meeting was, again, to review the standard operating
22 procedures for credits, invoice processing, which wasn't the
23 first time that it had been discussed. But, of course, as my
24 position with Wismettac, it's important that they do understand
25 the importance of following the S -- the SOPs.

1 Q Okay. And who asked you to go to the meeting?
2 A I volunteered originally so that I could get to know the
3 drivers and understand the operating procedures and make sure
4 that they were being followed so we were compliant.
5 Q Okay. And how many people were at this meeting, if you
6 recall?
7 A All the drivers were there, and I won't -- I don't know
8 exactly how many, but I want to say 40 to 50 maybe.
9 Q Okay. And that's an estimate that you have based on your
10 recollection of the meeting.
11 A Right.
12 Q Okay. Now, who -- so at the beginning of the meeting, who
13 spoke first?
14 A The meeting started with Mr. Matheus (sic).
15 Q Okay. Now, was the meeting in English or Spanish?
16 A The beginning of the meeting was in English.
17 Q Okay. So when you participate in these meetings and there
18 are Spanish speaking employees, how do you communicate with
19 them?
20 A If they don't understand what I ask them to do, it's
21 either we'll have a side meeting afterwards and I'll have a
22 translator help me explain what they don't understand. So
23 usually that's how I'll handle that.
24 Q Okay. And so the meeting began with Mr. Matheu speaking?
25 A Yes.

1 Q Okay. And at some point during the meeting, did another
2 employee speak up?
3 MS. PEREDA: Objection. Leading.
4 JUDGE LAWS: Overruled.
5 THE WITNESS: Yes.
6 Q BY MR. WILSON: Okay. How long into Mr. Matheu's
7 presentation did this other employee speak?
8 A It was two to three minutes.
9 Q Okay. And can you -- and was the other -- the other
10 employee who spoke, was he speaking in English or Spanish?
11 A Spanish.
12 Q Did you understand what he was saying?
13 A No.
14 Q Okay. And did you observe this employee's demeanor?
15 A Yes.
16 Q And how would you describe that?
17 A His demeanor was aggressive. He was very upset. By the
18 tone of his voice, he was very upset in whatever he was
19 communicating with Frank.
20 Q And he was directing his comments to Mr. Matheu.
21 A That's correct.
22 Q Okay. Were there other supervisors there that you recall
23 besides Frank?
24 A Yes.
25 Q And do you recall who those were?

1 A Yes. It was Mr. Romero and Mr. Vasquez.
2 Q Okay. And was the employee who spoke up, was he gesturing
3 at all?
4 A Yes.
5 Q Can you describe that?
6 A Yes. For the most part of the meeting, he was with his
7 arms crossed in front of him, slightly leaning back. His feet
8 were about shoulder width apart. It was -- it was an
9 aggressive stance.
10 Q Okay. How would you describe his tone of voice?
11 A Hostile
12 MS. PEREDA: Objection. Asked and answered.
13 JUDGE LAWS: Overruled.
14 Q BY MR. WILSON: Okay. And was his tone of voice loud or
15 was it in a conversational tone?
16 A Loud.
17 MS. PEREDA: Objection. Leading.
18 JUDGE LAWS: Overruled.
19 Q BY MR. WILSON: So how long did this employee speak to
20 Mr. Matheu that you observed?
21 A It was -- it was a few minutes that transpired between
22 the -- Mr. Matheus and --
23 Q Okay.
24 A -- the gentleman.
25 Q To your recollection, was the employee who spoke, did he

1 also address another driver, during the course of his
2 speaking?
3 A Yes.
4 Q And can you describe that?
5 A He was with the other drivers and making comments to them,
6 nudging them as either -- and to agree or disagree with
7 whatever was being said at that --
8 Q Did he address -- was -- were the gestures focused on one
9 particular driver or all of them?
10 A No. There was two drivers that were standing next to him
11 that I noticed he was addressing.
12 Q Was he addressing them verbally, or was he addressing them
13 through gestures?
14 A Both.
15 Q Okay. And so at what point did this gentleman quit
16 speaking?
17 A When Frank asked him -- well, I'm assuming Frank asked him
18 to --
19 MS. PEREDA: Objection as to what she's assuming.
20 JUDGE LAWS: Yeah. Only speculate if you're asked to do
21 so, please.
22 MR. WILSON: Okay.
23 THE WITNESS: Okay.
24 Q BY MR. WILSON: So at some point, did he quit speaking?
25 A Yes.

1 Q Okay. And before he quit speaking, did Mr. Matheu address
2 them?
3 A Yes.
4 Q Was that in English or Spanish?
5 A Spanish.
6 Q And after Mr. Matheu addressed him, did he cease speaking?
7 A Yes, reluctantly.
8 Q Okay. Now, this meeting took place on December 4th, 2017.
9 After the meeting, were you contacted by Human Resources about
10 this particular meeting?
11 A Yes.
12 Q Do you recall who in Human Resources?
13 A Her name is Jean -- Gina -- Jenna.
14 Q Would that be Jinna Baik; do you know?
15 A Yes.
16 Q Okay. And what was the purpose of her contacting you, if
17 you know?
18 A She said that they -- she was investigating the instance
19 that occurred during the meeting and wanted to meet with me
20 and -- to hear my side or see what I observed.
21 Q Okay. How long have December 4th did you have this
22 meeting?
23 A It was on October -- I'm sorry -- December 8th.
24 Q Okay. You met with HR on December 8th.
25 A Yes.

1 Q Okay. Did -- at that point, did they identify the
2 employee who you referred to as speaking at the meeting?
3 A Yes.
4 Q Okay. Do you recall that employee's name?
5 A Yes. His name is Renaldo (sic).
6 Q Was it Rolando or --
7 A Yes. Rolando. Yes.
8 Q Okay. That's fine. Did they ask you to make a statement
9 or write a statement about what happened?
10 A Yes, they did.
11 Q And did you do so?
12 A I did.
13 Q Okay. How long after the meeting did you prepare the
14 statement?
15 A The meeting with HR was on the 8th of December. That's a
16 Friday. I turned my report in on Monday morning.
17 Q Okay. And back to Ms. Baik.
18 A That's correct.
19 MR. WILSON: Okay. So I want to show you what we have
20 marked as Employer Exhibit 3.
21 **(Employer Exhibit Number 3 Marked for Identification)**
22 JUDGE LAWS: And just so that it's clearer for the record,
23 there was an Employer Exhibit 3, but it was duplicate of one of
24 the General Counsel exhibits, so it was withdrawn. So this is
25 now Employer Exhibit 3.

1 MS. PEREDA: Your Honor, and before Counsel proceeds, I
2 will note that this was one of the documents that Respondent
3 produced late Monday evening to us. Again, we had no prior
4 notice about this document other than it was forthcoming.
5 MR. WILSON: Prior -- they had prior notice it was
6 forthcoming. That's why we came it to them on Monday.
7 JUDGE LAWS: Understood. Let's move forward with the
8 testimony.
9 Q BY MR. WILSON: So, Ms. Sands, can you identify the
10 document before you that's marked as Exhibit 3?
11 A Yes.
12 Q Okay. What is this document?
13 A This document is my notes of exactly what happened -- or
14 from my perspective, what happened.
15 Q And can you take some time and read the document?
16 A Okay.
17 Q Okay.
18 A Yes.
19 Q Does --
20 A This is a --
21 Q -- Exhibit 3 accurately reflect your recollection of what
22 happened at the meeting on December 4th?
23 A Absolutely.
24 Q Okay. And you provided that document to HR, correct?
25 A Yes.

1 Q Okay.

2 MR. WILSON: All right. I move for the admission of

3 Employer's Exhibit 3.

4 JUDGE LAWS: Okay. Any objection?

5 MS. PEREDA: I have no objection, Your Honor.

6 JUDGE LAWS: And I'll assume if the Union has an

7 objection, you'll let me know.

8 MS. SANCHEZ: I will. May I voir dire?

9 JUDGE LAWS: Sure.

10 **VOIR DIRE**

11 Q BY SANCHEZ: Ms. Sands, my name is Renee Sanchez. I'm

12 counsel for the Union. I'd like to ask you a question

13 specifically about this document.

14 A Sure.

15 Q There's no date of -- your signature appears at the

16 bottom. That -- is that correct?

17 A Yes.

18 Q There's no date of when you created the document. You

19 testified a moment ago that you test -- that you created it

20 when?

21 A I created it -- the document -- on December 8th.

22 MS. SANCHEZ: I have no question or objection.

23 JUDGE LAWS: All right. I will admit Employer Exhibit 3.

24 **(Employer Exhibit Number 3 Received into Evidence)**

25 MR. WILSON: I have no further questions of this witness.

1 JUDGE LAWS: All right. Does the General Counsel have
2 cross? Do you want a minute?
3 MS. PEREDA: Yeah. Can I have two minutes, Your Honor?
4 JUDGE LAWS: Sure.
5 MS. PEREDA: Thank you.
6 JUDGE LAWS: Why don't we go off the record? Just let us
7 know when you're ready.
8 MS. PEREDA: Thank you, Your Honor.
9 (Off the record at 9:38 a.m.)
10 **CROSS-EXAMINATION**
11 Q BY MS. PEREDA: Hi. Good morning, Ms. Sands. My name is
12 Elvira Pereda, and I'm attorney for the government. I'm just
13 going to ask you a few questions, okay?
14 Ms. Sands, I'm sorry, when did you start working for this
15 Employer? What was your start date?
16 A My start date was October 8th of 2017.
17 Q And were you -- when you started working for Wismettac on
18 October 8th, you were hired as the assistant operations
19 manager?
20 A That's correct.
21 Q Now, Ms. Sands, you don't speak Spanish, correct?
22 A No.
23 Q So you don't understand at this meeting on December 4th
24 when employees were speaking in Spanish. You didn't understand
25 what they were saying, correct?

1 A That's correct.
2 Q If you can look -- so let me just -- this meeting that
3 took place on December 4th, everyone was standing, correct?
4 A Yes.
5 Q So that was all drivers that attended this meeting were
6 standing, correct?
7 A Yes.
8 Q And all of the managers and supervisors were also
9 standing, correct?
10 A Yes.
11 Q In addition to Mr. Rolando Lopez, you testified that he
12 spoke at this meeting, other drivers also spoke at this
13 meeting, correct?
14 A Yes.
15 Q And again, you didn't understand what those other drivers
16 said because they all spoke in Spanish, correct?
17 A No, not necessarily.
18 Q Some of them -- some of the other drivers also spoke in
19 Spanish though, correct?
20 A Yes.
21 Q And you didn't understand what those other drivers who
22 spoke in Spanish said.
23 A That's correct.
24 Q In your -- in the statement -- the statement that you
25 prepared, you testified that you were contacted by HR or you

1 met with HR on December 8th, and you prepared your statement on
2 December 8th, and then turn it in the following Monday,
3 December -- that would've been December the 11th, correct?
4 A Yes.
5 Q So prior to December 8th, you didn't meet with HR?
6 A No.
7 Q And you didn't reach to HR, correct?
8 A No.
9 Q HR reached out to you.
10 A That's correct.
11 Q In your statement, you wrote that Mr. Rolando was
12 sarcastic, but again, not knowing what he was saying, you
13 can't -- you can't testify as to whether he was being sarcastic
14 or not, correct?
15 A It was his tone of voice.
16 Q Okay. So his -- from -- but you didn't understand what he
17 was saying, correct?
18 A That's correct.
19 Q So wouldn't you -- wouldn't you agree that in order to
20 determine whether or not someone's being sarcastic, you would
21 need to understand what they're saying?
22 A Not necessarily.
23 Q Okay. So in your opinion, you don't have to understand
24 somebody -- what somebody's saying in order to determine
25 whether or not they're being sarcastic. It's a yes or no

1 question, Ms. Sands.
2 A Yes.
3 Q At this meeting, did Mr. Frank Matheu speak in both in
4 Spanish and English?
5 A Yes.
6 Q And when he spoke in Spanish, again, you didn't understand
7 what he was saying.
8 A That's correct.
9 Q What about the other supervisors present; did they speak
10 in Spanish?
11 A The -- at that point, no.
12 Q So in that meeting, do you remember Frank -- I'm sorry --
13 Vasquez speaking at this meeting?
14 A Yes.
15 Q Did he speak in Spanish and English?
16 A The meetings are usually held in English.
17 Q That's not my question. Did he speak in Spanish or
18 English or both?
19 A Both.
20 Q And again, when he spoke in Spanish, you didn't understand
21 what he was saying, correct?
22 A That's correct.
23 Q Mr. Romero also spoke at this meeting, correct?
24 A Yes.
25 Q Did he speak both in Spanish and English?

1 A Yes.

2 Q And again, when he spoke in Spanish, you didn't understand

3 what he was saying, correct?

4 A That's correct.

5 MS. PEREDA: Nothing further, Your Honor.

6 JUDGE LAWS: All right. Any cross from the Union?

7 MS. SANCHEZ: No. Thank you.

8 JUDGE LAWS: Any follow-up?

9 **REDIRECT EXAMINATION**

10 Q BY MR. WILSON: Ms. Sands, back to Exhibit 3, in the

11 paragraph where it says "the tone of his voice was aggressive,

12 sarcastic, and hostile," was that an impression you drew from

13 the manner of him speaking?

14 A Yes.

15 Q Okay.

16 MS. SANCHEZ: Your Honor, I have a question --

17 JUDGE LAWS: Let's --

18 MS. SANCHEZ: -- if I may.

19 JUDGE LAWS: -- wait until he's done with --

20 MS. SANCHEZ: Oh, I thought he was done.

21 JUDGE LAWS: -- redirect.

22 MS. SANCHEZ: Sorry about that.

23 Q BY MR. WILSON: And you also in Exhibit 3, in the

24 paragraph above that, describe him rolling his eyes, smacking

25 his lips, and making comments while both ADGM and ASBM were

1 speaking; is that your recollection?
2 A Yes.
3 Q Okay.
4 MR. WILSON: I have no further questions.
5 JUDGE LAWS: All right. Recross from General Counsel.
6 MS. PEREDA: I have nothing, Your Honor.
7 JUDGE LAWS: Okay. Recross from the Union.
8 **RECROSS-EXAMINATION**
9 Q BY MS. SANCHEZ: Ms. Sands, do you know the definition of
10 sarcasm?
11 A Yes.
12 Q Can you tell it to me?
13 A To be sarcastic is to be demeaning.
14 Q I just looked up sarcasm, and the definitely is "marked by
15 or give -- or given a statement using irony."
16 MR. WILSON: Your Honor --
17 Q BY MS. SANCHEZ: In order to use irony --
18 MR. WILSON: I'm going to object to this.
19 Q BY MS. SANCHEZ: -- wouldn't you say you have to
20 understand what the other person is saying?
21 MR. WILSON: Your Honor, I'm going to object. It's
22 argumentative. Also, the definition of sarcastic she's reading
23 is not evidence. There's no foundation that the witness knows
24 the definition of sarcasm as defined by the Union, so I -- I'm
25 going to ask that the questions be stricken.

1 JUDGE LAWS: Yes. That objection is sustained. The
2 definition of sarcasm is not in evidence, and the foundation
3 wasn't laid that this witness was familiar with the definition
4 you just read.
5 MR. WILSON: I have no further questions.
6 MS. SANCHEZ: Thank you, Your Honor.
7 JUDGE LAWS: Thank you, Ms. Sands for providing your
8 testimony. Please don't discuss what you testified about today
9 with any other witnesses or anybody connected to the
10 proceedings that could potentially be called as a witness.
11 THE WITNESS: Of course.
12 JUDGE LAWS: Thank you.
13 All right. Let's go off the record.
14 (Off the record at 9:46 a.m.)
15 THE WITNESS: Right here?
16 MR. WILSON: Yeah, right up there by the microphone.
17 JUDGE LAWS: It's a little bit of a maze.
18 THE WITNESS: Over here?
19 JUDGE LAWS: No, no, no.
20 THE WITNESS: Oh, sorry.
21 JUDGE LAWS: Come on around. I'm going to swear you in.
22 Will you please raise your right hand?
23 Whereupon,
24 **ANTHONY VASQUEZ**
25 having been duly sworn, was called as a witness herein and was

1 examined and testified as follows:
2 JUDGE LAWS: Please have a seat, and state and spell your
3 name for the court reporter.
4 THE WITNESS: Anthony Vasquez.
5 JUDGE LAWS: Okay.
6 THE WITNESS: It's A-N --
7 JUDGE LAWS: If it's traditional spelling, I think --
8 THE WITNESS: It is.
9 JUDGE LAWS: -- he probably has it. All right.
10 A couple things before the lawyers ask you questions.
11 First is if you don't know the answer to a question, say "I
12 don't know" or "I'm not sure." Only take a guess if you're
13 asked to do so --
14 THE WITNESS: Okay.
15 JUDGE LAWS: -- by one of the attorneys.
16 THE WITNESS: Sure.
17 JUDGE LAWS: If you don't understand something that's
18 asked of you, just say "I don't understand the question," and
19 it will be rephrased.
20 And then finally, our court reporter, who's seated to your
21 left has to take down everything that we say when we're on the
22 record, and because of that, it's important to remember not to
23 start in with your answer until you're sure the question that
24 you're being asked is finished.
25 THE WITNESS: Okay.

1 JUDGE LAWS: Okay? Thanks.

2 **DIRECT EXAMINATION**

3 Q BY MR. WILSON: Okay. Mr. Vasquez, where are you
4 currently employed?
5 A Wismettac Asian Food.
6 Q Okay. And how long have you worked there?
7 A Seventeen years.
8 Q Seventeen years?
9 A Yes.
10 Q Long time.
11 A Yes, a long time.
12 Q Okay. And what position did you start out as?
13 A First when I start, it was back in 2002 as assembler in
14 the warehouse. Then they asked me to become a driver. I was
15 driving for pretty much seven, eight years.
16 Q Eight years. When did you first become -- when were you
17 first moved into management?
18 A Back in 2 -- as assistant manager on 2017.
19 Q 2017?
20 A Yes.
21 Q Okay. And what position did you come from to become
22 assistant manager in 2017?
23 A I was driver lead for four years.
24 Q Driver lead? Okay. Very good.
25 A Yes.

1 Q And when you became assistant manager in 2017, just to be
2 clear, what month was that?
3 A I don't remember.
4 Q Okay.
5 A Yeah.
6 Q And who did you report to when you became assistant
7 manager?
8 A On that time, it was Mr. Tadashi, Domain Tadashi.
9 Q Okay.
10 A He was a branch manager.
11 Q Okay. And who do you report to currently?
12 A To Mr. Frank Matheu.
13 Q Okay.
14 A Yeah.
15 Q Very good. So I want to show you two documents. The
16 first one we're going to mark as -- or we have marked as
17 Exhibit 4.
18 **(Employer Exhibit Number 4 Marked for Identification)**
19 THE WITNESS: Thank you.
20 Q BY MR. WILSON: And does this document look familiar to
21 you?
22 A Yeah. This is the warehouse map.
23 Q Okay. Do they have a map like this posted in the
24 warehouse?
25 A Yeah. We have one in the office -- warehouse office.

1 Q Okay.
2 A Yeah.
3 Q And looking at the map, can you explain the different
4 areas of the warehouse?
5 A Yes. In the right side we have the cooler -- the freezer
6 and the cooler. The one, it says open space where we keep bulk
7 area, which is rice and beer, whole pallets. The one in the
8 middle, it's the dry area. That's where we keep all the dry
9 merchandise. And the one in the left, this is -- well the
10 square ones, that's office -- warehouse office.
11 Q Okay.
12 A And far north, it's the docks where we park the trucks.
13 Q Okay. So as I understand on a normal day, there's
14 merchandise loaded onto trucks that leave the facility; is that
15 correct?
16 A That's correct.
17 Q Okay. And where do those trucks park?
18 A In -- on all the docks from -- it will be from 1 to 26.
19 Q Okay. So --
20 A That's for the regular delivery days.
21 Q Okay.
22 A Yeah.
23 Q And the docks are --
24 MR. WILSON: can I approach the witness, Your Honor?
25 JUDGE LAWS: Yes.

1 THE WITNESS: This is where we place the regular
2 merchandise, all the way to 26. And that's where our -- the
3 drivers start loading the trucks.
4 Q BY MR. WILSON: Okay. So just to make it clear on the
5 record, there's a bunch of numbers right below where it says
6 "warehouse." What are those numbers?
7 A The numbers is truck numbers.
8 Q Okay.
9 A Assigned for each truck.
10 Q Okay. So -- and the record shows that the numbers that
11 are 1 through -- it looks like they go all the way to 40 --
12 A 44, but we don't use all the docks --
13 Q Okay. How many --
14 A -- to load --
15 Q -- do you -- how many do you use?
16 A To deliver -- local deliveries from 1 to 26.
17 Q Okay.
18 A And the rest -- the rest of the docks is for pickup,
19 receiving, and out of states.
20 Q Okay. Now, when you report to work each day, can you
21 point out on the map where you -- initially when you come in --
22 A Yeah.
23 Q -- where you go?
24 A When I come in, in the morning -- well, I make sure all
25 the emails are replied, so I go straight to the office.

1 Then --
2 Q Okay. So where is the office?
3 A Office is on the left side.
4 Q It's there?
5 A It shows warehouse office right there.
6 MS. PEREDA: I'm sorry, Your Honor. I'm having a hard
7 time following this part of the testimony because -- is the
8 witness able to hold up the exhibit to point to us what he's
9 talking about?
10 JUDGE LAWS: Go ahead and do that. That's -- when you're
11 showing where something is, I -- and it's obviously --
12 MS. PEREDA: Can you just hold it up and --
13 THE WITNESS: Yeah. I'm sorry.
14 JUDGE LAWS: Hold on while -- while I'm --
15 THE WITNESS: So this is --
16 JUDGE LAWS: Please -- please hold on. We need to only
17 have one person speaking at a time, and everybody just needs to
18 slow down and listen to one specific question and make a
19 specific answer.
20 So go ahead and respond to Counsel's questions. I think
21 it's clear where there's the first floor main office and the
22 warehouse office, so there are two offices. Which one were you
23 just talking about?
24 THE WITNESS: That one that says "warehouse office."
25 JUDGE LAWS: Okay. Thank you.

1 THE WITNESS: Okay.
2 Q BY MR. WILSON: Okay. And then right next to that, to the
3 left of warehouse office, it says "showroom." What is that
4 exactly?
5 A Showroom, oh, that's a -- it's a new place right now where
6 there's -- have displays of dishes and cups.
7 Q Okay. And in September of 2017, was the showroom -- is
8 what's now referred to the showroom referred to as something
9 else?
10 A It was a safety room.
11 Q Okay. And what was it used for as a safety room?
12 A Well, actually, we used to keep only supplies.
13 Q Okay.
14 A Yeah.
15 Q But at -- and sometimes were there safety meetings there?
16 A Yes.
17 Q Okay.
18 A It was some desks and chairs over there.
19 Q Okay. And to --
20 MR. WILSON: So, Your Honor, I would move for the
21 admittance of Employer Exhibit 4.
22 JUDGE LAWS: Okay. Any objection from General Counsel?
23 MS. PEREDA: I guess just -- can I voir dire, Your Honor?
24 JUDGE LAWS: Sure.
25 MR. WILSON: That's fine.

1 **VOIR DIRE**

2 Q BY MS. PEREDA: Mr. Vasquez, can you tell us if we're
3 looking at this -- at what's being marked as Employer Exhibit
4 4, where is the entrance to the warehouse?
5 A Well, where it says west gate, right here.
6 Q Okay, so the first X, the one on the top left-hand corner?
7 A Well, that's not -- I don't know what's the X for, but
8 the -- it would be more like right here on the entry right
9 here. There's a dock. There should be a small door on the --
10 Q Okay. So the entrance is right next to Loading Dock
11 Number 1?
12 A Yes.
13 Q Okay.
14 JUDGE LAWS: There's a -- there's a door marking.
15 MS. PEREDA: Okay.
16 Q BY MS. PEREDA: Are there any other entrances to the
17 warehouse in addition to that door?
18 A For -- yes, there is, but they're usually locked. It's
19 only like emergency talks (phonetic), or if it -- the drivers
20 need to go out and check something on the truck.
21 Q So this is the main entrance that people use --
22 A Yes.
23 Q -- to enter and exit the warehouse.
24 A For the warehouse, yes.
25 MS. PEREDA: That's it, Your Honor. No objection.

1 JUDGE LAWS: Okay. Any objection from the Union?
2 MS. SANCHEZ: No.
3 JUDGE LAWS: Employer Exhibit 4 is admitted.
4 **(Employer Exhibit Number 4 Received into Evidence)**
5 MR. WILSON: Okay. Now I want to show you another
6 documents, the next document, that's marked as Employer Exhibit
7 Number 5.
8 **(Employer Exhibit Number 5 Marked for Identification)**
9 JUDGE LAWS: Thank you.
10 **DIRECT EXAMINATION (RESUMED)**
11 Q BY MR. WILSON: Now, this -- what's Employer -- marked as
12 Employer Exhibit 5 says "WLA parking lot via Google Maps." Did
13 you see that document this morning before you testified?
14 A Yes.
15 Q Okay. And you saw that in my presence, correct?
16 A Yes, sir.
17 Q Okay. And I will represent this was a document provided
18 to me by the company, not created by Mr. Vasquez. But based on
19 your knowledge of the warehouse setup, does Employer Exhibit 5
20 accurately reflect the warehouse, if you were looking at it
21 from that vantage point?
22 A Yes.
23 Q Okay. Now, so from the part that appears to be the room,
24 right above that, are those trucks that are shown in the map?
25 A The one that's right next the building, yes. They are

1 trucks. The one in the middle, that's employee cars.
2 Q Okay. So the ones right next to the building that are
3 jutting out, those are trucks.
4 A Yes.
5 Q Okay. And then over to the left, looks like offsite,
6 there's a street that appears to say Carmenita Road. Is that
7 your understanding of what that street is?
8 A Yes, sir.
9 Q Okay. And at the very bottom, there's another road going
10 perpendicular with the warehouse that says Orden Drive; is that
11 your understanding of what that street is?
12 A Yes, sir.
13 Q Okay. And then to the left of the trucks, that -- is that
14 where employees park?
15 A Yes.
16 Q Okay. And it looks like to the left of the trucks,
17 there's employee parking, and then it appears that there's some
18 parking at the very -- at the uppermost section of the map.
19 A That's the --
20 Q Is that employee parking?
21 A That's employee parking as well.
22 Q Okay. About how many employees usually park in that
23 parking lot?
24 A Early in the morning, all the drivers. I'm going to say
25 80 percent of the drivers has a car.

1 Q Okay. And how many shifts do they have of employment
2 there at Wismettac?
3 A Two shifts.
4 Q Two shifts?
5 A Yes.
6 Q Two shifts or three shifts?
7 A Well, it's one in the middle. That should be three
8 shifts.
9 Q Okay.
10 A Yeah.
11 Q What time does the first shift start?
12 A It depends. For the drivers, they start from 5, 6, and 7.
13 Q So the drivers report in the morning, and they're on the
14 first shift.
15 A Yes.
16 Q And what do they do when they get there?
17 A When -- as soon as they come, they start doing their
18 paperwork, and then they start loading the trucks.
19 Q And where do they go when the trucks are loaded?
20 A Around 8:00, they take a break. And then when they come
21 back, they just finish loading and then leave to their routes.
22 Q So when they leave on their routes, where are they going?
23 A It all depends on their area.
24 Q Okay.
25 A Yeah.

1 Q So what's on the truck that they've loaded?
2 A That's dry, and frozen, and chill.
3 Q Okay. And that's -- those are products that are being
4 delivered to customers, correct?
5 A Yes.
6 Q Okay. And then you said there could be three shifts.
7 What's -- when does the second shift start?
8 A Second shift starts around 1:00.
9 Q Okay. And who works that shift?
10 A Assemblers only.
11 Q Okay. What do assemblers do?
12 A Assemblers, they come and do the preparation. They pull
13 like all the merchandise from the different departments, right,
14 cooler and freezer, and they stage it by routes.
15 Q Okay. And what do you use --
16 A That's for the next delivery date.
17 Q Okay.
18 JUDGE LAWS: Let's make sure we talk one at a time, okay?
19 THE WITNESS: I'm sorry. Yeah.
20 Q BY MR. WILSON: Yeah, and I meant to clarify that. When
21 you say stage for route, does that mean they're getting
22 merchandise ready to be delivered the following day?
23 A Yes, sir.
24 Q Okay. And then what's the third shift?
25 A Third shift is to finish the -- that's the same assignment

1 but to continue and finish the rest of the customers.
2 Q Okay. What hours does the second shift?
3 A It would be from 5 p.m. to finish.
4 JUDGE LAWS: Do you mean third shift?
5 THE WITNESS: Third shift.
6 Q BY MR. WILSON: Third shift, what hours do they work?
7 A The third shift is from 5 to finish. Could be --
8 Q Okay. And what time would finish be?
9 A Maybe around 2:00 in the morning, 3.
10 Q Okay.
11 A It's all depends. It varies on different days.
12 Q Okay. And going back to Employer Exhibit Number 4, and to
13 the right it says "freezer."
14 A Yes.
15 Q What sort of items are in the freezer?
16 MS. PEREDA: Objection as to relevance.
17 MR. WILSON: Your Honor, I'm just trying to lay background
18 information about the company. There's been considerable
19 testimony about the warehouse and what goes on in what
20 locations.
21 JUDGE LAWS: I don't need great detail, but some
22 background is fine.
23 MR. WILSON: I just want him to talk about the different
24 departments.
25 JUDGE LAWS: Yeah. Go ahead.

1 Q BY MR. WILSON: Okay. So on the right it's -- what
2 exactly is in the freezer?
3 A Freezer, we have frozen tuna, ice cream, from cookies,
4 pretty much everything that we deliver to markets and
5 restaurants.
6 Q Okay. And then there's also a section referred to as dry
7 section.
8 A Dry section.
9 Q Okay. Can you -- looking at Exhibit 4, can you -- and is
10 the dry section somewhere to the left of the freezer?
11 A It's right in the middle.
12 Q Okay.
13 A That's the dry section.
14 Q Okay. So that's two sections. Is there also a deli
15 section?
16 A Yeah, we have a deli section right next to the freezer.
17 Q Okay.
18 A Yeah.
19 Q And so it's freezer, deli, dry goods?
20 A Yes.
21 Q Is there a fourth section?
22 A No.
23 Q Okay. So it's primarily those three sections.
24 A Yes.
25 Q Okay. So I want to direct your attention to December 4th,

1 2017 and ask if you recall attending a meeting with Frank
2 Matheu -- Frank Matheu, Jose Romero, and yourself; a driver
3 meeting in the morning?
4 A Yes.
5 Q Okay. And do you recall the purpose of that meeting?
6 A It was to inform the drivers how to do the adjustment, the
7 credit that we use to the customers, because some drivers are
8 not using the correct codes and filling out the paperwork as
9 we're supposed to.
10 Q So just to be clear, so if there was a mistake in an
11 order, there's a paperwork system the drivers have to use?
12 A Yes.
13 Q Okay. And was that the purpose -- one of the purposes of
14 that meeting?
15 A Yes.
16 Q Okay. And who conducted -- who began the meeting?
17 A Mr. Frank Matheu.
18 Q Okay. And how many drivers were at the meeting, if you
19 recall?
20 A Around 30 drivers.
21 Q Thirty drivers.
22 A Yeah.
23 Q Okay. And during the course of the meeting when
24 Mr. Matheu was speaking -- Mr. Matheu was speaking -- did
25 employee Rolando Lopez speak up?

1 A Yes.
2 Q Okay. Was Mr. Matheu speaking in English or Spanish?
3 A It was in English.
4 Q He was addressing the meeting in English?
5 A Yes.
6 Q And Spanish or just English?
7 A No. It was in English in the beginning and then when
8 Rolando started speaking, it was also in Spanish.
9 Q Okay. What did Rolando say?
10 A He was complaining about the weights of the trucks.
11 Q Okay. And do you know what he was referring to about the
12 weight of the truck?
13 A He was complaining about the one -- another driver, there
14 was an incident that happened the day before that he was
15 speaking for the -- for Augustine Troncoso that he was
16 overnight. And at the same time, Augustine Troncoso, he said
17 it wasn't overweight.
18 Q Okay. So we'll come to that.
19 A Yeah.
20 Q Did Augustine speak at the meeting?
21 A No.
22 Q Was Augustine at the meeting?
23 A Yes.
24 Q Okay. So how long did Mr. Lopez speak?
25 A Around two minutes.

1 Q Okay. And how would you describe his of voice?
2 A He was aggressive.
3 Q Well, was he loud or soft?
4 A Yeah, he was loud. He was pointing us. Actually, he was
5 pointing to me, that I was send him with an overweight truck in
6 the past.
7 Q He was saying -- so Rolando was saying that you sent him?
8 A Me and Alberto who is another lead on that time.
9 Q Okay. Wait. Just to be clear, was Mr. Lopez accusing you
10 of sending Mr. Lopez with an overweight truck, or was he
11 accusing you of sending Augustine with an overweight truck?
12 A First --
13 MS. PEREDA: Objection as to the word "accusing."
14 JUDGE LAWS: Overruled. Go ahead and answer.
15 Q BY MR. WILSON: You can answer.
16 A Well, he was saying that we sent him. First he say -- he
17 mentioned Augustine truck, because of the day before he had an
18 overweight truck, and he was trying to tell us, and he was
19 pointing to us. And me and Alberto, we sent him with an
20 overweight truck in the past.
21 Q Okay. So how long did this conversation go on?
22 A Around two minutes.
23 Q Okay. And how did it end? How did Mr. Lopez end his
24 conversation?
25 A Actually, no. Mr. Matheu talking the -- he was going to

1 talk to him one to one because it was not related to the
2 meeting to that day.
3 MR. WILSON: Okay. Can you show the witness General
4 Counsel Exhibit 3?
5 Q BY MR. WILSON: So do you recognize General Counsel
6 Exhibit 3?
7 A Yes.
8 Q Okay. What is that?
9 A It's a verbal warning. We talked to the HR because we
10 didn't like the way he was talking on the meeting, and he was
11 interrupting the meeting.
12 MS. PEREDA: Objection as to foundation and unresponsive.
13 JUDGE LAWS: Overruled.
14 Q BY MR. WILSON: Okay. So when you say "he" was talking,
15 are you referring to Rolando Lopez? When you just testified
16 that "he" was talking and interrupting the meeting, and you
17 didn't like that, are you referring to Rolando Lopez?
18 A Yes.
19 Q And you were referring to his conduct that occurred at the
20 meeting on December 4th, correct?
21 A Yes.
22 Q And the date of the counseling is December 5th, 2017.
23 A Yes.
24 Q Was this presented to him on that day?
25 A Yes.

1 Q Okay. And who was in the meeting when you presented it to
2 him?
3 A Me and Mr. Romero.
4 Q Okay. And did Mr. Lopez say anything?
5 A He was not agree -- he did not agree on verbal counseling.
6 Q Okay. Now, after the meeting on the 4th, did you speak
7 with the driver known as Augustine about the issue of a truck
8 being overweight?
9 A Yes. We talked to him the very next day, and then we
10 asked him what was the problem because we didn't send him with
11 the overweight. And he said, no, I never say anything to
12 Rolando.
13 Q Okay. You said "we" talked to him. Who spoke with him?
14 A Yeah. Me and Mr. Romero.
15 Q Okay.
16 A Yeah.
17 MR. WILSON: Okay, Your Honor, before I move to another
18 topic, I did want to introduce for admission of Exhibit 5,
19 which was the Google Map.
20 JUDGE LAWS: Any objection?
21 MR. WILSON: Yeah.
22 JUDGE LAWS: Any objection to 5?
23 MS. PEREDA: No objection, Your Honor.
24 MS. SANCHEZ: No.
25 JUDGE LAWS: I'll admit Employer Exhibit 5.

1 **(Employer Exhibit Number 5 Received into Evidence)**
2 Q BY MR. WILSON: Okay. Just one or two more questions
3 then, Mr. Lopez. So did you discuss with Human Resources the
4 fact that he was going to be issued General Counsel Exhibit 3?
5 That's the -- in front of you -- that's the verbal warning.
6 A Yes.
7 MS. PEREDA: Objection as to leading and foundation.
8 JUDGE LAWS: Overruled.
9 Q BY MR. WILSON: So did you have a discussion with Human
10 Resources?
11 A Yes.
12 Q Okay. And who initiated that discussion?
13 A We -- me and Mr. Romero, we went to HR.
14 Q Okay. Who did you speak to at HR?
15 A At that time, I believe it was Jinna Baik.
16 Q Jinna Baik? Okay.
17 A She was in charge.
18 Q What did you -- I'm sorry -- what did you tell Ms. Baik?
19 A That we held the meeting in the morning, and Mr. Rolando
20 Lopez was very aggressive on that meeting.
21 Q And what did -- did Ms. Baik instruct you as to what to
22 do?
23 MS. PEREDA: Objection as to hearsay.
24 JUDGE LAWS: Overruled.
25 THE WITNESS: She -- well, we explained to her, and she

1 agreed that we need to counsel and talk to him.
2 Q BY MR. WILSON: Did she instruct you to issue the verbal
3 that's marked General Counsel Number 3?
4 MS. PEREDA: Objection. Leading.
5 THE WITNESS: No.
6 JUDGE LAWS: Overruled.
7 Q BY MR. WILSON: Okay. Okay, so I want to direct your
8 attention back to August -- or excuse me -- September 2017; do
9 you recall that month?
10 A Yes.
11 Q Okay. Now, you said you weren't -- you didn't recall when
12 you'd been promoted to assistant general manager, but by
13 September 2017, you'd been promoted, correct?
14 A Yes.
15 Q Okay. And what was your title again in September 2017?
16 JUDGE LAWS: Before or after the promotion?
17 MR. WILSON: After. Excuse me. After the promotion.
18 THE WITNESS: I was assistant manager.
19 Q BY MR. WILSON: Okay. Now, as assistant manager, at that
20 time in September 2017, did you supervise any particular group
21 of employees?
22 A Pretty much the whole warehouse, including drivers and
23 receiving and assemblers.
24 Q Okay. So each day you were in the warehouse, correct?
25 A Yes, sir.

1 Q Okay. And you state you observed drivers and warehouse
2 workers, correct?
3 A Yes, sir.
4 Q Okay. Now, in September 2017, did you observe, let's say,
5 warehouse workers wearing shirts that had insignias for the
6 Teamsters union?
7 A Yes, sir.
8 Q Okay. And how many warehouse workers did you observe
9 wearing those shirts?
10 A Pretty much everyone was wearing those shirts.
11 Q Okay. Did they wear them every day or just a particular
12 day?
13 A Some -- there were some that almost every day, and drivers
14 was using it only Fridays.
15 Q Okay.
16 A That's what we noticed.
17 Q Did the drivers, to your knowledge, wear the shirt their
18 entire shift?
19 A No. They were wearing their shirts only when they were
20 loading the trucks.
21 Q Okay.
22 A And --
23 Q Then after that, what did they do?
24 A When they finished loading the trucks and were about to
25 leave, they were -- they used a Wismettac uniform.

1 Q Okay. And to your knowledge, did management ever tell the
2 employees they couldn't wear the shirts?
3 A No.
4 Q Okay. And that was for both drivers and warehouse people,
5 correct?
6 A Warehouse. Yes.
7 JUDGE LAWS: You called -- let's -- you need to wait till
8 he's done with the question.
9 THE WITNESS: Sorry.
10 Q BY MR. WILSON: Okay. So I want to direct your attention
11 to approximately some point in October of 2017. Do you recall
12 a meeting held among employees in the parking lot?
13 A Yes, sir.
14 Q Okay. And about what time of day was this meeting held?
15 A Around 6 p.m.
16 Q Okay. Is that when it started?
17 A Yes.
18 Q Okay. Now, can you point on Employer Exhibit Number 4
19 where the meeting started out?
20 A The meeting start right here, right on where it says "west
21 gate."
22 Q Okay. So can the record show the witness pointed then to
23 Exhibit Number 4 right to the right of the blue line where it
24 says "west gate"?
25 A Yes.

1 Q Okay. Now, that's a parking lot, correct?
2 A That's a parking lot.
3 Q Okay. And then there's -- you described the loading docks
4 down below starting with Number 1. How far from the loading
5 docks into the parking lot was the meeting?
6 A It's around 100 feet from over there.
7 Q Okay. And at that time the meeting started, were there
8 trucks parked at the loading dock, starting with Number 1?
9 A It was --
10 MS. PEREDA: Objection as to leading.
11 JUDGE LAWS: Overruled.
12 THE WITNESS: There was some trucks parked over there.
13 Q BY MR. WILSON: Do you recall how many trucks?
14 A Don't remember.
15 Q Okay. And what -- and just from your previous testimony,
16 what time do the trucks start coming back usually each day?
17 A Between 4 and 7 p.m.
18 Q Okay. Okay, so just we have the work schedule so it's
19 clear, the drivers leave in the morning with their product, go
20 on their routes, and they return the trucks, correct?
21 A Yes.
22 Q Their trucks are returned at the company.
23 A Yes.
24 Q Okay. And they're company trucks, correct?
25 A Yes.

1 Q So how many, if you recall, how many did you observe the
2 number of employees who were in the meeting when it first
3 started around 6 p.m.?
4 A It was around seven to ten.
5 Q Okay. Now, where were you when you first observed the
6 meeting?
7 A I was in the office.
8 Q Okay. And how did the meeting come to your attention?
9 A Because I was checking the cameras.
10 Q Okay. So you observed the meeting from the camera.
11 A Yes.
12 Q Okay. And how would you describe the definition of the
13 camera in terms of being able to observe the meeting?
14 A It was -- we use it for security purposes.
15 Q Okay. But how clear is the picture?
16 A Not so good. They're really old cameras.
17 Q What --
18 A But we can see -- I'm sorry.
19 Q Okay. So let's start over. So if I use the word
20 "definition" to describe the strength of the camera to
21 determine what was going on at the meeting, I mean, how would
22 you describe that?
23 A Well, we just -- it came to my attention that I see a
24 group of people standing outside.
25 Q Is the camera have enough definition where you can see the

1 faces of people at the meeting?
2 MS. SANCHEZ: Objection. Leading.
3 JUDGE LAWS: Overruled.
4 THE WITNESS: No, sir.
5 Q BY MR. WILSON: And are you certain of that?
6 A Yes.
7 Q Okay. Did you ever walk out on the loading dock or
8 anywhere else outside to observe the meeting?
9 A No, sir.
10 Q Okay. Now, did the meeting move from the initial location
11 that you testified to by the west gate?
12 A Yes, sir.
13 Q Where did it move to?
14 A Around dock -- right in front of Dock 5 and 6.
15 Q Okay. And do you know -- to your knowledge, do you know
16 why it moved?
17 A No, sir.
18 MS. SANCHEZ: Objection. Calls for speculation.
19 MR. WILSON: He didn't --
20 JUDGE LAWS: He said he didn't know.
21 Q BY MR. WILSON: Okay. And by the time it moved to Dock 5
22 or 6, do you recall how many employees were at the meeting?
23 A Around 20.
24 Q Twenty? Okay. And what time was it that they moved to
25 Dock 5 or 6?

1 A Around 7 p.m.
2 Q Okay. And did the meeting then move to another location?
3 A Well, not too far from there, around 14, 15.
4 Q Okay. Do you recall how many trucks there were at Dock 5
5 or 6 when the meeting moved there?
6 A Around the time? Pretty much all the trucks already come
7 back.
8 Q Okay. And when it moved to 15 or 16, do you recall how
9 many trucks were there?
10 MS. SANCHEZ: Objection. Misstates his testimony.
11 JUDGE LAWS: Overruled.
12 THE WITNESS: Don't remember.
13 Q BY MR. WILSON: Okay. Just to be clear, by the time it
14 moved to 15 or 16 -- Docks 15 or 16, how many employees were at
15 the meeting?
16 A Around 20.
17 Q Twenty. Okay.
18 A Yes.
19 JUDGE LAWS: And the objection was he said 14 or 15. I
20 don't see that it makes too big of a difference.
21 Q BY MR. WILSON: And then did the -- did the meeting move
22 to a third location after that?
23 A Well, that was the third location.
24 Q Okay. That was a -- okay. So that's fine. That was the
25 last location.

1 What time did the meeting break up?
2 A Around 8:00.
3 Q Okay. And your only observation of the meeting was
4 through the security camera, correct?
5 A Yes.
6 Q Okay. Now, after the meeting broke up, do you recall
7 discussing the fact of the meeting with anyone at the -- at --
8 at Wismettac in management?
9 A It was Romero that they -- but we didn't discuss. We
10 didn't discuss why they were making a meeting.
11 Q Okay. But, I mean, after the meeting broke up --
12 A Yes.
13 Q -- did you discuss with anyone who was at that meeting?
14 A No, sir.
15 Q Okay. And any day after the meeting, do you recall any
16 management discussion about which employees were at that
17 meeting?
18 A No.
19 Q Did anyone ever tell you who was at the meeting?
20 A No.
21 Q Okay.
22 THE WITNESS: Can I take water?
23 JUDGE LAWS: Sure. Oh, absolutely.
24 THE WITNESS: Thank you.
25 JUDGE LAWS: That's for you.

1 THE WITNESS: Thanks.
2 Q BY MR. WILSON: Okay, Mr. Romero, I want to turn your
3 attention to October 31st, 2017. Do you recall a meeting that
4 took place with Frank Matheu that day, with warehouse
5 employees?
6 A Yes.
7 Q Okay. And do you know which group of warehouse employees
8 that meeting was with?
9 A It was all the temp employees from Randstad Agency.
10 Q And how did you know there were going to -- the temp
11 employees from Randstad Agency?
12 A Because they want to -- well, we wanted to -- from
13 Mr. Matheu, we want to inform the contract was pulled, and
14 there was -- they were going to end the assignment.
15 Q Okay. So who spoke at the meeting?
16 A Mr. Frank Matheu.
17 Q And who came to the meeting?
18 A All the employees, such as me and him.
19 Q Okay. Which -- so did a group of employees who, to your
20 knowledge, had been referred from Randstad appear at the
21 meeting?
22 A Can you repeat the question?
23 Q Okay. Were there a group of workers there who, to your
24 knowledge, had been referred by Randstad to Wismettac?
25 A No.

1 Q Okay. Were there warehouse workers at the meeting?
2 A They were all warehouse workers.
3 Q Okay. And do you know of those warehouse workers were
4 Randstad employees?
5 A Yes.
6 Q Okay. And what I mean by Randstad employees, I mean they
7 were referred there by that particular agency.
8 A Yes.
9 Q Okay. And how many of them were there?
10 A I would say it was around 10 to 12.
11 Q Okay. And what -- and did Mr. Matheu address these
12 people?
13 A He was there to inform the -- the agency was people -- the
14 contract, and were -- they were no longer for us. They were --
15 the assignment was that and on -- the -- I don't remember how
16 much time together, but.
17 Q Okay. And how long did the meeting last?
18 A No more than 10 minutes.
19 Q Okay. So can you, to the best of your recollection, once
20 again, tell me what Mr. Matheu said at that meeting to these
21 employees?
22 A What I remember he -- he was trying -- he was informing
23 the Randstad employees to -- the company was -- he pulled a
24 contract from us and then they were gonna end up the same
25 assignment from -- from the company.

1 Q Okay. And do you recall any of the employees that were
2 there speaking to Mr. Matheu?
3 A It was one guy named Jeremiah. Like, he was really upset.
4 Q Okay. So what exactly did Jeremiah say?
5 A He say I should've known better. I would of took the
6 order at work. He -- he said a bad word.
7 Q Okay. Is the bad word he said commonly referred to as the
8 F word?
9 A Yes.
10 Q Okay. In what tone of voice was he speaking in?
11 A He was angry?
12 Q Okay. Was it a loud tone or a --
13 A Yes.
14 Q -- conversation --
15 A It was a --
16 Q -- tone?
17 A -- really loud tone.
18 Q Okay. And did he say anything else at the meeting?
19 A Besides that, no. He said he wouldn't be -- he wouldn't
20 take the order, F job that wouldn't pay $18 an hour.
21 Q Okay. And after he said that, did the meeting break up?
22 A No, other people started asking question. I don't want
23 remember what was the question.
24 Q Okay. Did Mr. Matheu --
25 A It was like --

1 Q -- address those questions?
2 A Yes.
3 Q Okay. Did you address the questions?
4 A No.
5 Q Okay. It was Mr. Matheu who spoke?
6 A Yes.
7 Q Okay.
8 MR. WILSON: Your Honor, just a minute. I just need to --
9 JUDGE LAWS: Sure.
10 MR. WILSON: -- pull out a couple exhibits here.
11 And if the court reporter could show the witness General
12 Counsel Exhibits 41 and 42?
13 Q BY MR. WILSON: Okay. So, Mr. Vasquez, were you familiar
14 with an employee at -- or -- excuse me, Mr. Vasquez, do you
15 want more time to read this --
16 A No.
17 Q -- those --
18 A No.
19 Q -- exhibits?
20 A I'm fine. Thank you. I'm okay. Thank you.
21 Q So are you familiar with an employee who formerly worked
22 at Wismettac, Mr. Alberto Rodriguez?
23 A Yes, sir.
24 Q Okay. And first I want to direct your attention to what's
25 been marked as General Counsel Exhibit number 41. Okay. Do

1 you recognize General Counsel Exhibit 41?
2 A Not really because -- this one I really don't remember
3 what happened that day. I remember that Mr. Isidro he told me
4 that he was gonna issue a verbal warning to Mr. --
5 Q Okay. So let --
6 A -- Alberto --
7 Q -- let's start over.
8 A Yes.
9 Q So who is Mr. Isidro?
10 A Isidro, he was a assistant manager on night shift on that
11 time.
12 Q Okay. And what's his last name?
13 A Last name is Garcia.
14 Q Okay. So on or about December 11th, did Mr. Garcia
15 approach you about issuing a verbal warning?
16 A Yes.
17 Q And who was he going to issue the verbal warning to?
18 A To Mr. Alberto Rodriguez.
19 Q Did he tell you why he was going to issue the verbal
20 warning?
21 A He say he was doing a meeting on Friday. And then
22 Mr. Alberto, he need to rock (sic) the meeting, saying that he
23 was -- I think he make a comment to another employee.
24 Q Okay. So is that the conduct of Mr. Rodriguez that
25 Mr. Garcia described to you?

1 A Yes.
2 Q Okay. So why did he come to you with General Counsel
3 Exhibit 41?
4 A Because he has to report to me, and for me to approve and
5 sign the verbal warning.
6 Q Okay. So after he described that incident, you gave him
7 approval for the verbal warning?
8 A Yes, sir.
9 Q Okay. You, yourself, weren't at meeting --
10 A No.
11 Q -- that he described?
12 A Yes.
13 Q Okay. Now, does human resources have to sign off on the
14 verbal warning before it was issued?
15 A No.
16 Q No. You can issue it yourself?
17 A Yes.
18 Q Okay. Next, I want to direct your attention to what's
19 been marked in front of you as General Counsel Exhibit 42. Can
20 you take a look at that?
21 A Yes.
22 Q Tell me when you've read it.
23 A I'm ready.
24 Q Okay. Do you know what that document is?
25 A That's another verbal warning.

1 Q Okay. And does this one also involve Alberto Rodriguez?
2 A Yes, sir.
3 Q And can you just explain in your own words what this was
4 all about?
5 A When I was informed to this one? Mr. Lu, he's a warehouse
6 supervisor, he told Mr. Alberto Rodriguez --
7 MS. PEREDA: Objection as to hearsay and foundation.
8 MR. WILSON: Okay.
9 JUDGE LAWS: Well, he's saying what was reported to him.
10 MR. WILSON: I'm going to go back through it. I just
11 wanted to get --
12 JUDGE LAWS: Okay. Just get that --
13 MR. WILSON: Right.
14 JUDGE LAWS: -- get that --
15 JUDGE LAWS: -- foundation --
16 MR. WILSON: Right.
17 JUDGE LAWS: -- right. You can go ahead.
18 MR. WILSON: Okay.
19 THE WITNESS: And then Mr. Lu he told Mr. Alberto
20 Rodriguez to do an order. And Alberto he say no because he
21 didn't have equipment to start working. So he went outside
22 and -- and he was sitting over there doing nothing.
23 And then Mr. Romero at that time he -- he told him why he
24 was doing nothing. And he -- he -- he told how come he's not
25 doing anything. And he said oh, because I don't have any

1 equipment. So he pointed to the pallet jacks over there. He
2 said there is some pallet jacks over there for you to start
3 working. So he stand up and he started doing --
4 MR. WILSON: Okay.
5 THE WITNESS: -- the work.
6 Q BY MR. WILSON: Start from the beginning. And thank you
7 for that.
8 So did you witness the incident that's referred to in
9 General Counsel 42? Were you there personally?
10 A I was there when he asked -- when Mr. Romero ask him why
11 he was doing nothing.
12 Q Okay. So looking at General Counsel 42, just to be clear,
13 can you tell us about this incident? What part of it you
14 actually observed yourself?
15 A When Mr. Romero told him why he was doing nothing.
16 Q Okay.
17 A Yeah.
18 Q And the reference to Mr. Lu allegedly asking Mr. Romero to
19 do something; who told you about that?
20 A Mr. Romero was there.
21 Q Okay. So did he tell you -- did Mr. Romero tell you that
22 Mr. Lu had asked Alberto to work?
23 A Yes, sir.
24 Q Okay. And then what did you observe Alberto do?
25 A Well, Mr. Romero was telling him to do -- why he was doing

1 nothing and he pointed -- it was a pallet jack over there. And
2 he stand up and he grabbed one of the pallet jacks and
3 started --
4 Q Okay.
5 A -- doing those orders.
6 Q So when you approached Mr. Rodriguez and Mr. Romero, what
7 did you observe Mr. Rodriguez doing?
8 A He was just sitting.
9 Q Okay.
10 A Yeah.
11 Q And was he talking to anyone?
12 A It was the one driver right next to him.
13 Q Okay. So did Mr. Romero ever inform you how long
14 Mr. Rodriguez was sitting there before he started working?
15 A I don't remember.
16 Q Okay.
17 MR. WILSON: Okay. I have no further questions of
18 Mr. Vasquez.
19 JUDGE LAWS: All right. Why don't we -- it's 10:35. Why
20 don't we take 10 --
21 MR. WILSON: Okay. That's fine.
22 JUDGE LAWS: -- just for a comfort break. And we can
23 begin with cross at 10:45.
24 MS. PEREDA: Oh --
25 MR. WILSON: Okay.

1 MS. PEREDA: -- if there is an affidavit, I'd like to
2 review it.
3 MS. SANCHEZ: There's actually a couple of affidavits.
4 JUDGE LAWS: Oh, okay. Well, we --
5 MS. PEREDA: May I have time to do that?
6 JUDGE LAWS: -- might take more time then. Why don't we
7 go off the record? Let's check back in, in 10 minutes. Tell
8 us how much time you need.
9 MS. PEREDA: Thank you, Your Honor.
10 JUDGE LAWS: Off the record.
11 (Off the record at 10:36 a.m.)
12 JUDGE LAWS: Proceed with the cross from the General
13 Counsel.
14 **CROSS-EXAMINATION**
15 Q BY MS. PEREDA: Good morning, Mr. Vasquez. My name is --
16 A Good morning.
17 Q -- Elvira Pereda. And I'm going to be asking you some
18 questions. I'm the attorney for the government.
19 Mr. Vasquez, you testified earlier today that your most
20 recent job title with Wismettac is that of assistant manager;
21 is that what you testified to?
22 A I'm assistant manager right now.
23 Q And you started that position when?
24 A No. No, no. Going -- maybe two months ago.
25 Q Okay. What were you prior to being an assistant manager?

1 A I was a branch manager.
2 Q The branch manager?
3 A Yes.
4 Q How long were you the branch manager for?
5 A Like 10 months.
6 Q Can you give you the time period of what that covered? So
7 you said you became the assistant branch manager -- the
8 assistant manager, excuse me, two months ago, correct?
9 A Yes.
10 Q So that would have been August --
11 A August.
12 Q -- of this year around --
13 A Yes.
14 Q -- correct?
15 A Around August, yes.
16 Q And for about 10 months you held the position of plant
17 manager --
18 A Yes.
19 Q -- you said. Okay. So that would have been from, let's
20 say, last November till about August of this year?
21 A Dates I don't recall.
22 Q Okay.
23 A Yeah.
24 Q If I can refresh -- if I can have the court reporter show
25 this witness General Counsel Exhibit 4? I'm sorry. He's going

1 to hand it to you --
2 A Oh.
3 Q -- because it's not before you. Mr. Vasquez, do you have
4 before you, General Counsel Exhibit 4?
5 A Yes.
6 Q Can you please turn over to page 4? Are you on page 4?
7 A Yes.
8 Q Okay. So where you see where it says manager -- and let
9 me just clarify. You also go by the name Jose Vasquez;
10 correct?
11 A That was me previously.
12 Q Okay. So employees at the warehouse know you as both Jose
13 Vasquez and Anthony Vasquez, correct?
14 A Yes.
15 Q Okay. So that Jose Vasquez, that's referring to you?
16 A Yes.
17 Q Okay. And in there it says that your title is listed as
18 the logistics branch manager. Is that the same as plant
19 manager?
20 A Yes.
21 JUDGE LAWS: He said branch manager in his testimony. You
22 asked him --
23 MS. PEREDA: Oh, I'm sorry.
24 JUDGE LAWS: -- plant manager.
25 Q BY MS. PEREDA: Is logistics branch manager the same -- so

1 you've held the position of branch manager since at least May
2 3rd, 2017 -- from at least May 3rd, 2017, until August of 2018,
3 correct?
4 A The exactly times I don't remember.
5 Q Okay. But according to this document that has your
6 name --
7 A Yes.
8 Q -- you were the logistics branch manager at this time,
9 correct?
10 A Yes.
11 Q And logistics branch manager, is that the same thing as
12 plant manager?
13 A Yes.
14 Q And so now as the plant manager, you supervise all the
15 drivers, correct?
16 A Right now I'm assistant.
17 Q Okay. So I just want you to focus when you were a plant
18 manager.
19 A Yes.
20 Q So when you were a plant manager, you supervised all the
21 drivers?
22 A Drivers and warehouse employees.
23 Q And for the warehouse employees, that was both the direct
24 employees and the temp employees, correct?
25 A Correct.

1 Q And, just to be clear, the direct employees are employees
2 that work directly for Wismettac, correct?
3 A Correct.
4 Q And the temp employees are employees that come to work at
5 Wismettac through a staffing agency, correct?
6 A Correct.
7 Q In your role as a plant manager, you had the authority
8 to -- to discipline employees, correct?
9 A Correct.
10 Q And terminate employees, correct?
11 A If -- it's approved by HR, yes.
12 Q Okay. You mentioned that there --
13 MS. PEREDA: Sorry, Your Honor.
14 Q BY MS. PEREDA: I'm not sure if I understood your
15 testimony clearly about this matter. Let's just focus in the
16 fall of 2017. So let's say August, September, October of last
17 year, 2017. There were only two shifts at the warehouse,
18 correct?
19 A Don't remember if it was two shifts or three.
20 Q Okay. So you testified that employees that work at 1
21 p.m., it's considered the second shift?
22 A They are considered a second shift.
23 Q But isn't it true that those employees are also part of
24 the night time crew?
25 A Well, they cover both of the shifts, morning and

1 afternoon. They're a part of the -- in that shift.
2 Q You testified -- and if I could actually have you -- if I
3 could direct your attention, Mr. Vasquez, to Employer Exhibit
4 4, the warehouse map?
5 A Yes.
6 Q And I just want to make sure, so do you see where it says
7 freezer?
8 A Yes.
9 Q And do you see where it says open space?
10 A Yes.
11 Q That space between open space and freezer, is that
12 considered the deli?
13 A No. Deli is right next to the freezer on the left side.
14 Q Okay. So the space that is -- so correct. So that space
15 that is right next to the freezer, so to the left of the
16 freezer --
17 A Yes.
18 Q -- that's the deli?
19 A That's the deli.
20 Q Okay. And what is that area that is next to the dry area
21 on your furthest left-hand side? It's sort of a smaller area.
22 Do you know what that is?
23 A The one it's behind the warehouse office?
24 Q Yeah, behind, next to, correct.
25 A This one, right?

1 Q Correct, yes.
2 A Yeah. That one they put files and the storage soy sauce.
3 Q Does that have a name? Does that area have a name?
4 A Well, it has numbers -- the aisles.
5 A Aisles --
6 A Numbers.
7 Q Okay. So it's not part of the dry area?
8 A No. It is now. Back then it was not because it -- right
9 now we put the will calls customers there.
10 Q So let's talk about the safety meeting that took place on
11 December 4, 2017. In addition to Mr. Rolando Lopez, other
12 drivers also spoke up at this meeting, correct?
13 A No.
14 Q You don't recall Employee Giovani speaking at this
15 meeting?
16 A Not that I remember.
17 Q You don't recall Mr. Giovani telling Mr. Romero that in
18 California the issue is not with -- it's not the air brace or
19 rather the overweight of the trucks?
20 A Don't remember.
21 Q At the safety meeting on December 4th, Mr. Rolando Lopez
22 did not use any profanity, correct?
23 A He didn't.
24 Q And he also didn't specifically touch anyone, correct?
25 A Correct.

1 Q And he didn't threaten anyone, correct?
2 A Correct.
3 Q When he was speaking, he was not directing his comments to
4 Ms. Susan Sands, correct?
5 A Correct.
6 Q And Susan Sands was not standing next to Mr. Rolando
7 Lopez, correct?
8 A Correct.
9 Q You testified about that meeting that happened in October
10 at Wismettac's parking lot. You saw this meeting through the
11 video cameras, correct?
12 A Correct.
13 Q And you saw it -- you saw this meeting continuously?
14 Meaning that you were able to follow if the group moved from
15 one location to another, correct?
16 A Correct.
17 Q So you watched it for several minutes?
18 A I was watching because I wanted to go home. I usually go
19 home at 6, but they were standing over there so I was more like
20 waiting for them to leave that way I can go home, too.
21 Q Okay. So you waited until this meeting ended to go home,
22 correct?
23 A Well, I was -- I was checking --
24 Q Just yes or no.
25 A Yes.

1 Q Now, after this meeting, you spoke to Romero, correct?
2 A After the meeting, no.
3 Q Isn't it true that Romero approached you after this
4 meeting?
5 A No. He was right next to me on the same office.
6 Q Oh, okay. You guys were watching the video --
7 A Yes.
8 Q -- together?
9 A Well, he was doing something else.
10 Q But from what you could tell, he was also observing the
11 video cameras, correct?
12 A He wanted to go home as well.
13 Q Was the answer a yes or no?
14 A Yes.
15 Q Was he also observing the cameras?
16 A Yes.
17 Q Yes. Okay. Thank you. You mentioned that at the
18 warehouse a lot of employees wore their union T-shirts,
19 correct?
20 A Correct.
21 Q Isn't it true that after the Randstad temp employees were
22 let go that most employees stopped wearing their union
23 T-shirts?
24 A That's not true.
25 Q What is it? Can you say that --

1 A That's not true.
2 Q So you never noticed a change of how many employees wore
3 their union T-shirt? To you it was always the same number of
4 employees that wore their union T-shirt?
5 A Correct.
6 Q And you also noticed people that wore anti-union T-shirts,
7 correct?
8 A No, I never see anyone.
9 Q You never saw anyone wore an --
10 A No
11 Q -- anti-union T-shirt?
12 A No.
13 Q You never saw Mr. Jose Rosas wear an anti-union T-shirt?
14 A No.
15 Q Isn't it true that he wore this anti-union T-shirt to work
16 every day?
17 A I never saw him.
18 Q As the plant manager, don't you walk around the warehouse
19 and see what the employees are doing?
20 A No, I have other employees that report to me.
21 Q But Mr. Jose Rosas, he was a warehouse employee, too,
22 correct?
23 A Correct.
24 MR. WILSON: Objection. Lack of foundation that he would
25 have encountered Mr. Rosas at the times that he was there.

1 JUDGE LAWS: Overruled. I mean, the testimony is what it
2 is.
3 Q BY MS. PEREDA: Mr. Vasquez, I don't have you have before
4 you Exhibit GC-41. Is that before you? That's the verbal
5 counseling record that was issued to Mr. Alberto Rodriguez.
6 A Yes, right here.
7 Q Okay. Perfect. Now, you have no recollection as to the
8 incident described in this document, correct?
9 A Don't remember the whole details.
10 Q And if I can direct your attention to General Counsel
11 Exhibit 42? Is that also before you, Mr. Vasquez?
12 A Right here.
13 Q Okay. Now, after Mr. Rodriguez was told to use a
14 different pallet jack, he went and completed the order for
15 Mr. Lu, correct?
16 A Correct.
17 Q Now, if I can direct your attention to the meeting on
18 October 31st, 2017, with the Randstad employees? Now, at that
19 meeting the Randstad daytime employees were told that their
20 assignment was ending effective that date, correct?
21 A There was daytime and night time temps -- employ --
22 employees on that date.
23 Q Okay. So let me -- let me -- let's just focus on the
24 night -- on the daytime and then I'll ask about the night time.
25 A Okay.

1 Q So at that meeting, Mr. Matheu told the Randstad daytime
2 employees that their assignment was ending that date?
3 A He didn't specify there was daytime employees.
4 Q I'm sorry. What did you say?
5 A He didn't specify it was only day -- daytime employees.
6 He -- he say that all the employees from Randstad.
7 Q Isn't it true that at this meeting Mr. Frank Matheu told
8 the daytime employees that their assignment was ending, but
9 notify the night time employees that they would continue
10 working until the contract with Randstad ended?
11 A I don't understand the question.
12 Q After this meeting on December 31st -- I'm sorry, on
13 October 31st, with the Randstad temp employees, the daytime
14 employees didn't continue working at the warehouse, correct?
15 A That I don't remember.
16 Q The night time continued working at the warehouse, though,
17 correct?
18 A What I remember it was continue working.
19 Q Do you remember -- so no one was let go on that day as far
20 as you remember?
21 A Not that I remember.
22 Q At this meeting didn't -- didn't -- didn't -- didn't
23 Mr. Frank Matheu tell employees that they could apply for work
24 directly with Wismettac?
25 A No, he never mentioned that in the meeting.

1 Q Okay. Isn't it true that at this meeting an employee or
2 employees brought up that they wanted to work through other
3 staffing agencies to continue working for Wismettac?
4 A He -- they -- some employees they asked if we can refer to
5 a different agency, yeah. We -- Mr. Matheu he mentioned
6 that -- that he cannot -- they can go apply to a different
7 agency, but we cannot tell them to go directly to a different
8 agency. That's what I remember.
9 Q Mr. Vasquez, at that time you were the plant manager. As
10 a plant manager, you communicated with the staffing agencies
11 from time to time, correct?
12 A For some agencies, yes. Most -- the one that was for on
13 daytime. I was communicating with them because there was --
14 there was, like, four different agency. And then for the night
15 time, Mr. McCormick was talking to them directly.
16 Q But when did Chris McCormick -- and I'm sorry, what's
17 Chris McCormick's job title?
18 A He's assistant manager.
19 Q In October of last year, he was not the assistant manager
20 at that time, correct?
21 A I don't remember when he start.
22 Q Isn't it true that at time Isidro Garcia was the
23 assistant --
24 A I --
25 Q -- manager?

1 Q I think it was Isidro Garcia.
2 Q So Chris McCormick didn't become assistant manager --
3 A So it was --
4 JUDGE LAWS: Hold on. Wait till the question's done.
5 THE WITNESS: Sorry.
6 Q BY MS. PEREDA: Chris McCormick didn't become the
7 assistant manager until some few months later, correct?
8 A The exact time I don't remember.
9 Q Let me go back to this question. But as the plant
10 manager, you communicated with staffing agencies about the
11 needs of the warehouse? If you needed so many temp employees
12 today, you would ask them to send so many warehouse employees
13 or if you needed drivers. That was part of your duties,
14 correct?
15 A Yes.
16 Q And you also -- part of your duties was to communicate
17 with the staffing agencies when there was an issue with an
18 employee, correct?
19 A Correct.
20 Q If -- if you -- if -- if the warehouse had an issue with a
21 temp employee, and you guys informed the staffing agency that
22 you guys no longer wanted that employee, the staffing agency,
23 generally, honored your request, correct?
24 A Correct.
25 Q And they didn't continue to send that employee thereafter,

1 correct?
2 A Correct.
3 Q So it was really Wismettac who determined who came to work
4 at Wismettac, correct?
5 A Correct.
6 Q If I can ask the court reporter to hand Mr. Vasquez GC
7 Exhibit 35?
8 A Yeah.
9 Q Do you have before you the suspension notice to
10 Mr. Rodriguez, Mr. Vasquez?
11 A What was the question again?
12 Q Do you have before you General Counsel Exhibit 35, which
13 is the suspension notice to Mr. Alberto Rodriguez?
14 A Yes.
15 Q You did not make the decision to suspend Mr. Rodriguez,
16 correct?
17 A Correct.
18 Q You learned through Mr. Frank Matheu that Alberto
19 Rodriguez was being suspended, correct?
20 A Correct.
21 Q And you didn't know why -- the reason as to why
22 Mr. Rodriguez was being suspended, correct?
23 A Not in that -- that moment.
24 Q Okay. At that moment when it was issued, you did not know
25 the reason why he was being --

1 A No.
2 Q -- suspended, correct?
3 A Correct.
4 Q If I can, again, ask the court reporter to hand this
5 witness General Counsel Exhibit 36?
6 A Okay.
7 Q And actually before I go to General Counsel Exhibit 36, I
8 have one more question.
9 The day that Mr. Alberto Rodriguez was suspended, you
10 accompanied Mr. Vasquez and Mr. Romero and Mr. McCormick to
11 notify Mr. Rod --
12 MR. WILSON: Excuse me. You referred to he accompanied
13 Mr. Vasquez. He's Mr. Vasquez.
14 MS. PEREDA: Oh, I'm sorry about that.
15 Q BY MS. PEREDA: On the day of the suspension, which was
16 February 2nd, you went along with Mr. Frank Matheu, Chris
17 McCormick and Jose Romero to tell -- to notify Mr. Rodriguez
18 that he is being suspended, correct?
19 A Correct.
20 Q And on this day -- on the day that Mr. Rodriguez was being
21 suspended, he was wearing his union T-shirt, correct?
22 A I don't remember.
23 Q Okay. So do you have before you, Mr. Vasquez, General
24 Counsel Exhibit 36?
25 A Yes.

1 Q Again, Mr. Vasquez, you were not -- you were not involved
2 in the decision to terminate Mr. Rodriguez' employment,
3 correct?
4 A Correct.
5 Q And you also don't know who made that decision, correct?
6 A Correct.
7 Q Now, the termination notice mentions that -- mentions
8 insubordination. But you don't know what that's referring to,
9 correct?
10 A Correct.
11 Q Now, you learned -- you heard from mister -- from an
12 employee named Marcus Mack that there had been an incident
13 between -- between Mr. Marcus Mack and Mr. Alberto Rodriguez
14 involving some -- what he described as offensive music,
15 correct?
16 A Correct.
17 Q You didn't report what Mr. Marcus Mack told you about that
18 incident, correct?
19 A I -- I didn't report.
20 Q And that --
21 MR. WILSON: Objection. Lack of foundation in the term
22 "report." I don't know.
23 Q BY MS. PEREDA: You didn't report it to HR, correct?
24 A Correct.
25 Q And that's because you forgot about it, correct?

1 A Correct.
2 Q And you didn't report it to anyone else above you,
3 correct?
4 A Correct.
5 MS. PEREDA: Nothing further, Your Honor.
6 JUDGE LAWS: All right. Any cross from the Union?
7 MS. SANCHEZ: I have just a couple of clarifying
8 questions.
9 **CROSS-EXAMINATION**
10 Q BY MS. SANCHEZ: Good morning, Mr. Vasquez.
11 A Good morning.
12 Q Just a couple of clarifying questions --
13 A Sure.
14 Q -- about your earlier testimony. You testified about a
15 safety meeting on December 4th, 2017. You said at that meeting
16 one of the things that came up was the procedure regarding
17 adjustments. Do you remember that testimony?
18 A Yes.
19 Q Okay. And, just to be clear, adjustments are -- you had
20 talked about those being -- that -- that's paperwork that the
21 drivers have to do with managers, right, regarding -- was it
22 customer returns or?
23 A This paperwork is related between drivers and customers.
24 Q Okay.
25 A And -- and the way they're -- some drivers doing it, it

1 was not correct. So we held a meeting for -- to inform how
2 they supposed to be -- do that.
3 Q And the drivers bring those -- do that paperwork with
4 their supervisors, correct?
5 A Correct.
6 Q Okay. And with regard to the October 31st, 2017, meeting
7 with the Randstad employees, you said that Mr. Jeremiah -- his
8 last name is Zermeno, correct?
9 A Correct.
10 Q Mr. Zermeno was upset because Mr. Matheu had pulled the
11 contract, correct?
12 A Well, I didn't say that he was upset because he pulled the
13 contract. The company pulled the contract, not Mr. Matheu.
14 Q Okay.
15 MS. SANCHEZ: I have no further questions. Thank you.
16 JUDGE LAWS: All right. Any redirect?
17 MR. WILSON: Yes.
18 **REDIRECT EXAMINATION**
19 Q BY MR. WILSON: Mr. Vasquez, in regard to your very last
20 question and answer, when you said the company pulled the
21 contract, were you referring to Randstad or to Wismettac?
22 A Randstad. That's -- they decided to pull the contract
23 from Wismettac.
24 Q Okay. And you testified that you were with Mr. Matheu,
25 Mr. McCormick and Mr. Romero when Mr. Rodriguez was suspended,

1 correct?
2 A I don't remember if Mr. Romero was there, but I remember
3 Mr. McCormick and Mr. Frank Matheu was there and my -- myself.
4 Q Okay. I'm sorry. I may have -- I misstated that. And
5 what did Mr. Matheu say to Mr. Rodriguez when he termin- --
6 when he suspended him?
7 A He remember we call him. And then Mr. Matheu told him
8 that he was gonna have to be suspended. Don't remember what
9 was the details.
10 Q Okay. Do you recall him saying anything else other than
11 telling him he was suspended?
12 A Yes.
13 Q Okay. All right. Yes, you recall, or no, you don't?
14 A No, I don't recall.
15 Q Okay. Now, back to the parking lot meeting in the video,
16 why were you watching the video?
17 A Well, that's the -- we use the cameras for -- what --
18 security purpose that we saw -- I saw a lot of people standing
19 up. This is not -- it's not a normal thing. Eventually, it's
20 a lot of people coming in and out happen, but -- so a group of
21 people standing over there, that's why it came to my attention.
22 And then maybe an hour later it -- it -- it was more people
23 showing. That's why we stayed there --
24 Q Okay.
25 A -- to see what something was gonna happen.

1 Q Now, during the regular course of your workday, do you
2 monitor the video that shows the parking lot?
3 A Not just the parking lot, inside the warehouse as well.
4 Q Okay. So the same camera shows inside the warehouse and
5 then out to the parking lot? Or is it a different camera?
6 A It's the same. Oh, well, it's all different cameras with
7 the same monitor inside the office.
8 Q Well, how many screens are there that you're looking at?
9 A Talking about seven, eight.
10 Q Okay. Okay. Can you watch several --
11 A Well, it's only -- excuse me. It's only one screen, but
12 then it shows a different location --
13 Q Oh, I see --
14 A -- on the same screen.
15 Q So does it move around or it's focused on --
16 A No, it's a --
17 Q -- one location?
18 A Sorry. It -- it's one TV, a monitor, and it shows the
19 different cameras inside of.
20 Q Okay.
21 A Yeah.
22 Q And to this day do you know who -- can you identify
23 employees by name who were at that meeting?
24 A No, sir.
25 Q Okay. Now, can you look again at Exhibit number 41?

1 A Yes.
2 Q So in your earlier testimony, as I understand it, you
3 issued this verbal warning based upon what Mr. Garcia told you,
4 correct?
5 A Correct.
6 Q Okay. You had no independent recollection of those facts?
7 A No.
8 Q Now, you were asked a question -- I can't recall if it was
9 by Union counsel or regional counsel -- to the effect that
10 Wismettac controls who comes to work from the temporary
11 agencies. Does the company know who the temporary agency is
12 going to send out, or do they only determine that once they're
13 there?
14 A We --
15 MS. SANCHEZ: Objection. Compound.
16 JUDGE LAWS: Overruled.
17 THE WITNESS: We call the agency depending on the
18 department. If we need someone in the freezer, we call them or
19 we send a email asking for temp employees to work. First, they
20 come for interview. And then we decide if we need that person,
21 if he has enough experience or skills to work with us.
22 Q BY MR. WILSON: Okay. Who do they interview with,
23 usually?
24 A It's either me or whoever's on -- on -- on -- whoever's
25 request.

1 Q Okay.
2 A Yeah.
3 Q So can the individual managers request that a temporary
4 agency send out employees?
5 A Yes, sir.
6 Q How many employees have -- Okay. In September and October
7 of 2017 in the warehouse, how many managers had authority to
8 request temporary employees?
9 A Around three.
10 A Okay. And who were those?
11 A Mr. Garcia and I don't remember if it was Hector Ramundo
12 or Mr. McCormick on that time.
13 Q Okay. And did you yourself have authority to request
14 temporary employees?
15 A Yes.
16 Q Okay. And your recollection during those same months, how
17 often would you normally contact an agency, you, personally,
18 saying you needed temporary employees?
19 A Too much. Almost every week.
20 Q Okay. Now, when the temporary employees are dispatched
21 out, do they fill out an application or simply come in and
22 speak with you?
23 A They simply come and talk to us. For the interviews, yes.
24 They just come to us.
25 Q Okay.

1 A And ask for us.
2 Q Okay.
3 MR. WILSON: I have no further questions.
4 JUDGE LAWS: All right. Any recross?
5 MS. PEREDA: Just a couple of things.
6 **RECROSS-EXAMINATION**
7 Q BY MS. PEREDA: Mr. Vasquez, regarding the loading docks
8 that are at the warehouse where the drivers park to load their
9 trucks, there are windows on those loading docks, correct?
10 A Correct.
11 Q And those windows -- can you describe the dimension of
12 those windows for us?
13 A Be maybe, like, one foot by eight inches. Not really big.
14 Q Okay. And those windows, they're made of glass, correct?
15 A Some glass and some plastic.
16 Q If you are standing in the instead of the warehouse
17 looking out, out through one of these windows, you can see from
18 the inside to the outside, correct?
19 A Correct.
20 Q And vice versa, you can see from the outside to the inside
21 through one of these windows?
22 A Well, depends how far are you from outside.
23 Q Okay. Sure.
24 A Yeah.
25 Q Meaning there was nothing on the window that would prevent

1 somebody from -- assuming that distance is not an issue, that
2 would prevent somebody from seeing into the warehouse from the
3 outside?
4 A If it's -- if it's a truck parked over there, yeah, you
5 can't see.
6 Q Okay. So let's assume that there's no truck. You can see
7 from the outside of the warehouse into the warehouse -- into
8 the inside of the warehouse through one of these loading dock
9 windows, correct?
10 A Correct.
11 Q Mr. Vasquez, during -- during the -- during November and
12 December, Wismettac continued to hire temp employees, correct?
13 A Correct.
14 Q And it continued to hire new temp employees through
15 various staffing agencies, correct?
16 A Correct.
17 Q And that including staffing agency Horizon, correct?
18 A Well, I don't remember if it was Horizon -- if we still
19 getting people from Horizon on that time.
20 Q So you were still getting Horizon employees in November
21 and December of 2017, correct?
22 A The dates I don't remember, the -- the months so.
23 Q But you were getting new temp employees in November and
24 December of 2017, correct?
25 A Correct.

1 MS. PEREDA: Nothing further, Your Honor.
2 JUDGE LAWS: I just have one question for you --
3 THE WITNESS: Yes.
4 JUDGE LAWS: -- before you go. Is there a window in the
5 warehouse office that looks out to the parking lot?
6 THE WITNESS: Not to the parking lot.
7 JUDGE LAWS: Okay. Where does it look to?
8 THE WITNESS: Well, there is -- there is -- it's more
9 windows on each dock.
10 JUDGE LAWS: Okay. So the witness is handling Employer
11 Exhibit 4.
12 THE WITNESS: Yeah. Each dock it's -- it's a number on
13 where it says warehouse. Each dock has a window.
14 Q BY MS. PEREDA: Okay. But does the thing that is labeled
15 a warehouse office have a window?
16 THE WITNESS: Yeah, it does.
17 JUDGE LAWS: Okay. And if you can point to where that's
18 located?
19 THE WITNESS: Well, it's windows around -- all around the
20 office warehouse.
21 JUDGE LAWS: Oh, okay.
22 THE WITNESS: Yeah. That's, like, one, two, three, four.
23 Like six windows --
24 JUDGE LAWS: So every direction?
25 THE WITNESS: Yes.

1 JUDGE LAWS: Thank you.
2 MS. PEREDA: Can I just ask one clarifying question to
3 your question, Your Honor?
4 JUDGE LAWS: Sure.
5 Q BY MS. PEREDA: Those windows -- is there anything
6 covering those windows?
7 A No.
8 Q So you can see, again, from --
9 JUDGE LAWS: I can assume that if there's nothing covering
10 them --
11 MS. PEREDA: Okay.
12 JUDGE LAWS: -- they're windows --
13 MS. PEREDA: Okay. That's fine.
14 JUDGE LAWS: -- and you can see. Thanks.
15 Okay. Thank you for your testimony --
16 MR. WILSON: Your Honor, wait. I have a clarifying
17 question.
18 JUDGE LAWS: Okay. All right.
19 MR. WILSON: Okay.
20 **FURTHER REDIRECT EXAMINATION**
21 Q BY MR. WILSON: So back to the ware -- the parking lot
22 meeting, did you observe it through the windows of the
23 warehouse office or on the security camera?
24 A Security camera.
25 MS. SANCHEZ: Objection. Leading.

1 JUDGE LAWS: He asked which one, either/or, so I don't
2 think he was leading him to either one. So that's overruled.
3 Q BY MR. WILSON: Okay. And then I think I had one more.
4 And during the entire course of the parking lot meeting,
5 were there are at least some trucks parked at the different
6 loading docks?
7 MS. PEREDA: Objection. Beyond.
8 MR. WILSON: Well, your --
9 JUDGE LAWS: No, it wasn't. You asked if he could see if
10 there was anything impeding the view. So I will allow it.
11 Q BY MR. WILSON: So beginning when the meeting first
12 started, had any trucks come back?
13 A Yes.
14 Q Okay. Do you recall how many?
15 A Don't recall how many.
16 Q Okay. And by the end of the meeting, do you recall how
17 many trucks had come back?
18 MS. PEREDA: Objection. Ask and answer indirect.
19 JUDGE LAWS: Yeah, he did already --
20 MR. WILSON: Okay. Yeah.
21 JUDGE LAWS: -- give that testimony. Sustained.
22 MR. WILSON: Okay. I don't have any further questions.
23 Thank you, Anthony.
24 JUDGE LAWS: All right. Thank you for providing your
25 testimony.

1 THE WITNESS: Thank you.
2 JUDGE LAWS: Please don't discuss your testimony with any
3 other witnesses or any potential witnesses.
4 THE WITNESS: All right. Thank you.
5 JUDGE LAWS: Thanks. Let's go off the record.
6 (Off the record at 11:34 a.m.)
7 JUDGE LAWS: And I am going to assume you are our next
8 witness, so come on up.
9 MR. WILSON: Come on down.
10 JUDGE LAWS: Come on down.
11 MR. WILSON: Yeah.
12 JUDGE LAWS: I was just going to say that. It's a little
13 bit of a maze, so just go behind our court reporter there and
14 I'll swear you in. If you would please raise your right hand?
15 MR. MCCORMICK: Yes.
16 Whereupon,
17 **CHRISTIAN MCCORMICK**
18 having been duly sworn, was called as a witness herein and was
19 examined and testified as follows:
20 JUDGE LAWS: Please have a seat. Can you state and spell
21 your name for the record?
22 THE WITNESS: Christian McCormick. C-H-R-I-S-T-I-A-N.
23 Last name, M-C-C-O-R-M-I-C-K.
24 JUDGE LAWS: Thank you. A couple things before the
25 lawyers start asking you questions. The first is, if you're

1 asked a question that you don't know the answer to or you're
2 not completely sure, just say I don't know or I'm not sure.
3 Only guess or speculate if one of the attorneys asks you to do
4 so.
5 THE WITNESS: Okay.
6 JUDGE LAWS: And if you don't understand a question, just
7 say I don't know what you're asking me and it will be rephrased
8 in a way that, hopefully, you will. And then, finally, the
9 gentleman to your left, our court reporter, has to take down
10 everything that's said while we're on the record. So, because
11 of that, just try to make sure you don't jump in with your
12 answer until you're sure the question you're being asked is
13 finished, because he can't take down two voices at once. Okay.
14 Thanks.
15 And whenever you're ready.
16 MR. WILSON: Okay.
17 **DIRECT EXAMINATION**
18 Q BY MR. WILSON: Good afternoon, Mr. McCormick. Can you
19 tell me where you're employed?
20 A Wismettac Asian Foods.
21 Q Okay. And how long have you worked there?
22 A About 33-and-a-half years now.
23 Q Okay. And are you currently employed in the company's
24 branch in Los Angeles?
25 A Yes, I am.

1 Q Okay. And did you work in another branch prior to that?
2 A Yes, I did.
3 Q And which branch was that?
4 A The Honolulu branch.
5 Q Okay. And when did you come to Los Angeles?
6 A I came to Los Angeles last year, middle of October. I
7 think it was October 16th.
8 Q Okay. And when you reported on October 16th, what was
9 your position?
10 A Assistant branch manager.
11 Q Okay. And what does an assistant branch manager do?
12 A The assistant branch manager helps the logistic branch
13 manager run the operation to make sure that the day-to-day
14 activities in terms of assembly lines, staffing, workload gets
15 complete and that the drivers get out in a timely manner and
16 are able to make their deliveries on time.
17 Q Okay. And who did you report to you when you arrived in
18 mid October 2017?
19 A Mr. Vasquez.
20 Q Okay. And who do you report to now?
21 A Frank.
22 Q Frank --
23 A Currently.
24 Q -- Matheu, who's here --
25 A Yes.

1 Q -- today? Okay. And when did you start reporting to
2 Frank Matheu as opposed to Mr. Vasquez?
3 A Roughly two months ago, two-and-a-half months ago.
4 Q Okay. All right. That's fine. And what shift did you
5 work on when you arrived in October 2017?
6 A Second shift.
7 Q Okay. And what are the, if you recall, the hours of the
8 second shift?
9 A They were roughly from three in the afternoon.
10 Occasionally I came in earlier around 1 p.m. and would work
11 anywhere from maybe 4 or 5 in the morning, give or take, 6 --
12 each time was a little different.
13 Q And what group of employees did you supervise?
14 A At that time, second shift.
15 Q Okay. What hours did -- you mentioned the hours that you
16 worked.
17 A Uh-huh.
18 Q What hours did the second shift employees work?
19 A The majority of the second shift employees started around
20 5 p.m. at that time.
21 Q Okay. And how late would they work?
22 A Each night was different. Anywhere from 5 to a couple --
23 occasional 7 in the morning.
24 Q Okay. And how many employees are you talking about that
25 you supervised?

1 A At that time on second shift, roughly 40 to 45 people
2 depending on our headcount.
3 Q Okay. And you only supervised warehouse people, correct?
4 A That's correct.
5 Q You didn't supervise drivers?
6 A No, I didn't.
7 Q And what sort of duties were these people performing on
8 the second shift and where?
9 A The majority of them were performing assembly duties,
10 picking the orders, getting it ready for the next day. And we
11 had some checkers and a couple replenishers, machinists.
12 Q Okay. So can you tell me what an assembler does?
13 A Assembler picks orders.
14 Q What do you mean picks orders?
15 A He gets a specific store or a restaurant and it just tells
16 him to go to aisle 1 and pick item B. And it might say pick
17 three cases of that. Then they'll tell him to go to aisle 7
18 and pick two cases of aisle -- item D, for example. And he'll
19 just pick orders all night long.
20 Q Okay. I see. And what does it a checker do?
21 A A checker will go by and -- out on the dock where we
22 assemble and stage the product, for each route they will go by
23 and double check and make sure that the items that were picked
24 are the correct items for that particular route then.
25 Q Okay. What is a replenisher?

1 A Replenisher will take the product that got a sent/received
2 in receiving. And that's on this floor. And they'll put it
3 into the racks. It's called our put aways. And then from
4 there, they'll do transfers as well.
5 If, say, an assembler goes to a particular location and
6 it's asking for 10 cases, but there's only three cases there,
7 it's going to ask for a replenishment. And so he's going to
8 have to take that product from the reserve and put in a pick
9 location so that the assembler could actually pick 10 cases.
10 Q Okay. So I want to show you what's been marked as -- or
11 enter it as Employer Exhibit number 4. Do you recognize what
12 that document appears to be?
13 A Yes.
14 Q Okay. And what is that?
15 A It looks like the layout of our warehouse.
16 Q Does that appear, from your recollection, to be an
17 accurate layout or depiction of the warehouse?
18 A Yes, it does.
19 Q Okay.
20 A Uh-huh.
21 Q And so the employees you were supervising on the night
22 shift, did they work in any particular location in the
23 warehouse?
24 A Three locations. They worked in the dry, they worked in
25 the deli and they worked in the freezer.

1 Q Okay. And the freezer's designated off to the right.
2 A Uh-huh.
3 Q Where would the dry and the deli be if you had to point on
4 the map?
5 A The deli is right next to the freezer. So you have the
6 freezer right here, kind of the bigger section in the -- the
7 blue box. The deli is right next to it, to the right of where
8 it says open space. So you kind of see those three racks in a
9 sense or three gray lines with the X's? That's the deli.
10 And then you have the freezer right next to it. The dry
11 is this bigger section right over here just below where it says
12 warehouse. This big section right here.
13 Q Okay. So where all of those lines are that's the --
14 A Correct.
15 Q -- dry?
16 A Uh-huh.
17 Q Okay. Now when you report to work beginning when you came
18 there in October, where would you go? What part of the -- if
19 you were looking at the map, where would you go when you first
20 got in?
21 A When I first got in I would report to work at the
22 warehouse office right over here. This little small box just
23 left to the dry assembly area.
24 Q And the entire warehouse is on the first floor, correct?
25 A Yes, it is.

1 Q Okay. So what were your -- what normally happened when
2 you reported to work? What was your routine?
3 A When I first got there it was more of a training role. I
4 was to work with Isidro to kind of learn the LA operation, in a
5 sense. We're -- we're the same company in a sense, but the way
6 we did business in Honolulu is a little bit different than in
7 Los Angeles. So when I first started my task was to just kind
8 of shadow Isidro and kind of learn the LA operation from him.
9 Q Okay. And who is Isidro?
10 A He was the other assistant branch manager at the time when
11 I started.
12 Q Okay. And did he work at night?
13 A Yes, he did.
14 Q Okay. Now, I didn't -- my question wasn't very clear. I
15 apologize. So what I meant when you arrived to work --
16 A Uh-huh.
17 Q -- on a day-to-day basis --
18 A Uh-huh.
19 Q -- looking at the map, where would you normally report to?
20 A The warehouse office.
21 Q Okay. And what would you do when you got there?
22 A When -- when I first to work I had a -- a variety of
23 duties of taking the sales orders, and then taking them from
24 Oracle and then inputting them into a TAD system. The TAD
25 system is what allowed our assemblers to be able to pick the

1 orders.

2 So the salespeople would put the orders into Oracle. And

3 then it was my job to occasionally go in -- and at that point

4 it's, basically, every hour up until 8:00 and take those orders

5 and transfer them to TAD so that we can assemble them.

6 Q Okay. All right. And was there an employee on the night

7 shift -- you know of a Mr. Marcus Mack?

8 A Yes.

9 Q You recall him?

10 A Yes.

11 Q Do you recall an employee, Alberto Rodriguez?

12 A Yes.

13 Q Okay. Now, do you recall meeting with me personally this

14 past Monday at the company facility in Santa Fe Springs?

15 A Yes.

16 Q Okay. And did you provide me with a group of emails that

17 you retrieved from your computer?

18 A Yes.

19 Q Okay. And how did you provide those to me?

20 A I went into my sent items.

21 Q Okay. And so what I mean is you emailed them to me as

22 opposed to printing them?

23 A Yes, I did. Yeah, I emailed them to you.

24 Q And just generally we'll go through the emails. What do

25 those emails relate to?

1 A Just different situations that transpired between Alberto
2 and Marcus Mack over a -- a period of time.
3 Q Okay. Do they refer to other issues than just Alberto and
4 Marcus Mack?
5 A As such as?
6 Q Okay. Do they only refer to Alberto and Marcus Mack, or
7 do they involve other issues involving Alberto?
8 MS. SANCHEZ: Objection. Vague as to other issues.
9 JUDGE LAWS: Overruled.
10 THE WITNESS: I would say to the best of my knowledge they
11 do involve other issues that transpired within the course of
12 that time.
13 Q BY MR. WILSON: Okay. That -- that -- that's fine. Okay.
14 A Okay.
15 Q Because we'll go through the emails. So what I want you
16 to do is --
17 Can you show the witness General Counsel Exhibit 52?
18 So, Mr. McCormick, this is a series of emails that are
19 one, two, three pages in length.
20 MR. RIMBACH: Objection. I just believe it's one email.
21 JUDGE LAWS: Yeah, it does look like one email. It's
22 okay.
23 MR. WILSON: I'm sorry.
24 Q BY MR. WILSON: So it's an email that appears to be two
25 pages in length and then there's an attachment. And this is

1 the document that, as I indicated, was admitted as General
2 Counsel 52. Does this refresh -- looking at this email -- and
3 take a second and go through it. And tell me when you're done,
4 yeah.
5 A Okay.
6 Q Okay. So, first off, the -- and at the very top of
7 Exhibit 52 it says forward Marcus Mack complaint regarding
8 Albert Rodriguez. Then there's a date of Monday, October 2018.
9 What does that date refer to? The one at the very top. Do you
10 see that?
11 A I do you see that.
12 Q Okay.
13 A October 8th, 2018.
14 Q Is that the email you sent to me?
15 A I believe so. I think that's a cut off, so.
16 Q Okay.
17 A Yeah.
18 Q No, that's fine. Yeah.
19 A Okay.
20 Q But in terms of the topic that's being discussed, it
21 appears to be -- there appears to be an email from you dated
22 January 10th, 2018 to Frank Matheu, Gus Flores.
23 A Uh-huh.
24 Q Do you recall the incident that gave rise to this email
25 from the best of your memory?

1 A Yes.
2 Q Okay. Can you explain it the best --
3 A Okay.
4 Q -- you recall.
5 A Okay. As I recall, I was across the room over here.
6 Gerber was on the other side. He was the night time
7 supervisor. And Marcus came in through this door over here --
8 came in and talked to him. Marcus was somewhat upset. And I
9 just remember him kind of from across the room saying to
10 Gerber -- and I was over here -- just saying, you know, we got
11 this poison pill on our hand. And he was just rather upset and
12 kind of complaining a little bit what -- of what had
13 transpired.
14 Q Okay. Now, use of verbs, he came in where and you were
15 sitting -- what are -- are you referring to the warehouse
16 office?
17 A The warehouse office, yes.
18 Q Okay. And can you explain again who was in that meeting
19 beside yourself and Mr. Mack?
20 A Gerber Flores --
21 Q Okay.
22 A And who is Gerber Flores?
23 A At that time, nightshift supervisor.
24 Q Okay. All right. And so Marcus entered the warehouse
25 office and raised the issues that are addressed in this email?

1 A Uh-huh.
2 Q Okay.
3 A Yes. Sorry
4 Q So to the best of your recollection, does the email,
5 General Counsel Exhibit 52, which has two sides -- two pages,
6 is that an accurate description of what a -- to your memory, as
7 to what occurred?
8 A Yes.
9 Q With --
10 MR. RIMBACH: Objection. The document speaks to itself.
11 JUDGE LAWS: Overruled.
12 Is this accurate?
13 THE WITNESS: Yes, it is.
14 MR. WILSON: Okay. That's fine.
15 Q BY MR. WILSON: Now, there's an attachment, which is at
16 the bottom. It says WAF 1613.
17 A Uh-huh.
18 Q What is that -- what is this document?
19 A This is just a -- kind of like a record that we had a
20 meeting with the warehouse staff. Kind of like a -- sign-in
21 documentation saying that we had this meeting with everybody.
22 Sort of like an acknowledgement that you were -- were present.
23 In a sense we did want to introduce the new leads, but
24 also talk about safety and quality and some replenishment and
25 housekeeping issues.

1 So I would use a doculen (sic) -- document like this in
2 the past so if there was any issues in terms of safety or
3 housekeeping that I had to address with someone, say, a second
4 or third time, we could be -- I could say to him hey, we talked
5 about this once before. We had it in a meeting. And you're --
6 you're still throwing trash on the ground or something like
7 that. So that's what this document is.
8 Q Okay. So is the meeting that is page 3 of Exhibit 52, did
9 that take place on January 9th, or was it another day? Can you
10 look at --
11 A I believe it was January 9th because, again, at that time
12 I was trying to work with Gerber, I had sent this over to him
13 and I think when he printed it out it was January 7th. And
14 that's why we kind of penciled it in and initialed off that it
15 wasn't actually the 7th, it was the 9th that that took place.
16 Q Okay. Now, you said you wanted to introduce the new
17 leads --
18 A Uh-huh.
19 Q -- who are you referring to?
20 MS. SANCHEZ: Objection. Relevance.
21 JUDGE LAWS: Overruled.
22 THE WITNESS: Gerber, Jose Rosas and John Kirby.
23 Q BY MR. WILSON: Okay. So Gerber Flores --
24 A Flores, yes.
25 Q -- was a lead.

1 A Gerber Flores.
2 Q Jose Rosas was a lead and John Kirby was a lead.
3 A They were moving into new leadership roles.
4 Q Okay. As leads?
5 A As leads. And at that time, I was being moved from night
6 shift to first shift. And so --
7 Q Okay.
8 A -- it was more of a meeting to say thank you, everybody,
9 for, you know, everything that they did. But going forward
10 Gerber is going to be the new supervisor at night. Rosas will
11 be in the freezer and John Kirby will be the lead on dry.
12 Q Rosas and Kirby were leads, correct?
13 MS. SANCHEZ: Objection. Same objection.
14 MR. WILSON: What's the objection?
15 MS. PEREDA: Relevance.
16 JUDGE LAWS: Relevance.
17 MS. SANCHEZ: And the document also speaks for itself.
18 JUDGE LAWS: It's a real -- I mean --
19 MR. WILSON: It doesn't refer to lead.
20 JUDGE LAWS: This is a document that is in evidence, so
21 I'm certainly --
22 MR. WILSON: Oh, it does --
23 JUDGE LAWS: -- going to allow questioning about what it
24 means.
25 MR. WILSON: Okay. Your Honor, I apologize. I missed the

1 part at the top where it says introduce new lead employees. So
2 counsel for the Union is correct. I won't ask anymore about
3 that.
4 Q BY MR. WILSON: Okay. So General Counsel 52 is in
5 evidence.
6 Okay. So let me show you a document that we're going to
7 mark as Employer Exhibit --
8 MR. WILSON: Can you write on there, 6?
9 **(Employer Exhibit Number 6 Marked for Identification)**
10 Q BY MR. WILSON: So, Mr. McCormick, can you take a second
11 and review what's been marked as Employer Exhibit number 6?
12 A Uh-huh, yes.
13 MR. RIMBACH: Your Honor, I'd just like to note for the
14 record that these emails that were provided by Chris McCormick
15 to Respondent's counsel this past Monday were the documents
16 that we referred to last week regarding -- that were belatedly
17 produced pursuant to our subpoena after we presented our direct
18 witnesses that relate to these emails.
19 MR. WILSON: Your Honor, can I respond?
20 JUDGE LAWS: Well, I -- I -- I -- I -- you can respond
21 after I say what I'm going to say. I understand there were
22 emails that were produced on Monday. And I had asked for those
23 to be pointed out if and when counsel for the General Counsel
24 or the Union wants to call employees back to question them
25 about them.

1 I don't see that we need it pointed out each time a
2 document's placed before me, unless it's something I need to
3 take a look at in order to determine whether to let a witness
4 who's already testified come back and testify about the
5 contents of the document.
6 MR. WILSON: Your Honor, also note for the record that
7 General Counsel 52 is one of the emails which they conveniently
8 took and introduced yesterday and which we didn't object to.
9 So the idea that now you can object to the rest of them --
10 JUDGE LAWS: I don't think there was an objection. I
11 think he --
12 MR. RIMBACH: I'm not --
13 JUDGE LAWS: -- was --
14 MR. RIMBACH: -- objecting --
15 JUDGE LAWS: -- just pointing it out --
16 MR. RIMBACH: -- Your Honor.
17 JUDGE LAWS: -- for the record. But --
18 MR. RIMBACH: Yes, Your Honor.
19 JUDGE LAWS: -- I am saying I don't really need to hear
20 that unless there's a reason I need to know that.
21 MR. RIMBACH: Okay.
22 JUDGE LAWS: And that reason would be because that means a
23 witness is being recalled to testify about the contents of a
24 document that was not available to the questioner at the time
25 the witness initially testified.

1 Q BY MR. WILSON: Okay. So, Mr. McCormick, have you had a
2 chance to look at what's been marked as Employer Exhibit number
3 6? If you need more time, please.
4 A Thank you. Okay, I have.
5 Q Okay. Now, once again, at the very top where it refers to
6 Monday, October 8th, was that the point that you referred this
7 email to me?
8 A Yes.
9 Q Okay. But let's go down to the text of the email. So the
10 email is dated February 9th. And it appears to be from you to
11 Connie Konishi -- Hikari Konishi, who is that?
12 A Our HR manager.
13 Q Okay. And then Frank Matheu, we know who that is. Okay.
14 And it's regarding -- and then it -- who else is it
15 addressed to, just so --
16 A Jose Vasquez or Anthony Vasquez, Atsushi Fujimoto and then
17 Ron Minch.
18 Q Okay. Who is it Atsushi Fujimoto?
19 A I believe he's part of HR. Well, he's part of HR, but I
20 think employee relations or I think he's part --
21 Q Okay.
22 A -- of hiring and things like that.
23 Q And then who is Ron Minch?
24 A He's, like, the national logistics manager.
25 Q Okay. Now, can you -- looking at the first page of the

1 email, page 1 of 1, can you tell me what this is about and why
2 you were sending this email?
3 A This actually was just a reply all. I think it was he
4 thought he had sent it to me with the written warning for
5 Alberto Rodriguez. I was just, basically, replying back to
6 everybody after I had the opportunity to sit with Alberto and
7 have him sign the documentation that was given to me to give to
8 him.
9 Q Okay. Now, can you go to page 2 of Employer Exhibit
10 number 6?
11 A Page 2? Okay.
12 Q Do you see that where it says -- it's on company
13 letterhead?
14 A Yep.
15 Q Can you tell me what that --
16 A Yes.
17 Q -- document represents?
18 A This is a written warning for Alberto Rodriguez for
19 unprofessional conduct.
20 Q Okay. And do you recall what the conduct was?
21 A Yes.
22 Q To the best of your memory.
23 A Well, basically, he had taken time off from work and he
24 didn't provide documentation in a timely manner for that.
25 Q Okay. And so you are explaining this in your email reply,

1 which is page 1 of Exhibit 6; is that correct?
2 A Yes.
3 Q Okay.
4 A Yes.
5 Q And then can you look at page 3 of Employer Exhibit 6 and
6 tell me what that is? Which it's a continuation of page --
7 A Right.
8 Q -- 2.
9 A The last page is just the employee's signature, any type
10 of employee comment and then Anthony Vasquez, his signature,
11 and then my -- my signature as well.
12 Q Okay. So is the email page on the first page accurate?
13 A Yes, it is.
14 Q Okay. And, to your knowledge, is this the document -- is
15 this the accurate document that you're referring to regarding
16 the counseling of Mr. Rodriguez?
17 A Yes, it is.
18 Q And I'm referring to page 2. Okay.
19 A Uh-huh.
20 MR. WILSON: Okay. I would move for inference of Employer
21 Exhibit 6.
22 JUDGE LAWS: Okay. Any objection?
23 MR. RIMBACH: No, Your Honor.
24 MS. SANCHEZ: Your Honor, the witness said that this is a
25 reply all. The document doesn't seem to be complete. Although

1 page 1 says page 1 of 1, the witness referred to this as what
2 seems to be a larger email string. And so I would request that
3 we see the entire string.
4 JUDGE LAWS: Is there -- it would seem like it -- it --
5 it -- you would have access to that. And I do think that
6 might --
7 MR. WILSON: It's going to come in, Your Honor.
8 JUDGE LAWS: It will come in? Okay.
9 MR. WILSON: I mean, we have -- there's a number of email
10 chains, and so all this will come in. It's kind of -- it's
11 kind of tricky because it's kind of chopped up --
12 JUDGE LAWS: No, I under --
13 MR. WILSON: -- because -- and it tends to be duplicative.
14 But all of the emails he has regarding Mr. Rodriguez he
15 supplied to us. And they're in the exhibits that we're going
16 to bring in.
17 JUDGE LAWS: All right. I will admit, then, Employer
18 Exhibit 6 subject to what was just stated by counsel that the
19 email where the subject is PTO balance Alberto Rodriguez,
20 without the "re" in front of it indicating that it is not the
21 original email, is forthcoming soon.
22 **(Employer Exhibit Number 6 Received into Evidence)**
23 MS. SANCHEZ: Your Honor, we would just note for the
24 record our objection to the admittance of that until the -- I
25 suppose stay it rests (sic).

1 JUDGE LAWS: Well, I am taking, counsel, this word if I
2 will reconsider whether it should be admitted if the original
3 email isn't submitted. But --
4 MS. SANCHEZ: Thank you.
5 JUDGE LAWS: -- I trust that it will be.
6 MR. WILSON: Give me just a second --
7 JUDGE LAWS: Sure. Take your time.
8 MR. WILSON: I just want to make sure we're going to get
9 in the --
10 JUDGE LAWS: Take whatever time you need.
11 MR. WILSON: -- Union counsel's referred to.
12 **(Employer Exhibit Number 7 Marked for Identification)**
13 Q BY MR. WILSON: So, Mr. McCormick, I want to show you
14 what's been marked as Employer Exhibit 7. And ask you to
15 take --
16 JUDGE LAWS: Before you ask questions about it, I'm going
17 to point out, just for clarity of the record, that on page 5 at
18 the very bottom is what I just referred to as what I'd be
19 looking for to be admitted in tandem with Exhibit 6 as the
20 original email to which Exhibit 6 is a reply.
21 Go ahead.
22 MR. WILSON: Okay.
23 Q BY MR. WILSON: Okay. So, Mr. McCormick, can you take
24 some time and look at Employer Exhibit 7?
25 A Yes.

1 Q And there are six pages so you can take some time and go
2 through it.
3 JUDGE LAWS: And so it's like that's those six pages and
4 then three attached, so nine pages total.
5 (Counsel confer)
6 Q BY MR. WILSON: Okay. Do you recognize Employer Exhibit
7 number 7?
8 A Yes, I do.
9 Q Okay. And, once again as with Employer Exhibit 6, at the
10 top where there's reference to Monday, October 8th, is that
11 when the document was emailed to me?
12 A Yes, it was.
13 Q Okay. And do you recognize what Employer Exhibit 7 is
14 there?
15 A Yes, I do.
16 Q Okay. And what is it?
17 A It's, basically, a chain of communications between me and
18 HR regarding Alberto Rodriguez and some time off that he had
19 taken.
20 Q Okay. And is it -- and are the emails that you've
21 observed in here responsive to a previous email that was sent?
22 In other words, is it an inaccurate chain of all the emails
23 regarding this incident that you're aware of?
24 A I believe so.
25 Q Okay. And this is the -- and this is how you found it on

1 your computer?
2 A Yes.
3 Q Okay. So just in a nutshell, what was happening with
4 Mr. Rodriguez' paid time off?
5 A From what I recall from this, he missed some time from
6 work. I had just transferred over, got moved to first shift.
7 I wasn't soon (sic) that I was on first shift, Mr. Vasquez
8 asked me to take over time and attendance and start tracking
9 that for HR.
10 And so, as I recall going through this, I saw that Alberto
11 Rodriguez had missed some time, but he didn't have enough PTO
12 to cover it, paid time off. And working with HR in the past, I
13 was just being proactive.
14 My experience with them in Hawaii they've gotten with me
15 or other members of management a couple times stating, you
16 know, someone doesn't have time off, so I was just referring to
17 them hey, I've just been given this task, I just came across
18 this doing ADP, I'm bringing it to your attention.
19 Q Okay. So, to your knowledge, all of the emails in here
20 are accurate as to the discussions you had regarding this
21 issue?
22 A Yes.
23 Q Okay.
24 MR. WILSON: I would move for admission of Employer
25 Exhibit 7.

1 JUDGE LAWS: Okay. Any objection?
2 MR. RIMBACH: Just for the record, I am confused about
3 which emails these attachments at the end are specifically
4 attached to.
5 JUDGE LAWS: Maybe do you want to have some voir dire on
6 that?
7 MR. RIMBACH: Sure.
8 JUDGE LAWS: I was going to fish --
9 MR. RIMBACH: Okay.
10 JUDGE LAWS: -- if you weren't, but.
11 MR. RIMBACH: Sure.
12 **VOIR DIRE**
13 Q BY MR. RIMBACH: Can you please look at -- on the bottom
14 it says WAF 01620?
15 JUDGE LAWS: And it says page 7 on the top, which is
16 more --
17 MR. RIMBACH: Oh.
18 JUDGE LAWS: -- accurate because it is actually page 7 of
19 the exhibit.
20 THE WITNESS: This one right here? This one?
21 JUDGE LAWS: Where it says page -- yeah --
22 THE WITNESS: Okay.
23 JUDGE LAWS: -- page 7.
24 Q BY MR. RIMBACH: Did you receive this document --
25 A Yes.

1 Q -- from Alberto?
2 A Yes, I did.
3 Q When did you receive it?
4 A As I recall, 1/24.
5 Q And is this document the document that you attached to
6 your email that's dated January 24th in this email chain?
7 There's an email dated January 24th on page 3.
8 A I believe so.
9 Q Could you please take a look at page 8 and page 9? Is
10 this text message conversation part of the same conversation,
11 or are these two separate conversations on different days?
12 Sorry. Let me start with page 8. Do you know what day this
13 screenshot was taken?
14 A I do not.
15 Q Do you know when this conversation took place? What day
16 this text message conversation took place?
17 A I do not.
18 Q Is this a text message conversation between you and
19 Alberto?
20 A Yes, it was.
21 Q You don't know whether this screenshot was attached to any
22 of these emails?
23 A Yeah, I'm sure it was attached to one of the emails. I
24 just don't know which email it was attached to.
25 Q So you don't know?

1 A I'm sorry. What are you asking?
2 Q You don't know whether this text message screenshot was
3 attached to any of these emails?
4 MR. WILSON: Objection. He just stated he did.
5 JUDGE LAWS: He said it was. He's not sure which one.
6 MR. RIMBACH: Not sure which one.
7 JUDGE LAWS: Yes.
8 MR. RIMBACH: Okay.
9 Q BY MR. RIMBACH: Can you please take a look at page 9? Is
10 this a text message conversation between you and Alberto
11 Rodriguez?
12 A Yes.
13 Q But you don't know the date that this text message
14 conversation took place?
15 A I do not.
16 Q Do you know whether this text message screenshot was
17 attached to any of these emails in this exhibit?
18 A I don't know which email this was attached to or if it was
19 in this exhibit.
20 Q So you don't know whether this text message screenshot was
21 attached to any of the emails in this packet?
22 A I do not.
23 MR. RIMBACH: I have no objection to the admission of this
24 exhibit with the exception of page 9.
25 JUDGE LAWS: And then anything from -- any additional

1 objection or voir dire from Union counsel?
2 MS. SANCHEZ: No, Your Honor.
3 JUDGE LAWS: And I do agree he authenticated everything as
4 being part of this email chain except for page 9. So I'm going
5 to admit pages 1 through 8. If you want to try to get some
6 more context for page 9 or admit it as a separate exhibit,
7 because it hasn't been tied to this chain of emails by the
8 witness, I'll leave that to you to decide.
9 For now 1 through 8 are in because his testimony was that
10 these -- all of those were part of this email chain.
11 MR. WILSON: Let me ask him another question then.
12 JUDGE LAWS: Okay.
13 **DIRECT EXAMINATION (RESUMED)**
14 Q BY MR. WILSON: So, Mr. McCormick, Exhibit number 7 has
15 been admitted pages 1 through 8. Can you look at page 8?
16 A Okay.
17 Q And so your testimony was that page 8 was part of the
18 chain of emails of Exhibit 7; do you recall that?
19 A Yes.
20 Q Okay. And is there some reason -- now can you flip to
21 page 9? Is there some reason you can't recall whether page 9
22 was attached to this chain of emails?
23 A Well, I believe page 9 is attached to the email. But the
24 question was -- as I took it, was asking me a different
25 question. And so I couldn't be 100 percent sure in, like, what

1 email that was sent to. So that's why I answered the way I
2 did.
3 Q So you have the same recollection of page 9 that you do of
4 page 8 that it was attached to an email, you just don't know
5 which one?
6 A Correct.
7 Q Okay.
8 MR. WILSON: I would ask that page 9 be admitted.
9 JUDGE LAWS: And I do note the objection. I'm going to
10 admit it, but I'm not going to necessarily in admitting it view
11 it as part of this particular email chain. And I do note that
12 it's not dated and it's not tied to any particular date.
13 So really that will go to the weight I give it, which at
14 this point will be that at some point there was a text that
15 Mr. Rodriguez wouldn't be coming to work and that Mr. McCormick
16 got that text.
17 **(Employer Exhibit Number 7 Received into Evidence)**
18 MR. WILSON: Your Honor, can we just have one second?
19 JUDGE LAWS: Sure. Take your time. And that it was a
20 Monday.
21 MR. WILSON: Okay.
22 (Counsel confer)
23 JUDGE LAWS: I'm going to, actually, while counsel's
24 taking some time, I did just want to ask you one name that's on
25 page 1. Who's Ed Hinkle?

1 THE WITNESS: Ed is one of the gentlemen who was part of
2 the -- we used to call it special council or the people that
3 the company hired.
4 JUDGE LAWS: Okay. So is he an employee of Wismettac?
5 THE WITNESS: I do not believe so.
6 JUDGE LAWS: Okay. And what was his role?
7 THE WITNESS: Outside support?
8 JUDGE LAWS: Like a consultant?
9 THE WITNESS: A consultant.
10 JUDGE LAWS: Okay.
11 THE WITNESS: Thank you. Yes.
12 JUDGE LAWS: Do you know what is his area of expertise
13 was?
14 THE WITNESS: I do not.
15 JUDGE LAWS: Okay. Thank you.
16 Okay, go ahead.
17 (Counsel confer)
18 MR. WILSON: Okay.
19 Q BY MR. WILSON: I'm going to show you what's going to be
20 marked Exhibit number 8.
21 **(Employer Exhibit Number 8 Marked for Identification)**
22 (Counsel confer)
23 JUDGE LAWS: So I'm going to jump in here. It appears
24 from the bottom of page 1 of this document that page 9 of
25 Exhibit 7 is what was attached to the email sent from

1 Mr. McCormick on January 17th, 2018, to Mr. Matheu, payroll and
2 cc'd to some others. It refers to the text message the
3 previous Monday saying that Mr. Rodriguez was not going to be
4 able to make it into work.
5 Q BY MR. WILSON: Okay, Mr. McCormick, have you had a chance
6 to read Exhibit number 8?
7 A Yes, I did.
8 Q Okay. Can you tell me what this is?
9 A This is a email reply to me back from AJ Jimenez. She --
10 I don't know her exact role. But she was in HR and she oversaw
11 payroll and ADP. And so, basically, anything that I had to do
12 with ADP, she oversaw it to clear the payroll and then -- and
13 issue the checks. So that's her reply back to me.
14 Q Okay. What was the topic you were discussing?
15 A Again, it was Alberto Rodriguez and the fact that he
16 didn't have enough PTO to cover the time that he was absent.
17 Q Okay. So do you still have Exhibit number 7 in front of
18 you?
19 A I do.
20 Q Can you go to page 6 of Exhibit number 7?
21 A Okay.
22 Q Okay. And look at the top of that page.
23 A Okay.
24 Q Okay. And then compare that to Exhibit number 8 at the
25 bottom of the first page.

1 A Okay.
2 Q Is that the same email? Comparing Exhibit 7, page 6, and
3 Exhibit 8, page 1.
4 A I believe that's the same email.
5 Q Okay.
6 A Okay.
7 Q And so, to your knowledge, was -- on going back to page --
8 excuse me, Exhibit 8, was AJ Jimenez responding to that January
9 17th email that's at the bottom of Exhibit 8, page 1, and at
10 the top of page 6 in Exhibit 7?
11 A Yes, I believe so.
12 Q Okay.
13 A Yeah.
14 Q Then can you go to page 2 of Exhibit 8, and explain to me
15 what that document is there, referencing Alberto Rodriguez?
16 A This is a screenshot in ADP of Alberto Rodriguez showing
17 his PTO balance of 7.88 hours.
18 MR. WILSON: Your Honor, I move for the admission of
19 Exhibit 8.
20 JUDGE LAWS: Any objection?
21 MR. RIMBACH: Could I just voir dire the witness --
22 JUDGE LAWS: Sure.
23 MR. RIMBACH: -- about this document, please?
24 JUDGE LAWS: Go ahead.
25 ///

1 **VOIR DIRE**

2 Q BY MR. RIMBACH: Can you please look at page 2?

3 A Exhibit 8?

4 Q Of Exhibit 8, yes.

5 A Okay.

6 Q Is this screenshot of this ADP website -- when was that

7 screenshot taken? Did you take the screenshot?

8 A I took the screenshot.

9 Q When did you take it?

10 A I don't recall exactly when I took that screenshot.

11 Q What day is this PTO balance accurate for? So as of

12 January 17th; is that correct?

13 A Yes.

14 MR. RIMBACH: Thank you, Your Honor.

15 JUDGE LAWS: Okay. Any additional voir dire or objection?

16 MR. RIMBACH: No, Your Honor.

17 JUDGE LAWS: Okay. Anything from the Union?

18 MS. SANCHEZ: No.

19 JUDGE LAWS: All right. And I'm just going to note it

20 looks like page 6 of Employer's Exhibit 7, if you'll note right

21 above the signature it denotes there's an image. It wasn't

22 shown. So I guess I'll go ahead and ask the witness.

23 Was this image that I'm looking at on page 2 of Employer

24 Exhibit 8 actually part of the email?

25 THE WITNESS: This one right here?

1 JUDGE LAWS: Yes.
2 THE WITNESS: I believe so.
3 JUDGE LAWS: Okay. All right. Thank you.
4 All right. I will go ahead and admit Employer Exhibit 8.
5 **(Employer Exhibit Number 8 Received into Evidence)**
6 (Counsel confer)
7 MR. WILSON: Your Honor, can we go off the record just a
8 few minutes?
9 JUDGE LAWS: Sure. Why don't we take five? We've been
10 going about an hour. Off the record.
11 (Off the record at 1:56 p.m.)
12 MR. WILSON: Your Honor, we're going to withdraw Employer
13 Exhibit 6.
14 JUDGE LAWS: Oh, okay. And where Exhibit 6 is withdrawn.
15 **(Employer Exhibit Number 6 Withdrawn)**
16 **(Employer Exhibit Number 9 Marked for Identification)**
17 **DIRECT EXAMINATION (RESUMED)**
18 Q BY MR. WILSON: Okay. Have you looked at Exhibit number
19 9?
20 A Yes, I have.
21 Q Okay. Do you recall that document? Or can you identify
22 what that document is?
23 A Yes.
24 Q Okay. And what is it?
25 A It's a email from Gerber stating that Alberto Rodriguez

1 got with him and said he was going to leave work early, he
2 didn't have enough PTO and his foot was hurting.
3 Q Okay. So the email is from Gerber to yourself and other
4 people. And then at the top it's from you where you say FYI so
5 we are all on the same page. Do you know what you're referring
6 to?
7 A I do not.
8 Q Okay. To your recollection, had you forwarded Gerber's
9 email to other people that are below where it says FYI?
10 A I'm sorry. What's the question?
11 Q Okay. So where you say FYI --
12 A Uh-huh.
13 Q -- so we are all on the same page, had you previously
14 forwarded Gerber's email to other people that are cc'd on
15 your -- or excuse me, that the email is addressed to?
16 A This specific email or other emails?
17 Q The one that Gerber sent at the bottom of Exhibit 9.
18 A And I'm sorry, what was the question?
19 Q Okay. It appears that the email from Gerber to Mr. Matheu
20 and you was forwarded to other people --
21 A Yes.
22 Q -- is that your recollection?
23 A Yes.
24 Q Okay. And who was it forwarded to?
25 A Gus, Carlos, Ed and David.

1 Q Okay. So what did you mean by FYI so we are all on the
2 same page?
3 A I do not recall.
4 Q Okay. But you do recall receiving the email at the bottom
5 of Exhibit 9 from Mr. Flores?
6 A That I recall.
7 Q Okay.
8 MR. WILSON: I would move to admit Exhibit 9, only the
9 email portion from Mr. Flores to Frank and to Christian.
10 JUDGE LAWS: Okay. Any objection or voir dire from
11 General Counsel?
12 MR. RIMBACH: No, Your Honor.
13 MS. SANCHEZ: I'd like to voir dire, please.
14 JUDGE LAWS: Go ahead.
15 **VOIR DIRE**
16 Q BY MS. SANCHEZ: Mr. McCormick, good afternoon. I'm going
17 to ask you a couple of questions about this --
18 A Okay.
19 Q -- document. Regarding the FYI portion, the middle
20 portion of this email, it went to -- it came from you to what
21 looks like Gus Flores, Carlos Flores, Ed Hinkle and David
22 Acosta. You earlier testified that Ed Hinkle was a consultant.
23 He was a labor consultant, correct?
24 A Consultant, yes.
25 Q And Carlos Flores and Gus Flores were also labor

1 consultants?

2 MR. WILSON: Objection. He only testified they were

3 consultants.

4 Q BY MS. SANCHEZ: I'm asking do you know if Carlos Flores

5 was also a labor consultant?

6 MR. WILSON: Your Honor, object because it assumes facts,

7 not evidence.

8 JUDGE LAWS: Okay.

9 MR. WILSON: He never said they were labor consultants.

10 MS. SANCHEZ: I'm asking him --

11 JUDGE LAWS: He said -- he said --

12 MR. WILSON: He just said consultant.

13 JUDGE LAWS: He said consultants. And then you said is

14 someone else --

15 MR. WILSON: They also.

16 JUDGE LAWS: -- also a labor consultant. So he never

17 testified anyone was a labor consultant. It wasn't

18 particularly clear. You asked him and he answered in a way

19 that did not admit the term labor in front of consultant.

20 Q BY MS. SANCHEZ: I'd like to try to figure out who this

21 email was forwarded to. So can you help us clear up who Gus

22 Flores is?

23 A He was one of the gentlemens (sic) that was hired on as

24 one of the outside consultants.

25 Q So he does not work for Wismettac?

1 A As far as I know, he does not work for Wismettac.
2 Q And what about Carlos Flores?
3 A Same. I do not know if he worked for Wismettac.
4 Q But he was one of the gentlemen who was hired on as a
5 consultant as you're referring to them?
6 A As far as I know, yes.
7 Q And about when do you know, if you know, were Ed Hinkle,
8 Carlos Flores and Gus Flores hired on as consultants?
9 A I do not know.
10 Q Okay. And David Acosta, who's that?
11 A Also a consultant.
12 Q Okay. And so why would the consultants need to have an
13 FYI about this email string regarding Alberto Rodriguez?
14 A I do not know.
15 Q But you're the one who forwarded it?
16 A That's correct.
17 Q Okay. But you don't know why you forwarded it?
18 A I do not recall why I forwarded this.
19 Q This document is identified as -- the subject is
20 identified as Alberto Rodriguez injury. I don't see any
21 signature line on the bottom under Gerber. Was this page 1 of
22 a multipage string of an email?
23 A I do not recall.
24 Q Do you recall one way or the other if there were
25 additional emails sent on or before January 18th, 2018,

1 regarding Alberto Rodriguez' injury?
2 A I do not recall.
3 MS. SANCHEZ: Your Honor, at this time the Union is going
4 to object to this document. It does not appear to be the
5 entire document and for that reason we'll object.
6 MR. WILSON: Your Honor, we're only asking to put in the
7 email from Mr. Flores to Mr. McCormick and Mr. Matheu. He said
8 he doesn't recall if there are other emails. So this email is
9 standing alone to come in.
10 JUDGE LAWS: Well, I will note that that appears to be the
11 original email. I guess there may or may not be a signature
12 line below Mr. Gerber that would presumably say where he works
13 and his address. But the subject is in what I think we can all
14 agree an email is the original subject. It does not have an
15 "RE colon" in front of it. It does not have an "FW colon"
16 indicating that it's been forwarded. So that does appear to be
17 the original email. So I will go ahead and admit that email.
18 **(Employer Exhibit Number 9 Received into Evidence)**
19 MS. SANCHEZ: The only other thing, Your Honor, is that we
20 would note that the limitation to the email between Flores and
21 Matheu and the others on the bottom, I think that if the
22 document is going to be in evidence the entire document,
23 including the testimony regarding it, the voir dire, should be
24 in evidence.
25 JUDGE LAWS: I agree. The page is admitted. It was all

1 testified about.

2 **(Employer Exhibit Number 10 Marked for Identification)**

3 **DIRECT EXAMINATION (RESUMED)**

4 Q BY MR. WILSON: Okay. I want to show you what's going to

5 be marked as Exhibit 10 -- or has been marked as Exhibit 10.

6 JUDGE LAWS: Thank you.

7 Q BY MR. WILSON: Can you take some time and go through

8 Exhibit 10?

9 A Yes.

10 Q So have you had a chance to look at that? And take your

11 time and go through all of it now.

12 A Okay.

13 Q Okay. So can you identify what Employer Exhibit number 10

14 is?

15 A I can.

16 Q Okay. What is it?

17 A It's an email that I sent to Frank Hicoti and Mr. Vasquez

18 concerning some of the complaints that were going on within the

19 warehouse.

20 Q Okay. And can I direct your attention to page 2 of

21 Exhibit 10?

22 A Okay.

23 Q Okay. When you refer to complaints going on in the

24 warehouse, is page 2 of Exhibit 10 an email from Gerber Flores

25 what you're referring to?

1 A Okay. You just testified that this is about complaints
2 going on in the warehouse. Is page 2 of Exhibit 10 referring
3 to those complaints?
4 A Yes, it is.
5 Q Okay. And can you tell me what page 2 of Exhibit 10 is?
6 A Basically, a couple of the employees got with Gerber
7 Flores stating that Alberto Rodriguez was seen taking long
8 bathroom breaks or just staying in a bathroom for an extended
9 period of time.
10 Q Okay. Does page 2 of Exhibit 10 accurately reflect your
11 understanding of the situation regarding Mr. Rodriguez?
12 MR. RIMBACH: Objection. Lack of foundation. Lack of
13 personal knowledge. Is this hearsay?
14 JUDGE LAWS: I'll assume you'll get it how his
15 knowledge --
16 MR. WILSON: Right.
17 JUDGE LAWS: -- came to be.
18 MR. WILSON: Right.
19 Q BY MR. WILSON: So how did you become aware of what
20 Mr. Flores told you on page 2 of Exhibit 10?
21 A Well, I'm cc'd in the email. But, at the same time,
22 Gerber also addressed some of these issues with me.
23 Q Did you discuss it with Gerber personally?
24 A Yes.
25 Q Okay. So the email summarizes a conversation that you

1 had?

2 MS. SANCHEZ: Objection. Leading.

3 JUDGE LAWS: Sustained, because it's not clear he was

4 taught. He just was saying that.

5 Q BY MR. WILSON: Okay. Did you and Gerber Flores talk

6 about what he mentions -- what he states in his email on page 2

7 of Exhibit 10? Do you want to look at that?

8 A I don't recall exactly the conversation that I had with

9 Gerber regarding, like, this one.

10 Q Okay. Can you go to page 1 of Exhibit 10?

11 A Okay.

12 Q Can you go to the paragraph -- the next to last paragraph

13 on the page and read that?

14 A Because --

15 Q What's that?

16 A The --

17 Q Where it says because. Yeah. Can you read that?

18 A Be --

19 JUDGE LAWS: You don't need to read it into the record.

20 MR. WILSON: You don't need to read it out loud. Just --

21 I'm sorry.

22 THE WITNESS: Oh okay.

23 Q BY MR. WILSON: Just read it to yourself.

24 A Okay.

25 Q Does that refresh your recollection that -- the paragraph

1 from the second to the bottom, on page 1 of Exhibit 10, as to
2 whether or not you discussed this issue with Gerber?
3 A On what date are we talking about? I'm sorry.
4 Q Okay. So you received the email from Gerber Flores --
5 excuse me. You received an email from Geber Flores on January
6 5th, that you've attached as -- that's attached as -- or marked
7 as page 2 of Exhibit 10. And I asked you if you had a
8 discussion with Mr. Flores about what he said in his email on
9 page 2 of Exhibit 10. You said you didn't recall.
10 Then I asked you to look at page 1 of Exhibit 10, and
11 asked you if that helped refresh your recollection if you
12 guys -- if you and Mr. Gerber discussed it.
13 A Well, Mr. Gerber and I did discuss this, but I don't
14 recall the actual conversation that we had regarding page 2.
15 Concerning page 1, I regard -- I remember this, because I
16 remember walking out on the floor pulling out my phone and
17 saying, Gerber, you're my witness, let's see what time it is,
18 because throughout the week there were some, you know,
19 complaints and things like that. And so I wanted to
20 investigate it.
21 Q Okay. So the conversation you just had with Gerber
22 Flores, you said you pulled out your phone. Did you have that
23 conversation in response to the email he sent on page 2 of
24 Exhibit 10, the email?
25 A I can't say that was in response to the email on page 2.

1 It was just something that came up again. And so I wanted to
2 bring Gerber with me as I went out.
3 Q Okay. But you do recall receiving the email on Exhibit 2
4 of page 10? Can you look at it again?
5 A Yeah.
6 JUDGE LAWS: And that was backwards; page 2 of Exhibit 10.
7 THE WITNESS: Okay.
8 Q BY MR. WILSON: Page 2 of Exhibit 10.
9 A I mean, I know I received the email. I don't recall
10 receiving it, but I know I have it. And then I used that to
11 forward this one.
12 Q Okay. So you used Exhibit -- excuse me, you used the
13 email on page 2 of Exhibit 10 to forward the email that's on
14 page 1 of Exhibit 10; is that correct?
15 A That's correct.
16 Q Okay. And then can we go to page 3 of Exhibit 10?
17 A Okay.
18 Q Do you know what that is? Do you know what this document
19 is?
20 A A witness statement.
21 Q Okay. And do you know who Jimmy Gonte (phonetic) is?
22 A One of our assemblers.
23 Q Okay. Do you know who he provided this witness statement
24 to?
25 A I do not.

1 Q Do you know who took the witness statement?
2 A I do not recall.
3 Q Okay. Did Gerber Flores provide you with this witness
4 statement?
5 MR. RIMBACH: Objection. Leading.
6 MR. WILSON: I asked if Gerber Flores provided him with
7 it.
8 MR. RIMBACH: That's leading, Your Honor.
9 THE WITNESS: I do not recall.
10 Q BY MR. WILSON: Okay.
11 MR. RIMBACH: Your Honor, I would also object to this
12 document as hearsay.
13 JUDGE LAWS: Okay. And to the extent it's being offered
14 to prove the truth of the matter asserted, it will only be
15 relied upon if it meets the Board's standards set forth in its
16 case law for relying on hearsay.
17 MR. WILSON: Your Honor, it's coming in for the effect on
18 the listener. It's not coming in for the truth of the matter.
19 JUDGE LAWS: Okay.
20 Q BY MR. WILSON: So can you look at -- okay, so back up.
21 I'm sorry. So do you recall seeing before today -- or excuse
22 me, back up. Do you recall seeing in January of 2018 the
23 document that is page 3 of Exhibit number 10?
24 A I recall seeing it.
25 Q During the month of January 2017?

1 A Yes.
2 Q Okay. And do you recall how you saw it?
3 JUDGE LAWS: January 2018.
4 Q BY MR. WILSON: January 2018, excuse me. Okay. Can you
5 go to page 4 of Exhibit number 10? Do you recall seeing this
6 document in January 2018?
7 A I recall.
8 Q You do recall?
9 A Yes.
10 MS. SANCHEZ: Your Honor, we will also lodge a hearsay
11 objection to this document in evidence.
12 JUDGE LAWS: Okay. And he said it wasn't being offered
13 for the truth of the matter asserted. So that moots it.
14 MR. RIMBACH: I would like to just note for the record the
15 same objection as to the contents of these witness statements
16 to the extent that they constitute hearsay, Your Honor.
17 JUDGE LAWS: Okay. And I think --
18 MR. WILSON: And we made it clear we aren't bringing them
19 in for the truth of the matter.
20 JUDGE LAWS: Okay. So I'm not sure why we have continuing
21 objections given counsel's statement that it's not being
22 offered for the truth of the matter asserted.
23 MR. RIMBACH: He was only referring to -- I believe he was
24 only referring to page 3 and not 4. That's the only reason,
25 Your Honor.

1 MR. WILSON: Well, we hadn't gotten there.
2 JUDGE LAWS: We haven't gone to page 4. I'm going to jump
3 in here. Looking at the paragraph that starts with, because
4 this seems to be an ongoing occurrence, that paragraph ends
5 with, attached above are those witness statements. What
6 witness statements are you referring to in that email that you
7 sent?
8 THE WITNESS: I'm assuming that they're the witness
9 statements provided here.
10 JUDGE LAWS: Do you know? I don't want you to assume
11 anything. What witness statements did you attach to this
12 email? Take your time and look at it if you need to. But --
13 THE WITNESS: Sitting with you today, I can't recall if
14 that was it or not as to what happened back in January.
15 JUDGE LAWS: So sitting here today, you don't know if
16 pages 3, 4, 5, 6, 7, and 8 -- scratch that -- 3 through 7 are
17 the witness statements you attached to your January 7th, 2018
18 email?
19 THE WITNESS: I don't recall that as of today.
20 MR. WILSON: Okay. Your Honor, then I would move to admit
21 Employer Exhibit number 10. Only pages 1 and 2.
22 JUDGE LAWS: Any objection to pages 1 and 2 of Employer
23 Exhibit 10?
24 MS. SANCHEZ: The Union has an objection to pages 1 and 2.
25 Page 1, the document contains multiple hearsay statements. And

1 for that reason, we'll object.

2 JUDGE LAWS: I'm sorry, General - - - does General

3 Counsel? I usually start with General Counsel.

4 MR. RIMBACH: I'm sorry.

5 JUDGE LAWS: The Union just jumped in. But do they have

6 any objection?

7 MR. RIMBACH: Same objection because the email states it

8 attaches a document. But the witness has not testified as to

9 what is attached and whether he knows what is attached.

10 MR. WILSON: Well, he already testified he didn't recall.

11 JUDGE LAWS: Yes.

12 MR. WILSON: And so that's why we moved to only admit

13 pages 1 and 2.

14 JUDGE LAWS: Yes. And I will admit pages 1 and 2. I've

15 stated my ruling on hearsay multiple times. That will apply to

16 pages 1 and 2 of this document. And obviously, page 1 is being

17 admitted with the caveat that we don't know what the

18 attachments were to that email.

19 **(Employer Exhibit Number 10 Received into Evidence)**

20 MS. SANCHEZ: Please excuse Union counsel for jumping in.

21 JUDGE LAWS: It's okay.

22 MR. WILSON: Your Honor, could we take just two minutes?

23 JUDGE LAWS: Well, why don't -- I was going to ask, how

24 much longer do we have on direct, because we've been --

25 MR. WILSON: Very short time. I just have one more

1 exhibit. But if I -- it's kind of long.

2 JUDGE LAWS: You want to get organized? Okay.

3 MR. WILSON: Yeah. If we could just take just five

4 minutes.

5 JUDGE LAWS: Okay. Let's take five. And then after

6 direct, we'll take a comfort break.

7 (Off the record at 2:26 p.m.)

8 **(Employer Exhibit Number 11 Marked for Identification)**

9 Q BY MR. WILSON: So I want to show you what's been marked

10 as Employer Exhibit number 11. Okay. Can you take a few

11 minutes and read Employer Exhibit number 11?

12 A Yes. Okay.

13 Q Okay. So did you review Employer Exhibit number 11?

14 A Yes.

15 Q Okay. So can you -- do you have a recollection of the

16 incident that's discussed in Employer Exhibit number 11?

17 A I do.

18 Q Okay. And can you tell me in your own words what you

19 recall happening that particular evening?

20 A It was roughly around 7:30 or so, around that time. We

21 had this big printer problem. I went upstairs to get the IT

22 guy. I know he normally leaves by 8 or a little bit before, so

23 I was kind of rushing to get up to see him. As I was

24 approaching to go up, Marcus Mack, you know, kind of flagged me

25 over. And as I recall, he asked me, you know, is that

1 appropriate. I was rushing and I don't -- didn't hear. I was
2 like, is what? And he was like, the music.
3 From what I recall, just asking that fellow (phonetic) to
4 turn off the music or go outside. I remember his comment
5 being, I'm on break, I can do whatever I want. And I said,
6 well, it's offensive to Marcus. I asked him again, please,
7 like, you know, can you just turn it off? And he did at that
8 point. I went upstairs, got with Abraham. Came back
9 downstairs.
10 Marcus, as I was walking into the office, flagged me,
11 saying he did it again. He was asking at that point what form
12 do I fill out? I said, you know, please, give me a second, let
13 me get the operation up and running again. And later in the
14 night, I got back with him. And then a little bit later -- I
15 don't know how much time had passed -- Alberto got with me as
16 well.
17 Q Okay. And did Marcus, do you recall, provide you a
18 statement?
19 A He did.
20 MR. WILSON: Okay. Can you show the witness General
21 Counsel 12?
22 Q BY MR. WILSON: Can you take a look at the first page of
23 General Counsel 12?
24 A Okay.
25 Q Okay. And is -- so you indicated in your testimony, you

1 had gotten with Marcus, he provided you a statement. Is page 1
2 of General Counsel 12, the statement he provided you?
3 A Yes. I believe this is the statement.
4 MR. WILSON: Okay. Now can you show the witness General
5 Counsel 37?
6 Q BY MR. WILSON: And later when you got with -- you used
7 your term, you got with Alberto, did he provide you with a
8 statement?
9 A Yes, he did.
10 Q And to the best of your knowledge, is General Counsel 37
11 the statement that he provided you with?
12 A I believe this is it. Yes.
13 Q Okay. So I want to go back to General Counsel number
14 11 -- 11 -- I'm sorry, Employer number 11, and take a look. So
15 this is an email that's addressed to Frank; is that correct?
16 A Yes.
17 Q Frank Matthew. And why did you send this email?
18 A As I recall, I was concerned regarding the situation that
19 was starting to transpire at night. I sent that to get
20 management involved, so that we can continue on to have an
21 effective and productive, uh, work place, in a sense.
22 Q Were you concerned about the mood in the work place at
23 that time, in your department?
24 MS. SANCHEZ: Objection. Leading.
25 JUDGE LAWS: Overruled.

1 A I believe so. Yes.
2 Q BY MR. WILSON: What were your concerns that you were
3 having?
4 A That the things that we're happening, even as -- not that
5 this was simple or anything, but it was starting to have an
6 effect on morale and productivity. We were really working hard
7 to turn things around and be a productive warehouse and get the
8 orders complete. So I was just concerning. I wanted us to be
9 moving on the right page or moving forward. And I just wanted,
10 you know, some assistance.
11 Q Well, did you iden- -- did you believe Mr. Rodriguez was
12 part of this problem you identified?
13 MR. RIMBACH: Objection. Leading.
14 JUDGE LAWS: Overruled.
15 MS. SANCHEZ: I'm going to also add an objection as to --
16 it indicates a problem. That misstates the -- that's a term
17 not in evidence at this point.
18 JUDGE LAWS: It's --
19 Q BY MR. WILSON: So you identified morale issues you were
20 having at that time. Do you believe Mr. Rodriguez was
21 continuing to those morale issues?
22 A I don't recall what I actually thought back at that time.
23 I just knew we some issues that were transpiring.
24 Q So can you go to the second page of Exhibit number 11, and
25 read the third to last paragraph from the bottom.

1 A I see it. Yeah.
2 Q And tell me when you're done reading?
3 A I'm done. Yes.
4 Q Okay. Now, I'll ask you the question again after you read
5 that. Do you feel that Mr. Rodriguez was in some way
6 contributing to the morale problems you identified?
7 MS. SANCHEZ: Objection. Leading.
8 JUDGE LAWS: Well, I mean, he's following up on a
9 paragraph we all read that has to do with Alberto Rodriguez.
10 So --
11 MS. SANCHEZ: Okay.
12 JUDGE LAWS: -- I will overrule that objection. Go ahead.
13 THE WITNESS: Can you restate the question one more time?
14 Sorry.
15 Q BY MR. WILSON: Okay. So you just read the third
16 paragraph from the bottom of Employer Exhibit number 11,
17 correct?
18 A Yes.
19 Q Okay. And so my question again after reading that
20 paragraph, did you believe at the time that the morale issues
21 you had identified, were partially being caused by
22 Mr. Rodriguez?
23 A Partially. Yes. Partially being. Yes.
24 Q Okay.
25 MR. WILSON: Your Honor, I would move to admit Employer

1 Exhibit 11.

2 JUDGE LAWS: Okay. Any objections from General Counsel?

3 MR. RIMBACH: No objection, Your Honor.

4 JUDGE LAWS: Thank you.

5 Union?

6 MS. SANCHEZ: Yeah. I'll just add an objection with

7 regard to the hearsay statements that are included in this

8 document.

9 JUDGE LAWS: Okay. And I will admit the document.

10 Hearsay will be evaluated to the extent it's offered for the

11 truth of the matter asserted, according to and in line with the

12 Board's case law.

13 **(Employer Exhibit Number 11 Received into Evidence)**

14 MR. WILSON: Okay. I have no further questions of this

15 witness.

16 JUDGE LAWS: All right. Why don't we go off the record,

17 take a comfort break, and we'll start with cross. And we'll

18 determine if there are statements and how long you need for

19 those once we're off the record.

20 MS. PEREDA: We don't have any statements actually.

21 JUDGE LAWS: Okay. All right. Why don't we take ten then

22 and then we'll come back.

23 MS. SANCHEZ: Thank you.

24 (Off the record at 2:48 p.m.)

25 JUDGE LAWS: All right. Let's go back on the record.

1 And I just want to make a note for the record that when I
2 give a break and say ten minutes, I don't want to have to go
3 looking for people after 15 minutes.
4 MR. WILSON: Oh yeah, we apologize, Your Honor.
5 JUDGE LAWS: So either stay in the room, or when I say
6 ten, it's ten.
7 MR. WILSON: Okay.
8 JUDGE LAWS: And tell me if you need more time.
9 MR. WILSON: Sorry, Your Honor.
10 JUDGE LAWS: That's okay.
11 Does General Counsel have cross?
12 MR. RIMBACH: Yes, Your Honor. Thank you.
13 JUDGE LAWS: Thanks.
14 **CROSS-EXAMINATION**
15 Q BY MR. RIMBACH: Good afternoon, Mr. McCormick. My name
16 is Thomas Rimbach. I am serving as counsel for the General
17 Counsel of the NLRB.
18 You previously worked at Wismettac's Honolulu facility,
19 correct?
20 A That's correct.
21 Q And how long were you employed at the Honolulu facility?
22 A Maybe a little over two-and-a-half years. About
23 two-and-a-half years, give or take.
24 Q And that facility was not unionized, correct?
25 A No, it wasn't.

1 Q Where did you work before the Honolulu facility?
2 A Walmart. I worked for Walmart.
3 Q And that facility -- where was that Walmart facility
4 located?
5 A I worked in Tobyhanna, Pennsylvania. And then in
6 Honolulu, Hawaii.
7 Q And neither of those Walmart facilities were unionized,
8 correct?
9 A The locations that I worked at were not.
10 Q So you don't have any experience working at a unionized
11 facility?
12 A I do not.
13 Q So when you arrived at the Santa Fe Springs facility, that
14 was your first experience working in an environment where there
15 was a union campaign?
16 A Yes, it is.
17 Q Before you arrived at the Wismettac facility in Santa Fe
18 Springs, were you ever familiar with union organizing?
19 A I'm sorry, can you -- what do you mean by that?
20 Q Were you familiar with -- do you have any experience
21 related to union -- a union organizing campaign prior to
22 working at the Santa Fe Springs facility at Wismettac?
23 A In terms of like college classes or actually a work
24 environment?
25 Q Work environment.

1 A No, I do not.
2 Q You started at the Santa Fe Springs facility on October
3 16th, 2017, correct?
4 A The --
5 Q Your testimony was that you started at Santa Fe Springs on
6 October 16th of last year?
7 A I believe it was October 16th. It was the middle of the
8 month.
9 Q How long did you shadow Isidro Garcia for after you
10 arrived?
11 A Roughly two months. Two months and a week. Something
12 like that.
13 Q Did that continue into January?
14 A It did not.
15 Q Was that officially part of your duties to shadow him, or
16 was it more informal?
17 A Can you elaborate?
18 Q Who told you to shadow him?
19 A Ron Minch.
20 Q And was there a specified time period for you to shadow
21 him?
22 A There was not one given.
23 Q So you kind of just stopped shadowing him on your own?
24 A No. That's -- no. I did not.
25 Q Did someone tell you to stop shadowing him?

1 A Isidro, if I recall correctly was suspended I think --
2 well, sometime in December. I don't exactly remember when. So
3 therefore he was no longer at the workplace.
4 Q And at that time you stopped shadowing him?
5 A That would be correct.
6 Q Did you shadow anyone else after that?
7 A No.
8 Q You're aware that there was a union representation
9 election on September 19th, 2017, correct, prior to your
10 arrival?
11 A Prior to my arrival I heard of that. Yes.
12 Q Is it fair to say that during that time period of October,
13 November, and December 2017, you were still learning your
14 responsibilities in your position there?
15 A That's correct.
16 Q And you worked the night shift, correct, when you started?
17 A Yes, I did.
18 Q What were those hours again?
19 A I would start anywhere from 3 p.m. and work anywhere into
20 the night. Sometimes I started at 1 if there was something
21 going on with Isidro, or something he was going to show me.
22 And they ranged. It could go to 3 or 4 in the morning, 5, each
23 time was different.
24 Q You testified that you know who Alberto Rodriguez is,
25 correct?

1 A I do. Uh-huh.
2 Q And you were aware that he was an active union supporter,
3 correct? It's a yes or no question.
4 A No. I'm not sure if I was aware or not, to be honest with
5 you.
6 Q At no time were you aware that he was a union supporter?
7 A I don't recall. I mean, I don't recall anyone telling me
8 who was union and who was not.
9 **(General Counsel Exhibit Number 53 Marked for Identification)**
10 MR. RIMBACH: Your Honor, I'd like to approach the witness
11 with GC Exhibit 53.
12 JUDGE LAWS: Okay.
13 Q BY MR. RIMBACH: Could you please take a minute and review
14 this email?
15 A Okay.
16 Q Are you finished?
17 A I did. Yes.
18 Q This was an email you forwarded to Mr. Wilson, the
19 Respondent's counsel, correct?
20 A I don't recall if I forwarded it or not. I don't remember
21 that.
22 Q This email was sent to you on January 7th, 2018, correct?
23 A Yes.
24 Q By Gerber Flores?
25 A That's correct.

1 Q So you do know that Alberto Rodriguez was pro-union,
2 correct?
3 A No. That's not correct. No. That's not -- no.
4 Q Isn't that what this email says?
5 A Well, the email states from Gerber that he's pro-union.
6 But that doesn't mean he's pro-union. He didn't specifically
7 tell me, or I didn't have that conversation that said hey, this
8 person's pro-union.
9 Q So after reading this email, you did not believe Alberto
10 Rodriguez was pro-union?
11 A I don't know what I believed after reading that email.
12 MR. RIMBACH: Your Honor, I would like to introduce this
13 exhibit into evidence as GC Exhibit 53.
14 JUDGE LAWS: And I'm just making sure we don't already
15 have it because I feel like I've read that before.
16 MR. WILSON: Well, Your Honor, I know where it is. So
17 when we put in, I'm forgetting which number, where we withdrew
18 the witness statements, this was the last page of that. And we
19 didn't offer -- we offered it for only page 1 and 2. So this
20 email was attached to that.
21 JUDGE LAWS: It was. Okay. And you're correct. Only the
22 first two pages were admitted, so this email has not been.
23 Any objection to General Counsel 53?
24 MR. WILSON: No. No objection, Your Honor.
25 JUDGE LAWS: General Counsel 53 is admitted.

1 **(General Counsel Exhibit Number 53 Received into Evidence)**
2 Q BY MR. RIMBACH: You also testified about Marcus Mack,
3 correct?
4 A Today. Yes.
5 Q And you know who he is?
6 A I do.
7 Q And you're aware that he did not support the Union,
8 correct?
9 MR. WILSON: Objection. Lack of foundation.
10 JUDGE LAWS: Only answer if you know.
11 THE WITNESS: That's correct.
12 Q BY MR. RIMBACH: You are aware that he is not -- he does
13 not support the Union?
14 A That's correct.
15 Q Can you please take a look at Employer Exhibit 10? It
16 should be in front of you.
17 A Okay.
18 Q You identified Gustavo Flores, who you sent this email to,
19 as an outside consultant, correct?
20 A That's correct.
21 Q Wasn't he an anti-union labor consultant?
22 MR. WILSON: Objection. Lack of foundation.
23 JUDGE LAWS: Overruled.
24 Q BY MR. RIMBACH: You can answer.
25 A I didn't know exactly what he was.

1 Q You had no idea what he was?
2 A His specific title? No.
3 Q What he did?
4 A He was outside counsel.
5 Q But what did he do as outside counsel?
6 A Supported the warehouse. Supported HR.
7 Q Wasn't he involved with -- involved in handling the union
8 campaign that was there?
9 A He was involved in that. Supporting, yeah the warehouse.
10 Q Supporting the Employer's anti-union campaign, correct?
11 MR. WILSON: Objection. Lack of foundation. The term is
12 vague.
13 JUDGE LAWS: "Anti-union" is kind of a term of art used by
14 people at the NLRB. So why don't we phrase it in plain
15 English?
16 MR. RIMBACH: All right.
17 Q BY MR. RIMBACH: So you were aware that Mr. Flores was
18 retained by the company, correct?
19 A I was.
20 Q And the company retained him in order to prevent a union
21 from representing employees at the facility, correct?
22 MR. WILSON: No foundation.
23 THE WITNESS: I don't know that. Yeah.
24 Q BY MR. RIMBACH: Who told you to include him on this email
25 that you sent on January 7th?

1 A Which one is that? This one right here?
2 Q Yes. The one in front of you that's marked as Employer
3 Exhibit 10.
4 A I don't know if anyone told me to include him.
5 Q You chose to include him on your own?
6 A I don't know why I included him.
7 Q You don't know why?
8 A I don't recall.
9 Q It wasn't part of Mr. Flores' job to discipline employees,
10 correct?
11 A I don't know what his extent of his duties were.
12 Q And it wasn't part of his job to keep track of employees'
13 attendance, correct?
14 A I don't -- I don't know.
15 Q It wasn't part of his job to make sure employees weren't
16 spending prolonged time in the bathroom, correct?
17 A I don't know.
18 Q He's not an attorney as far as you know, correct?
19 A As far as I know, I don't know. Yeah.
20 JUDGE LAWS: He says he didn't know. So --
21 Q BY MR. RIMBACH: With respect to this email related to
22 allegations that Alberto Rodriguez -- and his break time or his
23 bathroom time, Alberto was never disciplined for spending time
24 in the bathroom, correct?
25 A As far as I know, he was not.

1 Q You never spoke personally to Alberto about these
2 allegations, correct?
3 A I did.
4 Q How many times?
5 A As I recall, one time.
6 Q After you sent this email to Frank, Gustavo Flores, and
7 Konishi Hikari, as well as Anthony Vasquez, did anyone respond
8 to this email?
9 A I don't recall.
10 Q Do you speak Spanish?
11 A I do not.
12 Q Are you able to read Spanish?
13 A I cannot.
14 Q Could you please look at GC Exhibit 52?
15 A Which one is --
16 Q It should be in front of you, I believe.
17 A Oh 52?
18 Q Yes.
19 A This one? This one. Okay. 52; got it.
20 Q You already testified that Marcus -- that you had
21 knowledge that Marcus Mack did not support the Union. But I
22 wanted to ask you, when you went to your office at 10:30 on
23 January 9th -- 10:30 p.m. on January 9th, and said, we have a
24 poison pill on your hands, Marcus was referring to Alberto
25 Rodriguez and his support for the Union, correct?

1 A I don't know what he was referring to.
2 Q Marcus told you that Alberto was complaining about recent
3 management and leadership changes at the company, correct?
4 A Sorry, can you repeat the question?
5 Q Sure. Marcus told you that Alberto was complaining about
6 recent management and leadership changes at the company,
7 correct?
8 A As I recall, Marcus was telling us that he overheard that
9 that was taking place.
10 Q So is that a yes?
11 A I don't know how to answer that.
12 Q Didn't Marcus also tell you that Alberto was going to call
13 the Union because he did not like or approve of leadership
14 changes that were taking place?
15 A Yes.
16 Q You then approached Alberto and told him that someone had
17 complained that he was talking about the Union, correct?
18 A That is not correct.
19 Q Could you please take a look at the third paragraph and
20 read the first sentence out loud?
21 A I approached --
22 Q Could you please --
23 A Okay.
24 Q Could you please --
25 A Yeah.

1 JUDGE LAWS: I mean, let's point him to -- it's in
2 evidence, so I don't know that we need it read into the record.
3 MR. RIMBACH: Okay.
4 JUDGE LAWS: If you want to ask him about a particular
5 provision, ask him about it. But what's written on this page
6 is already in the record. It doesn't need to be there twice.
7 MR. RIMBACH: Sure.
8 Q BY MR. RIMBACH: Could you please read the first sentence
9 of paragraph 3 to yourself?
10 A Okay.
11 Q Didn't Marcus tell you that Alberto was going to call the
12 Union?
13 A Yes.
14 Q And didn't Marcus also tell you that Alberto did not like
15 or approve of the leadership changes that are taking place?
16 A Yes.
17 Q You approached Alberto later and told him that someone had
18 complained that he was talking about the Union, correct?
19 A I did.
20 Q And didn't Alberto tell you that he was only talking about
21 the Union on his break time?
22 A He did.
23 Q You sent an email to Frank Matthew about Marcus Mack's
24 complaints related to Alberto talking about the Union, correct?
25 That's this email.

1 A I did send this. Yes.
2 Q You also sent this to Gustavo Flores, correct?
3 A Correct.
4 JUDGE LAWS: And I just want to try to speed things along
5 here.
6 MR. RIMBACH: Sure.
7 JUDGE LAWS: I mean, I want to get at things that aren't
8 apparent from the face of the document.
9 MR. RIMBACH: Right.
10 JUDGE LAWS: If there's something that needs to be
11 clarified, by all means. But we seem to just be asking him,
12 is -- does this document say what it actually says.
13 MR. RIMBACH: Sure.
14 JUDGE LAWS: And it does say what it actually says. If
15 there's something that needs to be clarified, please go ahead.
16 Or something that isn't apparent from the document --
17 MR. RIMBACH: Sure.
18 JUDGE LAWS: -- let's go there. But I don't think it's a
19 good use of our time to be just having him read the document
20 and asking if it actually says what it says.
21 Q BY MR. RIMBACH: You don't know why you sent this email to
22 Gustavo Flores, correct?
23 A I do not recall.
24 Q Could you please take a look at GC Exhibit 37? You recall
25 Alberto Rodriguez giving this statement to you, correct?

1 A I do.
2 Q But Marcus Mack was never disciplined as a result of
3 Alberto's allegations contained in here, correct?
4 A He was not disciplined.
5 Q Can you please take a look at Employer Exhibit 11?
6 A Okay.
7 Q Did anyone respond to this email that you sent on January
8 12th, 2018?
9 A I do not recall.
10 Q And you don't know why you included Gustavo Flores in this
11 email?
12 A I do not recall.
13 Q Could you please turn to page 2 of the document? The
14 third to last paragraph, which refers to constant negativity
15 starting to have an impact on morale, that's related to
16 Alberto -- complaints about Alberto's union activity, correct,
17 in part?
18 A I don't know.
19 Q Okay. Can you please turn to Employer Exhibit 8?
20 A Okay.
21 Q If you look towards the bottom, the email that you sent
22 that's dated January 17th, 2018, at 9:38 a.m., here you
23 included Gustavo Flores, Ed Hinkle, Carlos Flores, and David
24 Acosta, correct?
25 A I did.

1 Q Ed Hinkle, Carlos Flores, and David Acosta, do they hold
2 similar positions as consultants as Gustavo Flores?
3 A I don't know that. I don't know.
4 Q Do you know whether Ed, Carlos, and David are outside
5 consultants?
6 A They are.
7 Q You don't know why you included them in this email, do
8 you?
9 A I don't recall.
10 Q You don't know what their job duties are, do you?
11 A I don't know what their job duties were.
12 Q Or their job responsibilities?
13 A No.
14 Q You don't know whether they're involved in handling
15 employee discipline?
16 A I don't know that.
17 Q You also don't know whether they are involved in keeping
18 track of time and attendance for employees, correct?
19 A I don't know what their -- I don't know.
20 Q If you could please turn to Exhibit -- Employer Exhibit 9.
21 I'm looking at the email that you sent on January 18th, 2018,
22 at 8:06 a.m. You don't know why you sent his email to Carlos
23 Flores, Ed Hinkle, David Acosta, or Gustavo Flores, correct?
24 A I don't recall.
25 Q Do you recall whether anyone responded to your email?

1 A I don't recall that either.

2 **(General Counsel Exhibit Number 54 Marked for Identification)**

3 MR. RIMBACH: Your Honor, I'd like to approach the witness

4 with GC Exhibit 54.

5 JUDGE LAWS: Okay.

6 MR. RIMBACH: I don't believe this has already been

7 entered into evidence, but I could be mistaken.

8 Q BY MR. RIMBACH: Could you please take a minute and review

9 these pages?

10 JUDGE LAWS: I think these are all part of Exhibit --

11 Employer Exhibit --

12 MR. WILSON: Yeah, Your Honor, we were trying to figure

13 that out. But --

14 JUDGE LAWS: Hold on. Let me finish. I think it's all

15 part of Employer Exhibit 7.

16 MR. RIMBACH: Okay.

17 MR. WILSON: But we won't object to this, just to make

18 sure everything gets in.

19 JUDGE LAWS: Okay. I'm looking at that one. Starting

20 on -- I don't want cumulative evidence is the problem. I don't

21 want the record bigger than it needs to be. Starting on page 4

22 of Exhibit 7 is the first email that appears that on GC-54.

23 And then it continues onto page 5 and 6.

24 MR. RIMBACH: Yes, Your Honor. Thank you. I'll --

25 JUDGE LAWS: Although I will say, this looks like a more

1 concise way to look at that string of emails than this, because
2 the attachments are actually on the face of the email. So even
3 though I don't like cumulative evidence, I think this is
4 actually somewhat helpful.
5 MR. RIMBACH: Thank you, Your Honor.
6 JUDGE LAWS: Uh-huh.
7 Q BY MR. RIMBACH: If you could please look at the email on
8 the first page that's dated January 23rd, 2018, that you sent
9 at 3:34 p.m.
10 A Uh-huh.
11 Q Again, you don't know why you sent this email to Gustavo
12 Flores, Ed Hinkle, Carlos Flores, or David Acosta, correct?
13 A I don't recall.
14 Q Okay. Who is Moreno Malanee who is listed there?
15 A Benefits coordinator -- was the benefits coordinator.
16 Q Did anyone respond to this email?
17 A I don't -- I don't recall.
18 Q If you could please turn to the second page. You were
19 instructed -- I'm referring to the email at the bottom that's
20 dated January 17th, 2018, that Konishi Hikari sent to you.
21 A Yes.
22 Q Konishi Hikari instructed you to take progressive
23 disciplinary action by starting with a verbal warning if
24 Alberto Rodriguez could not provide backup documents for unpaid
25 time off, correct?

1 JUDGE LAWS: Yeah, just get to the follow up question.
2 MR. RIMBACH: Okay.
3 JUDGE LAWS: That's clearly what it says.
4 MR. RIMBACH: Okay.
5 Q BY MR. RIMBACH: So you did not provide Alberto Rodriguez
6 with a verbal warning for his absences, correct?
7 A I don't believe I did with this. No.
8 Q I'd like you to turn to Employer's Exhibit 7, please.
9 JUDGE LAWS: So you want to move to admit GC-54?
10 MR. RIMBACH: Yes, Your Honor. Thank you. I'd like to
11 offer GC Exhibit 54 into evidence.
12 JUDGE LAWS: Any objection?
13 MR. WILSON: No objection.
14 JUDGE LAWS: And I know that it's cumulative, but it is
15 laid out in a way that is easier to comprehend. So for that
16 reason, I will admit it.
17 **(General Counsel Exhibit Number 54 Received into Evidence)**
18 Q BY MR. RIMBACH: If you could please look at the email
19 that's dated January 30th, 2018 that Konishi Hikari sent to Ed
20 Hinkle and yourself, and copying several others.
21 A At 6:51?
22 Q Yes.
23 A Okay.
24 Q I just want to ask you a question about this. You were
25 instructed to permit Alberto Rodriguez to present documentation

1 for his unpaid time off within a week or so, but did you
2 provide him a week or so, in order to provide that
3 documentation?
4 A I believe so, but I don't recall.
5 Q This email was sent January 30th, but you issued him a
6 written warning regarding his unpaid time off on January 31st,
7 correct?
8 A That's correct.
9 Q So you did not allow him a week to provide that
10 documentation, correct?
11 A That, I would say, is incorrect.
12 Q You did provide him a week, then?
13 THE WITNESS: Your Honor, I don't know how to answer this
14 question.
15 Q BY MR. RIMBACH: It's just a yes or no. Did you provide a
16 week for him to provide documentation after you received this
17 email on January 30th, or did you not?
18 A I don't recall how much time was provided for him.
19 MR. RIMBACH: Sorry, Your Honor.
20 JUDGE LAWS: It's all right.
21 MR. RIMBACH: Can I please ask Mr. Ray to hand the witness
22 GC Exhibit 43?
23 JUDGE LAWS: And that's the warning, and he did testify
24 that Mr. Rodriguez received the warning on January 31st.
25 MR. RIMBACH: Yes.

1 JUDGE LAWS: Okay. So I think any much more is going to
2 be getting into argument, probably. But you may asking
3 something I'm not anticipating.
4 MR. RIMBACH: Yes. I just have a couple of questions,
5 Your Honor, about this document.
6 JUDGE LAWS: Okay.
7 Q BY MR. RIMBACH: You crossed out, "doctor's note" here,
8 correct?
9 A I don't recall if was myself or Alberto who crossed it
10 out.
11 Q You issued this document to Alberto Rodriguez on January
12 31st, 2018, correct?
13 A Yes. I did.
14 Q You wrote, "documentation" here, correct?
15 A I believe that's my handwriting, at the request of Alberto
16 Rodriguez.
17 Q And these are you initials, "CM" with a circle around
18 them?
19 A Yeah. There's my initials.
20 Q And you crossed out "doctor's note" and wrote
21 "documentation" because Alberto Rodriguez had provided his
22 doctor's note, correct?
23 A That's correct.
24 Q But you issued this discipline to him anyways, correct?
25 A That is correct.

1 Q Could you please take a look at GC Exhibit 12? I believe
2 it's in front of you. It's a couple of witness statements that
3 are handwritten. Sorry. You have a bunch of documents in
4 front of you now.
5 Could you please turn to page 4? Do you recognize this
6 document?
7 A Vaguely.
8 Q You typed this, correct?
9 A I don't recall.
10 Q How do you recognize it? You can take your time and read
11 it over; if that helps.
12 JUDGE LAWS: Are you only asking about page 4?
13 MR. RIMBACH: Yes.
14 Q BY MR. RIMBACH: But if I could turn your attention to
15 page 6 first? Can you please take a minute and read this
16 document over?
17 A Uh-huh. Okay.
18 Q And is this your signature at the bottom?
19 A Yes. It is.
20 Q And you dated this February 2nd, 2018?
21 A Yes.
22 Q And this is a statement that you typed?
23 A Yes. I did.
24 Q This is already admitted into evidence, so I won't move to
25 admit it again, but if you could, please turn to page 4.

1 A Okay.
2 Q Do you recognize this document now?
3 A No. Vaguely. I -- no.
4 Q Okay. Could you please turn to page 3?
5 A Okay.
6 Q Who is Eric McLoughlin?
7 A He was an assembler for us.
8 Q Do you recognize this document?
9 A I don't recall.
10 Q And one more in this packet. If you could, please turn to
11 page 5; and review this document, please. Is this a document
12 that you created?
13 A No. I did not.
14 Q You did not?
15 A I did not create this.
16 Q Do you recognize it?
17 A Not really. No.
18 Q Okay. Let's just ask you about one more document.
19 MR. RIMBACH: If I could ask Mr. Ray to hand the witness
20 GC-38?
21 THE WITNESS: Okay.
22 Q BY MR. RIMBACH: Marcus Mack was never disciplined as a
23 result of the allegations contained in this witness statement,
24 correct?
25 A I don't believe so.

1 MR. RIMBACH: No further questions, Your Honor.
2 JUDGE LAWS: All right, any cross from the Union?
3 MS. SANCHEZ: No, Your Honor.
4 JUDGE LAWS: Any redirect?
5 MR. WILSON: Just one -- two questions, Your Honor.
6 JUDGE LAWS: I'm going to hold you to that.
7 MR. WILSON: Lawyers.
8 **REDIRECT EXAMINATION**
9 Q BY MR. WILSON: Okay, can you go back to Exhibit 12? And
10 do you still have that in front of you?
11 A I think it's here.
12 Q GC-12.
13 A Okay. I got it.
14 Q And can you turn to page 6 on Exhibit 12? And you were
15 asked about that.
16 A Okay.
17 Q Okay, so do you have page 6 in front of you?
18 A I do.
19 Q And the document says, "Witness Statement" at the top?
20 A Yes.
21 Q February 1st, 2018?
22 A Uh-huh.
23 Q Okay. Now, in that witness statement, this was prepared
24 by you, correct?
25 A It was.

1 Q Okay, it references a conversation with Gus Flores in the
2 first sentence?
3 A Yes.
4 Q Does the witness statement accurately reflect the
5 conversation you had with Gus Flores?
6 A Pretty much. Yes.
7 Q Okay, and there's also reference in the witness statement
8 to a conversation you had with Marcus Mack. Does the witness
9 statement -- page 6 of Exhibit 12 -- accurately reflect the
10 conversation you had with Marcus Mack?
11 A I believe so. Yes.
12 MR. WILSON: I have no further questions.
13 JUDGE LAWS: All right, any recross on that?
14 MR. RIMBACH: No, Your Honor.
15 MS. SANCHEZ: No, Your Honor.
16 JUDGE LAWS: All right.
17 Well, thank you for providing your testimony. Please
18 don't discuss what you testified about here today with any
19 other witnesses or any potential witnesses. Thank you.
20 All right, let's go off the record, and you are free to
21 go.
22 (Off the record at 3:44 p.m.)
23 JUDGE LAWS: Let's go back on the record.
24 You know the drill, because you've seen it today. Come on
25 around. I'm going to ask you to raise your hand.

1 Whereupon,

2 **FRANK MATHEU**

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

4 examined and testified as follows:

5 JUDGE LAWS: Please have a seat. State your name. I

6 don't believe you need to spell it, because it is already in

7 the record.

8 THE WITNESS: Okay. Frank Matheu.

9 JUDGE LAWS: Thank you, Mr. Matheu. A couple of things

10 you've heard me instruct a couple of witnesses, but just try to

11 remember to not speculate, unless you're asked to do so.

12 THE WITNESS: Yes.

13 JUDGE LAWS: So if you're not sure of an answer, just say,

14 I'm not sure. And then if you don't understand something

15 that's asked of you, just say and it will be asked in a way

16 that hopefully will be more clear. And then, finally, be

17 mindful of our court reporter to the left and try to not start

18 the answer until the question's finished.

19 THE WITNESS: Yes.

20 JUDGE LAWS: Thanks.

21 THE WITNESS: Thank you.

22 JUDGE LAWS: Okay. Whenever you're ready.

23 MR. WILSON: Okay.

24 **DIRECT EXAMINATION**

25 Q BY MR. WILSON: Mr. Matheu, where are you currently

1 employed?
2 A I'm employed at Wismettac Asian Foods.
3 Q Okay, and what is your current position there?
4 A My current position is ADGM -- acting deputy general
5 manager.
6 Q Okay. Now, does Wismettac Asian Foods have more than one
7 branch?
8 A Yes. It does.
9 Q Okay, and which branch do you consider your headquarters?
10 A My headquarters is LA. My home base is Orlando.
11 Q Is there a Wismettac Asian Foods branch in Orlando?
12 A Yes. There is.
13 Q Okay, and that's where you reside, correct?
14 A Correct.
15 Q Okay, and so what kind of company is Wismettac Asian
16 Foods?
17 A Wismettac Asian Foods is a Japanese food distributor. We
18 distribute food to restaurants, grocery stores, wholesalers.
19 Q And how many branches do they have in the United States?
20 A There's a total of 16 in the United States, three in
21 Canada.
22 Q Okay, and do they have them in other locations in the
23 world?
24 A Yes. We have Singapore, Tokyo -- which is one of the
25 headquarters of Wismettac Asian Foods -- Australia.

1 Q Okay. So the company's headquartered in Tokyo?
2 A Tokyo.
3 Q Very good. And so do you oversee all the United States
4 branches, or some of those branches, or --
5 A I oversee nine of them.
6 Q Okay, which nine do you oversee?
7 A I oversee Miami, Orlando, Atlanta, Chicago, Houston,
8 Dallas, San Francisco, Sacramento Depot, and Los Angeles.
9 Q Okay, and when you say you oversee them, what, exactly,
10 are your duties?
11 A Basically, my duty is to facilitate any implementations a
12 local branch wants to make, any equipment that they need,
13 staffing issues that are happening. My job is to go to each
14 one and make sure that we continue to run safely, effectively,
15 with what we need.
16 Q Okay, and how long have you worked at the company in
17 total?
18 A I've worked with the company for four-and-a-half years.
19 It's going to be five this coming 2019.
20 Q Okay, and when you started, what branch were you assigned
21 to?
22 A I started in Chicago.
23 Q Okay, and what was your position there?
24 A I started in Chicago as the logistics branch manager.
25 Q And where did you go after that?

1 A I transferred to Orlando as a regional manager; in charge
2 of Miami and Orlando at that time.
3 Q So when did you start your current position?
4 A I started my current position as an ADGM -- I'm sorry.
5 Let me -- I started that position -- I started in Chicago as a
6 logistics branch manager. Two years later, I transferred to
7 Orlando as a regional and then from there, I became an ADGM
8 with all the other branches.
9 Q Very good. So I want to direct your attention to the Los
10 Angeles branch.
11 A Uh-huh.
12 Q And in particular, the months of August of 2017 through
13 the end of March of 2018.
14 A Uh-huh.
15 Q But before I get to that -- currently, who do you report
16 to?
17 A I report to Yoshinori Narimoto.
18 Q Okay, and is that today, currently?
19 A Yes.
20 Q Okay, and so let's then go to Los Angeles during that time
21 period. Who did you report to in Los Angeles during those
22 months?
23 A Yoshinori Narimoto.
24 Q Okay. Does he go by Yoshie?
25 A Yoshie.

1 Q Okay. All right.
2 A Yes. For sure.
3 Q And do you recall how many employees were at the facility
4 during -- approximate number of employees between September
5 2017 and March 2018?
6 A We averaged about 135 total employees.
7 Q Okay, and just curious, in the total company in the United
8 States, how many employees are there?
9 A Oh, boy.
10 Q Just approximate.
11 A Approximately, I want to say between 1000 and 1100.
12 Q Okay. Very good.
13 Now, back to Los Angeles. So you said you had
14 approximately 135 employees.
15 A Correct.
16 Q Is that management and non-management employees?
17 A That includes warehouse, drivers, supervisors, and
18 managers.
19 Q Okay, so in Los Angeles, what types of non-management
20 employees do you have working for you?
21 A You know, again, the number fluctuated a little bit. We
22 had approximately 85 to 90 warehouse employees, including
23 temps, approximately 30 to 35 drivers.
24 Q Okay, and what do the warehouse employees do?
25 A Warehouse employees, they assemble, they receive

1 merchandise, they put it away, they separate incoming loads;
2 the freezer assemblers, deli assemblers, dry assemblers,
3 recheckers, loaders for drivers.
4 Q Okay, and so where does the company get the product that
5 it distributes?
6 A It would be from local companies and overseas through
7 Japan.
8 Q Okay, so that means there's product shipped into the
9 warehouse, correct?
10 A Shipping, yes. Via containers. Correct.
11 Q Okay, and then ultimately, that product is stored in the
12 warehouse and shipped back out?
13 A Correct.
14 Q Okay. So when you talked about the warehouse employee job
15 positions, they're working on bringing the product in and
16 shipping the product out, correct?
17 A Correct.
18 Q Okay, and what do the drivers do?
19 A The drivers, they load the merchandise, they -- you know,
20 we incorporated a rechecking process for accuracy. They
21 separate the deli from the freezer and the dry, and within the
22 truck, via cold divider.
23 Q Okay.
24 A And then they reg out (phonetic) of the paperwork and they
25 go out and make deliveries.

1 MR. WILSON: Okay, so can you hand the witness Employer
2 Exhibit number 4?
3 Q BY MR. WILSON: And so you have in front of you Employer
4 Exhibit number 4. Does this document look familiar to you?
5 A Yes, sir.
6 Q Okay, what is it?
7 A This is a layout of our warehouse.
8 Q Okay, and so let's go back to some the things you said
9 that the warehouse people do. You indicated that they work on
10 product that's shipped into the warehouse.
11 A Uh-huh.
12 Q Where does that product come in?
13 A That product comes in -- sorry, I don't have my glasses
14 on -- through the back door; so around 34 to 38. That's the
15 receiving area.
16 Q Okay, and then are doors 1 through 33, then -- is that
17 outgoing product?
18 A 1 through 26 is the majority of our outgoing, 27 to 29 are
19 the out-of-states, and 31 to 33 is utilized by the shipping
20 department.
21 Q Okay. Now, on an average day, in doors 1 through 26 --
22 A Uh-huh.
23 Q -- are there company trucks?
24 A Yes, sir.
25 Q Okay, and when are those trucks usually there?

1 A They're there daily; from the start to the end.
2 Q Okay, but are the trucks there all day, or at some point
3 during the day, do they go out on the roads?
4 A Yes. They do go on the road. Yes.
5 Q Okay. So on a normal day, when would the trucks be parked
6 there in the morning?
7 A They will be parked there from the time drivers come in,
8 to about 8:40, 9:00 when everybody departs.
9 Q Okay, what time do the drivers come in?
10 A They come in at 6.
11 Q Okay.
12 A Some come in at 5, some come in at 6.
13 Q Okay, and what do they do when they come in?
14 A They gather the paperwork, as is already prepared by the
15 overnight crew, which is invoicing any special instructions for
16 that route. For example, if a customer requests a special
17 pickup of items that they received and they don't want anymore,
18 and it's in good condition, we send a note to the driver with
19 an RMA for them to pick up the item, notate it, and bring it
20 back to the warehouse.
21 Q Okay, what does the term, "RMA" mean?
22 A RMA is a return merchandise authorization form.
23 Q And so the drivers leave, then, you say approximately by
24 8:45 to 9?
25 A 8:45. It depends of the type of day. Our busiest day is

1 obviously, Tuesday morning, from Monday. Our lightest day
2 would be Monday from Friday. Friday is our lightest assembly
3 day.
4 Q And what time do the drivers normally return?
5 A It depends. Depend on traffic, weather -- I mean. But
6 typically, between 4 to about 6:30 they -- the majority of them
7 are back. Yeah.
8 Q Okay, so what local radius do those drivers drive to?
9 A From Bakersfield -- I'm not too familiar with the LA area,
10 but Bakersfield is one of our furthest routes. Through Palm
11 Springs is another typically furthest route, to -- oh, boy --
12 Temecula, I want to say. So basically, that radius.
13 Q Okay, so would that include Orange County, for instance?
14 A Yes, sir. I believe so. Yeah.
15 Q Okay.
16 A I'm not sure. I can -- one of the --
17 Q Okay. Los Angeles County; if you know?
18 A Yeah. Yeah. Los Angeles. Yeah.
19 Q Ventura County?
20 A Yeah. Around that area.
21 Q Okay. So what is the procedure, then, for a driver when
22 they deliver product to a customer? How's that supposed to be
23 handled?
24 A Okay, so one of the -- the good things that we've done,
25 during this time I'm here, is we prepare the drivers with

1 invoicing prior to them leaving. So they take the invoice,
2 they compare the items that are there to the items that they
3 actually have in front of them. And what happens is, after
4 they finished checking with all the invoicing, they start to
5 load per -- depending on stock code; meaning the further
6 customer to the last customer. That's how they load their
7 trucks.
8 Q Okay, so the person -- the destination that's the furthest
9 away, they go there first?
10 A The -- actually, the furthest -- the last stop will be
11 loaded first. Correct. And then the first stop's going to be
12 loaded last. And when they open their doors, the first stop's
13 going to be in front of them and they work their way through.
14 Q Okay, but do they go to the destination that's the
15 furthest away to take -- to drop off the first load, or do they
16 start with the destination that's the closest?
17 A They start destination according -- it depends. So
18 every -- every -- every route has, for example, 13 customers,
19 so they start with, you know -- depending on what customer's
20 first, they go by the list. So for example, stop number 1
21 would be Sushi Hai -- whatever it might be, and they look for
22 the items for Sushi Hai, they unload them. Customer and driver
23 compare notes and sign the invoice.
24 Q Okay, and the customer is invoiced on the spot?
25 A Yeah. Right. So they look at the invoice. Every

1 customer has different pay types. For example, some customers
2 have 30 days to pay, some have 15, some are CODs, and that's
3 marked on the invoice.
4 Q Okay, and who decides, of the 13 customers, which one is
5 serviced first; the driver of the truck?
6 A Actually, we have a system in place -- Talacha (phonetic)
7 system, it's called. Basically, we -- we built the routes over
8 the years as we just -- every six months, we look at them,
9 whether, you know -- if one driver's taking 14 hours to come
10 back, one's taking eleven, we, kind of, balance everything out
11 and see where everything is at through this Talacha system,
12 that allow us to put the staffs in place.
13 Q Now, can you go back to -- take another look at Exhibit 4?
14 A Okay.
15 Q Which is the warehouse.
16 A Uh-huh.
17 Q So I see to the right, there is a freezer.
18 A Correct.
19 Q Okay, and then we've had test that directly to the left of
20 the freezer, there's a department called the deli?
21 A Correct.
22 Q Okay, and then to the left of the document, in the writing
23 it says, open space.
24 A Uh-huh.
25 Q What does that represent?

1 A That open space has two things. Number one, we have items
2 that sell extremely well that come in as a receiving. For
3 example, soy sauce, beer, staged in that area because it's so
4 large for us to put in a single spot in the warehouse, that we
5 have that open space for storage.
6 And the other second part, if you look at it, this is
7 where the beer and soy sauce is.
8 Q Okay.
9 A And this side is where the rice is. Basically, all types
10 of rice that we carry is an open area for assembly. Actually,
11 this space here actually has pick locations for rice.
12 MR. WILSON: Okay, so let the record show that the witness
13 is pointing, when he is discussing rice, to the left of the
14 words that say, "P-O-L-E-S."
15 THE WITNESS: Correct.
16 MR. WILSON: Is that correct?
17 JUDGE LAWS: Yes. That's where he was pointing.
18 MR. WILSON: Okay. All right. I don't recall there were
19 poles there.
20 THE WITNESS: Yeah. Next to the word, "poles."
21 MR. WILSON: That's fine.
22 Q BY MR. WILSON: Now, how much merchandise is stored in the
23 warehouse at any one time; if you know?
24 A I could not -- that's hard to -- we have -- obviously, we
25 have areas in the warehouse that we store -- call it

1 second-hand items, for example. But first-hand is soy sauce,
2 beer. That's consistently selling.
3 And then we have another area, within the structure here,
4 of the dry, that we have for other types of soy sauce that are
5 high sellers. But pretty much everything is, obviously, dry
6 items, and deli, and freezer that are stored in a particular
7 space.
8 Q Okay. Now, when you -- so how often are you in Los
9 Angeles?
10 A Recently. Obviously, from the time I started here, back
11 in September of 2017, and obviously, I have all the branches
12 that I have to look after. I mean, my first priority right now
13 is Los Angeles.
14 Q Okay, so between, let's just say, the beginning of
15 September and the end of March, did you come to Los Angeles on
16 a regular basis?
17 A I'd say average two to three weeks per month.
18 Q Okay, so what time during those months did you report in
19 the morning?
20 A Boy, I'm an earlier riser. I get to -- I wake up at 3 in
21 the morning and I do my regular PT and then I'm at work about,
22 I'd say, 4:30, 5:00.
23 Q Okay. All right. So when you come into -- when you come
24 into the location, can you point on Exhibit 4 where you usually
25 go first?

1 A Yes. So basically, my office -- well, it's not my office.
2 It's an area where I sit when I visit LA. It's within the
3 office structure.
4 Q Right.
5 A My first report that I do is check in with the
6 transportation team in the warehouse office.
7 Q Okay. Is the warehouse office where they dispatch the
8 drivers from?
9 A That's where all the invoices -- invoices are placed, all
10 the route indicators, all the instructions. Everything is
11 there; which is about this area right here.
12 Q Okay.
13 JUDGE LAWS: And you need to describe -- the court
14 reporter needs to be able to write down what you're describing.
15 MR. WILSON: So you can --
16 JUDGE LAWS: Just use words to describe where you're
17 pointing to.
18 THE WITNESS: The warehouse office is where all the
19 drivers pick up their paperwork.
20 Q BY MR. WILSON: Okay, and the warehouse office is noted
21 on --
22 JUDGE LAWS: Yes.
23 THE WITNESS: Correct.
24 Q BY MR. WILSON: -- Employer's Exhibit -- or, excuse me --
25 Employer's Exhibit 4, correct?

1 A 4.
2 Q Okay. All right. Now, during -- let's just say September
3 through the end of 2017, in Los Angeles, how many shifts of
4 employees were working?
5 A When I first arrived, there were -- and this is going to
6 sound -- I'll make it as specific as possible. There were
7 three shifts. I want to say a.m., p.m., and overnight.
8 Q Okay. Now, were those warehouse shifts?
9 A Correct.
10 Q Okay, and as I understand it, the drivers only have one
11 shift; is that correct?
12 A Correct.
13 Q Okay, so they come in, in the morning, leave, come back?
14 A Yes.
15 Q Okay. And so was it in that same time period, where you
16 indicated there were three shifts, what were the hours of those
17 shifts?
18 A So this is when I first came here. The -- basically, the
19 a.m. shift started at around 6 a.m., the p.m. shift around,
20 say, 9-ish, and the reason why I say 9-ish, is because we have
21 a Las Vegas route that we actually were playing around with for
22 efficiency.
23 Q All right.
24 A And then the third shift came in at 5.
25 Q 5 in the afternoon?

1 A Correct.
2 Q Okay. Now, can you -- referring once again to the
3 warehouse, what are the general job duties of the warehouse
4 employees during the first shift?
5 A The first shift -- the people that come in -- the
6 assemblers that come in at 6, they primarily focus on orders
7 that sales has inputted overnight.
8 One example is, if I'm a salesman, I have my cutoff time
9 at 5 p.m. today. At 8:00, customer Sushi Hai calls me, says,
10 hey, by the way, I forgot to order two buckets of soy sauce.
11 They'll order enter through the night as an additional order,
12 it's called.
13 So in the morning, during that time that I started here,
14 that was one of our issues with our efficiency. We had 125 to
15 130 additional orders from the overnight shift, from various
16 sales through different customers.
17 Q So then that's what the first shift warehouse people do.
18 What do the second shift warehouse do?
19 A The second shift, which is at 9-ish to 10-ish, depending
20 on the volume for Las Vegas route, that's what they start to do
21 right away. They started to assemble both frozen and Las Vegas
22 merchandise.
23 Q Okay, so I should have asked you before. Going back to
24 the first shift in the warehouse, during those months, how many
25 employees were on the first shift?

1 A Boy. During the time that I started out, I want to say
2 between 10 and 15.
3 Q Okay, and how many warehouse employees on the second
4 shift?
5 A That was less. I'd say eight to ten.
6 Q Okay, and then what does the third shift do?
7 A The third shift assemble the majority of the volume of
8 lines or assembled orders.
9 Q Okay, and during the time we're talking about, how many
10 employees were on that third shift?
11 A Oh, boy. I want to say between 45 to 50 during that time.
12 Q How can you have the most on the third shift?
13 A That was the bulk of our volume.
14 Q Can you explain that?
15 A Sure. So during the day, when I first arrived -- which is
16 another area where we were struggling at that time -- so sales
17 started to input orders throughout the day. So the cutoff time
18 is 5 p.m. So meaning, 5 p.m., all main orders must be entered
19 in the system. And then we give them a grace period from 5 to
20 8 p.m. for any additional orders. So I averaged about -- we
21 averaged about 8,000 lines per day as a -- as a operation.
22 Q What do you mean by lines? What's a line?
23 A A line is, for example, I'm a restaurant and I'm
24 ordering -- I'm putting my order. I'm ordering one case of soy
25 sauce, one bag of rice, one case of tuna, and one case of

1 avocado. So that's four lines -- five lines that I just
2 mentioned. Yeah.
3 Q Okay. I see.
4 A And that includes all -- every area. So the avocadoes
5 come from the chilled, tuna comes from the frozen, rice comes
6 from the rice, which is still dry, and then the other item
7 that's dry.
8 Q Okay, and just one more question before I ask the one
9 about the warehouse invoice. How are the warehouse workers
10 coordinated with the sales department?
11 MS. SANCHEZ: Objection. Relevancy.
12 JUDGE LAWS: Yes. I'm assuming this is background. This
13 is --
14 MR. WILSON: Yes, but it relates to --
15 JUDGE LAWS: One of the --
16 MR. WILSON: -- the different jobs and what they do in the
17 skills that he employs. And that has to do with where I'm
18 going to go after this, but that relates to how they coordinate
19 with the sales.
20 JUDGE LAWS: All right, I'll allow it. I don't think we
21 need great detail, but go ahead.
22 THE WITNESS: So basically, as I mentioned, the bulk of
23 the lines come -- come in, in the afternoon. I'd say between 3
24 and 5 at that time, when I first came to Los Angeles. So the
25 interaction between employees and sales is, you know, we want

1 to get as much work done prior to the -- alleviate some of the
2 workload for the p.m. shift. And that's how the lines come in
3 through -- they come in throughout the day.
4 Q BY MR. WILSON: Okay, now do the third shift employees
5 have particular skills that maybe the first and the -- we're
6 talking about warehouse employees -- that maybe the first and
7 second shift employees don't have?
8 A Yes. So basically, the way they assemble the items is
9 different. In the p.m. shift, they use a scanning system that
10 every employee has a scanner, they have a sign-in for the
11 scanner, and they assemble orders through the scanning system.
12 So one example is, if a customer wants one bag of rice, they go
13 to the location, they scan the actual location, scan the box,
14 make sure it's the correct one, and they put it onto their
15 palette check.
16 Q Okay, so would it be fair to say that third shift
17 employees have greater training --
18 A Yes.
19 Q -- than the first two?
20 A Yes. Because of the scanning system. Now, quality
21 obviously was very important and still is.
22 Q And just, if you know, how long would it take someone to
23 learn that system?
24 A Well, to be completely trained, I want to say, maybe, a
25 couple weeks.

1 Q Okay.
2 A Yeah.
3 Q Okay, so in September 2017 then, were you assigned then to
4 go to LA, more so than you'd been there before?
5 A When -- I received a call, late August -- I cannot recall
6 the exact date -- that they needed my assistance in LA. That
7 was Mr. Narimoto.
8 Q Why did they particularly need your assistance?
9 A Obviously, operations was struggling. There was an
10 excessive amount of turnover; specifically in the nights. And
11 I also heard about the Union organization.
12 Q Okay, did Mr. Narimoto, who's also known as Yoshie, did he
13 ask you to assist in the Union organizing issues?
14 A He -- yes. He told me, please come here and help control
15 the operation, look for inefficiencies, and assist with the
16 union campaign.
17 Q And what did you know about the union campaign before you
18 got there?
19 A I did not know much. I know that there was a -- you know,
20 there was a meeting. I think they came into the warehouse in
21 the office area. And then, there was obviously employees that
22 wanted a union within the company. I did not know much
23 specifics.
24 Q Had you been through a union organizing drive before you
25 came to Los Angeles in September 2017?

1 A No, sir.
2 Q Now, you've listened to the testimony today, correct?
3 A Uh-huh.
4 Q Okay, and there was a reference in the testimony -- the
5 last testimony, in particular, by Mr. McCormick -- to
6 consultants.
7 A Yes.
8 Q Okay, so when you arrived in LA, were there consultants
9 there?
10 A Yes, sir.
11 Q Okay, and do you know what the role of those consultants
12 were?
13 A Well, from what I understood, the roles of the consultants
14 were to help with the union campaign within the warehouse, help
15 us as management; what to say, what not to say, what's the
16 legality of the whole thing, things we could implement, things
17 we could not implement.
18 Q Okay, and were they also to assist HR?
19 MS. SANCHEZ: Objection. Leading.
20 JUDGE LAWS: Overruled.
21 Q BY MR. WILSON: If you know.
22 A I'm not quite sure, but I think as a team, I mean,
23 obviously, we wanted to do things right; and due to the
24 legality of the whole thing.
25 Q Now --

1 A I'm sorry -- which involved HR.
2 Q Okay. Now, can you describe the HR department when you
3 got there in September 2017?
4 A Yes. There was Connie. Oh, boy. I'm having trouble with
5 her last name. She's the HR manager. There was Atsushi, who
6 assisted in -- at that time, assisted in our recruiting and
7 some employee relations. We had Malanni (phonetic). She was
8 in charge of the benefits. AJ -- boy, I cannot remember the
9 last name. She was the payroll.
10 Q Okay, anybody else you can recall?
11 A Adriana Hernandez was recruiting, and Jinna Baik was
12 primarily employee relations.
13 Q Okay. Now, to your knowledge, did that HR function for
14 all the branches or just Los Angeles?
15 A That was -- that -- the Los Angeles branch HR took care of
16 the whole country.
17 Q Okay, so all 1100 employees, they had served?
18 A Yeah.
19 Q Okay. So when you got there and the consultants were
20 there, do you recall the name of the consultants?
21 A Yes, sir.
22 Q And the ones you can remember, who were they?
23 A Carlos Flores, Gustavo Flores, Ed Hinkle, David Acosta.
24 Q Okay, and were you given instructions how to interact with
25 the consultants?

1 A Instructions as interact -- yeah. I mean, I was there to
2 assi- -- I mean, assist. My primary goal was to look at the
3 efficiency of the operation, while at the same time, try and
4 fix some of the issues the employees were having.
5 Q So did Yoshie tell you you're going to work with the
6 consultants?
7 A Yeah. We would work together. Yes.
8 Q Okay. Did that instruction come from Mr. Narimoto?
9 A Yes.
10 Q Okay. So you testified that you hadn't been through a
11 union organizing campaign before. So when you met with the
12 consultants, did they give you any training, any tips about
13 what you should do?
14 A Yeah. When I first arrived in Los Angeles, it was the day
15 after Labor Day in September. The first thing we talked about
16 was SPIT.
17 Q Okay, what do you understand SPIT to mean?
18 A SPIT was spy, promise, interrogate, threaten.
19 Q Okay, were those things you were instructed you could not
20 do?
21 A Right. Yeah. Those are the main -- it was the, you know,
22 my type of management style is, be out on the floor, talking to
23 people, taking my shirt off, helping them out. So I'm sure
24 that some of the issues that were going to come up. So I had
25 that -- I need to have that in my mind, to make sure that I

1 don't violate any of it.
2 Q So you were given that training as a precaution not to say
3 things that were against the law; is that correct?
4 A Right.
5 Q Okay. So which consultant gave you that training?
6 A Oh, boy. Let me see if I -- Gustavo Flores and Ed Hinkle.
7 Q Okay, so did you and the consultants, as a team, start to
8 interact with the employees?
9 A Yeah. So after -- the first day I was there after Labor
10 Day, the -- the whole emphasis was updating the operation,
11 whose managing was where, people -- where people were at that
12 time. For example, receiving. We had eight people there.
13 Basically, just an overview of the operation and some training
14 from the consultants. That was -- yeah.
15 Q So did you have concerns about the way that the operation
16 was being managed when you arrived?
17 A I had many concerns.
18 Q What were your concerns?
19 A My concerns were, obviously, we were very inefficient. We
20 had a lot of --
21 Q Okay, I'm sorry. In what ways were you being --
22 A There was no -- there was no measurements in quality or
23 quantity for the employees, lots of turnover. That p.m. shift,
24 we couldn't retain any employees. They were working from about
25 5 p.m. to about 7 the next day, which is -- I mean, just --

1 yeah. Those were my primary concerns.
2 Q Okay. Now, a little bit about the workforce when you got
3 there.
4 A Uh-huh.
5 Q In the warehouse, were there temporary employees and
6 regular employees?
7 A Correct.
8 Q And by temporary employees, I mean, employees who are
9 referred through a temporary agency and are paid on their
10 payroll.
11 A Correct.
12 Q Okay, so by regular employees, I mean employees who are
13 directly paid by Wismettac.
14 A Right.
15 Q So in the warehouse, when you arrived, were there more
16 temporary employees or regular employees; if you know?
17 A I'd say the balance was a little more of temps than
18 regular employees.
19 Q Okay, and with the drivers, are they generally temporary
20 employees or regular employees?
21 A The majority of the drivers are regular employees.
22 Q Okay, so then back to my question, did you and the --
23 well, excuse me. So I asked you, problems then with
24 management, you said, inefficiency. Can you think of anything
25 else?

1 A No. That's basically it. Yeah.
2 Q Okay. All right, that's fine. Then back to my other
3 question. Did you start to interface with the employees along
4 with the consultants?
5 A Yes.
6 Q Okay, when did that start?
7 A The day after the whole training. I mean, basically --
8 oh, boy. I arrived there on Tuesday, so by Wednesday.
9 Q Okay, and what sort of interaction were you having with
10 the employees --
11 A The first thing I --
12 Q -- in conjunction with the consultants?
13 A Sorry. The first thing I did was, basically, walk the
14 floor. I was familiar with the -- with the branch from the
15 beginning of the year when I attended a headquarter meeting.
16 So I, you know, went out there, talking to people about how
17 things were going, you know, talk about the operation. You
18 know, what's going on here, oh, you know, we could use this. I
19 mean, just different operational needs and updates that we --
20 Q Were you doing that on your own, or with the consultants?
21 A No. I do that on my own.
22 Q Okay, and so prior to September 2017, when was the
23 previous time you had been to the Los Angeles branch?
24 A January of 2017.
25 Q Okay, so you hadn't been there for eight months?

1 A Right.
2 Q Okay, but you had a general understanding of the
3 warehouse?
4 JUDGE LAWS: Yes?
5 THE WITNESS: Yes, ma'am.
6 Q BY MR. WILSON: Okay, so what was the purpose of then
7 walking the floor, talking to all the employees?
8 A I do that at all my branches I visit. That's the first
9 thing I do. I touch base with the LBM, which is the logistics
10 branch manager at each location that I visit, and then I walk
11 the floor and interact with the employees.
12 Q Why do you touch base with the LBM?
13 A First, I want to see, you know, where his concerns are, if
14 any issues, updates on staffing, updates on trucks because
15 trucks break down, any issues with sales. I assist them with
16 that as well. One example is some branch sales manager do not
17 follow the cut-off time and it creates, for a logistics team,
18 more work.
19 Q Okay, because they've put in orders for --
20 A More orders after -- yeah. So it creates more overtime
21 and obviously, people get upset.
22 Q Okay. No. I understand.
23 A And that's why I walk the floor.
24 Q So when you arrived in September 2017, who was it? The
25 term you've used is LBM.

1 A The logistics branch manager was Anthony Vasquez.
2 Q And do you know how long he had held that position before
3 you got there?
4 A He became a logistics branch manager around December of --
5 oh, boy -- 2016. Hang on a second, Scott. So 2017 -- yes.
6 Yes. Around that time.
7 Q Okay. That's fine. And what are the duties of the
8 logistics branch manager?
9 A The logistics branch manager looks at the local branch
10 operations. Obviously, at the branch level, they look at
11 transportation, staffing, head counts, issues that are
12 occurring that, you know, we should be looking at.
13 For example, any items that -- in the warehouse that
14 should be moved clo- -- basically, efficiencies. And one of
15 the biggest things that they are responsible for is the
16 financials.
17 Q Okay, so when you got there, and you spoke to Mr. Vasquez,
18 did he point out any particular issues to you that you should
19 be looking for?
20 A Yes. Obviously. We talked about the overnight shift.
21 That was the main emphasis, due to the fact that the majority
22 of the work came in the later afternoon for the p.m. shift and
23 we couldn't retain employees. Employees were, you know,
24 leaving because it was too -- they said they didn't want to
25 work, so that was a big concern.

1 Q So to your knowledge, and the best you can recall, on the
2 night shift, were most of those employees temps or regular
3 employees?
4 A The majority of them were temps.
5 Q Okay, and just based on your understanding of temporary
6 employees, generally, can there sometimes be a turnover issue
7 among them?
8 MS. SANCHEZ: Objection. Leading.
9 JUDGE LAWS: It is leading, but it's also, I don't think
10 particularly getting at anything material, so to move it along,
11 I'll allow it.
12 THE WITNESS: I'm sorry, Scott -- the --
13 Q BY MR. WILSON: If they're hired -- based on your
14 experience, not just in Los Angeles, but all the branches, does
15 there tend to be more turnover with temporary employees or
16 regular employees?
17 A Turn -- temp employees.
18 Q Okay, and so that was one of the problems you were having
19 on the night shift --
20 A Correct.
21 Q -- when you first arrived in Los Angeles?
22 A Yes.
23 Q All right. Very good. Okay, so you personally went out
24 and walked the floor --
25 A Uh-huh.

1 Q -- and got feedback from the employees. What sort of
2 issues were the employees bringing to your attention?
3 A You know, the -- when I walked the floor, the first thing
4 I got was the daytime folks. I arrived there at, maybe, 7-ish
5 in the morning.
6 Q Right.
7 A And the first thing he says, you know, we need equipment.
8 I said, okay, what type of equipment, and I always carry a
9 notebook with me and, you know, write things -- small notes
10 down.
11 Q So you reported the type of equipment they were
12 requesting?
13 A Yes. Yeah.
14 Q Did you promise them, in response to those questions, they
15 would get equipment?
16 A I can't promise anything to anybody, because, you know, it
17 takes steps to even get equipment.
18 Q That was a common issue raised by the employees. What
19 else did they say?
20 A They needed equipment. Obviously, some of the employees
21 that -- they even mentioned the quality of the work, due to the
22 fact that we had a lot of new people coming in overnight.
23 There was a lot of errors that were being committed for the
24 morning crew, which they needed to fix. That was another
25 issue. Another issue was -- let's see -- some -- we have

1 rolling racks, it's called. You know, where items -- when you
2 pick a box up, automatically it gets filled in. A lot of them
3 were not happy with that system. They wanted to change it back
4 to a regular rack pick face.
5 Q So did you report those concerns to Mr. Vasquez?
6 A I did. I did. We talked about it. We reviewed and I
7 says, you know, what's going on with the equipment, oh, some
8 of, you know, trucks have been broken for a while. And as far
9 as turnover, we talked about the late night. Yeah.
10 Q Okay. So that's when you were working one on one. Now,
11 about that same time period, September 2017, did you start to
12 interface with the employees along with the consultants?
13 A Yes. Yes.
14 Q So can you explain that process?
15 A Yeah. So we -- obviously, we were talking to employees in
16 small group settings. I'd say eight to ten at a time. Some
17 were more, some were less. We talked about, you know, things
18 that -- you know, what was going on. You know, like, what
19 issues they were having and again, equipment came along. Some
20 of the similar items that I had written down.
21 Q Okay, so between -- let's just say September 4th, the day
22 after Labor Day, and say, September 18th, do you recall how
23 many small group meetings you would've held with the
24 consultants?
25 A Oh, boy, Scott. I want to say -- boy -- and this is -- I

1 mean, I can't give you a --
2 Q Just to the best of your recollection.
3 A I'd say about three meetings a day.
4 Q Three meetings a day? Okay. Now, let's talk about your
5 schedule between September 4th and -- let's say 18, 2017.
6 A Uh-huh.
7 Q Were you there in Los Angeles the whole time, or did you
8 go back to Florida at some point?
9 A I went to Florida in between.
10 Q Okay, so do you recall what days you weren't there?
11 A I arrived the day after Labor Day, and I left that Friday,
12 and then I returned to LA on the 13th, Wednesday, and I left on
13 the 20th.
14 Q Okay, so the day after Labor Day, I assume, was a Tuesday?
15 A Yes.
16 Q Okay, and you stayed there the rest of that week?
17 A Yes.
18 Q So did you go back on a Friday?
19 A Yes.
20 Q Okay, and so normally, and keeping with up to today, when
21 you leave the facility on a Friday, what time do you leave?
22 A I leave -- my flight -- obviously, I have a flight, right?
23 Flight -- my flight is around 10:30.
24 Q Okay, was that the case in September 2017 also?
25 A I don't recall at that time, but I know I left on a

1 Friday.
2 Q Okay, and when you came back, what time of day did you
3 come back?
4 A During that time, I was traveling on Monday morning from
5 Florida, and I would arrive here around noon.
6 Q Okay, what time would you leave Florida?
7 MS. SANCHEZ: I'm just going to object to this line of
8 questioning. I don't understand the relevance of it.
9 MR. RIMBACH: Your Honor, it's clearly relevant. There is
10 a number of issues and allegations about meetings he had with
11 small groups, so we have to establish whether he was there or
12 not.
13 JUDGE LAWS: I agree. Overruled, and there was also quite
14 a bit of testimony regarding his presence at the facility.
15 MR. WILSON: Right.
16 Q BY MR. WILSON: So for the days you were there, that you
17 described in your testimony, did you have small group meetings
18 each of those days; if you recall?
19 A Yes, sir.
20 Q Okay, and were those small group meetings -- each of them
21 in conjunction with one of the consultants?
22 A Yes.
23 Q Okay, did you work with one particular consultant in the
24 small group meetings?
25 A I work with everyone.

1 Q Okay, did you work with Gustavo Flores in the small group
2 meetings?
3 A Yes.
4 Q Okay. Can you recall the names of any of the other
5 consultants you worked with in the small group meetings?
6 A Carlos Flores. Gus and Carlos were the ones that
7 primarily I worked with during the small group meetings.
8 Q Okay, did you work with Eddie Hinkle on the small group
9 meetings?
10 A Less than I did with Gus and Carlos.
11 Q Okay, did you work with David Acosta on the small group
12 meetings?
13 A Not too much.
14 Q Okay.
15 A No.
16 Q It was mostly Gus Flores and Carlos Flores?
17 A Yes.
18 Q And if you know, are they brothers?
19 A I believe so.
20 Q Okay, so did the small group meetings tend, generally, to
21 be the same?
22 A As a subject. Yes.
23 Q Okay, so can you just describe what a normal small group
24 meeting during that time period we're talking about?
25 A Yeah. So basically, one of them was about issues that

1 we -- that employees were having. That was the theme until we
2 go through everybody; if that makes any sense.
3 Q So how many people normally would attend the -- how many
4 employees would attend the small group?
5 A Generally, eight to ten.
6 Q Okay.
7 A Yeah.
8 Q Where were the meetings held?
9 A In conference rooms in the office area; this side here.
10 Q Okay, and were they held during work hours or when the
11 employees were off work?
12 A No. During work hours.
13 Q Okay, and the employees were paid for the time, correct?
14 A Correct.
15 Q Okay. So who would normally lead the meetings?
16 A The consultants.
17 Q Okay, and what was your role at these meetings?
18 A As a support system. Support. If anybody has a question,
19 relating to the operation, I would be there to answer them.
20 Q Okay, so were you given prepared remarks before you went
21 into the meeting?
22 A Yes. Yes.
23 Q Okay.
24 A Again, SPIT.
25 Q Okay, but I meant -- as I understand the meetings, the

1 consultants started them, and then you spoke up.
2 A Uh-huh.
3 Q Okay, so you only spoke after they spoke?
4 A Correct.
5 Q Okay. Now, in some or all of these meetings, there's been
6 testimony that you used the term, I have a green light.
7 A Uh-huh.
8 Q Do you recall that?
9 A Yes, sir.
10 Q And what did you mean by that term?
11 A Okay, so when I was assigned to the LA branch, when I
12 first arrived the day after Labor Day, I got word from upper
13 management, which is owner, vice president, that they would
14 support me in anything that operation needed that we could
15 legally do. For example, I mean, equipment, obviously, you
16 know, we needed to buy some. You know, that was cost-involved.
17 I had the green light to get that done.
18 Q If you could do it legally?
19 A Legally. Correct.
20 Q Okay.
21 A Anything that we could do within the legal means of this
22 whole thing, we wanted to support the employees.
23 Q So in those small group meetings, did you ever
24 specifically promise the employees in those meetings that you
25 would provide them a particular benefit?

1 A No, sir.
2 Q Okay. Did you ever -- and we're talking about the time
3 period, once again, from September 4th until September 18th.
4 Did you ever promise an individual employee that you would
5 provide them a particular benefit?
6 A No, sir.
7 Q Okay. So who was the company president at that time?
8 A The president, at that time, was Mr. -- president was
9 Mr. Kanai. And when I say president, there's the owner and then
10 there's a president.
11 Q Okay, is Mr. Kanai in the United States or in Japan?
12 A At that time, he was United States.
13 Q Okay, what was his title?
14 A He was the president of United States operations.
15 Q Okay, and who was the owner?
16 A The owner is Robert Susaki.
17 Q Okay, and where is he located?
18 A He's based out of Tokyo.
19 Q Okay, so just to make clear, is Mr. Susaki, if you know,
20 is he the ultimate authority in the entire company?
21 A Yes.
22 Q Okay, because he's the owner?
23 A Yes.
24 Q Although the company's being publicly traded now; is it
25 not?

1 A Correct.

2 MS. PEREDA: Objection. Relevance.

3 JUDGE LAWS: Overruled.

4 So we're at quarter of. When you get to -- when you

5 finish up a topic and you don't think you're going to be able

6 to start and finish the next topic within the next 15 minutes,

7 let me know.

8 MR. WILSON: We're there.

9 JUDGE LAWS: We're there? Okay. I --

10 MR. WILSON: Truthfully. I mean -- the cherry on my --

11 I've got a line right there.

12 JUDGE LAWS: Okay. All right, why don't we then break,

13 because I don't want to be in the middle of a topic and have to

14 break for the day. That invites repetition. No more than a

15 trial this long already inherently invites repetition. So

16 let's break for the day and we will reconvene tomorrow.

17 Let's everyone, as best we can, be ready to go on the

18 record at 9 with the subpoenaed witness so that we can get him

19 finished and back.

20 MR. WILSON: So -- just trying to make everyone happy, so

21 we'll have the subpoenaed witness and then we can go back to

22 Mr. Matheu before we bring other company witnesses out of

23 order; is that preferable?

24 JUDGE LAWS: I think that's preferable, just because we

25 started with them. I think that makes the most sense.

1 MR. WILSON: Okay. So I'll plan. I just need to tell the
2 employee.
3 JUDGE LAWS: When to be here.
4 MR. WILSON: Yes. I'll have them here at 9.
5 JUDGE LAWS: I think that makes sense.
6 MR. WILSON: Okay.
7 JUDGE LAWS: All right, thanks, everyone. We'll see you
8 tomorrow at 9.
9 Off the record. Thanks.
10 **(Whereupon, the hearing in the above-entitled matter was**
11 **recessed at 4:45 p.m. until Thursday, October 11, 2018 at 9:00**
12 **a.m.)**
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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Wednesday, October 10, 2018, 9:22 a.m.,
11 was held according to the record, and that this is the
12 original, complete, and true and accurate transcript that has
13 been compared to the reporting or recording, accomplished at
14 the hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
18
19
20
21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

_____

_____

Place: Los Angeles, California

Dates: October 11, 2018

Pages: 812 through 1027

Volume: 7

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of: WISMETTAC ASIAN FOODS, INC., Employer, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union, and ROLANDO LOPEZ, An Individual, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Thursday, October 11, 2018, 9:04 a.m.**

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Frank Matheu	846	882 906 941	947	949 949	903
Ron Minch	951	980 982	989		
Atsushi Fujimoto	992	1009 1025	1025		

1 **EXHIBITS**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 **General Counsel:**		
5 GC-55	886	887
6 GC-56	892	892
7 GC-57	905	(Rejected)
8 GC-58	902	(Rejected)
9 GC-59	901	904
10 GC-60	908	(Not Admitted)
11 GC-61	913	916
12 GC-62	917	(Not Admitted)
13 **Employer:**		
14 E-12	953	978
15 E-13	978	979
16 E-14	995	1004
17 E-15	1001	1008

18

19

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1 **PROCEEDINGS**

2 JUDGE LAWS: All right. We're on the record.

3 Okay. I'm going to swear you in.

4 Whereupon,

5 **MARCUS MACK**

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

7 examined and testified as follows:

8 JUDGE LAWS: Can you please have a seat and when you're

9 seated, state and spell your name for the record.

10 THE WITNESS: Marcus Mack, M-A-R-C-U-S, M-A-C-K.

11 JUDGE LAWS: Thank you, Mr. Mack. Just a couple of simple

12 instructions before the attorneys start asking you questions.

13 The first is, if you're not sure about an answer, you don't

14 really know, just say I don't know, or I'm not sure. Only

15 guess, if you're asked to take a guess. If you don't

16 understand a question, just say I don't understand. Lawyers

17 ask things in ways that nobody else does, so sometimes the

18 questions can be confusing. And just say, I don't understand

19 and it'll be rephrased for you.

20 And then finally, the gentleman to your left is our court

21 reporter. He has to take down everything we say while we're on

22 the record and he can't take down two voices at once. So try,

23 as best you can, to make sure the question you're being asked

24 is completely done, before you start in with your answer.

25 Okay?

1 THE WITNESS: Okay.

2 JUDGE LAWS: Thanks.

3 **DIRECT EXAMINATION**

4 Q BY MR. WILSON: Mr. Mack, where are you currently

5 employed?

6 A Lyft.

7 Q All right. And did you formerly work for Wismettac Asian

8 Foods?

9 A Yes.

10 Q Okay. And do you recall the months that you worked there,

11 approximately?

12 A Maybe nine months.

13 Q Nine months? Okay. So were you working there in December

14 of 2017?

15 A Yes.

16 Q Okay. And were you working there in December of 2018?

17 MR. RIMBACH: That's --

18 MS. SANCHEZ: That's in a few months.

19 JUDGE LAWS: We're not there yet.

20 MR. WILSON: No, no. I'm sorry. Yeah. Okay.

21 Q BY MR. WILSON: Were you working there in January of 2018?

22 A Yes.

23 Q Sorry about that. Excuse me. Yeah. Okay. And in

24 December and January of -- December 2017 and January 2018, what

25 was your position?

1 A The first date it was a picker. The second was a
2 machinist.
3 Q Okay. And what does a picker do?
4 A Picks orders. You get a list of things, items, to
5 locations, and you go and pick them up. It gives you how many.
6 Q Okay. And then what were you doing in January of 2018?
7 A Well, I would go -- I would get a list of things that
8 needed to be replenished, I'd operate a forklift to pick them
9 up from high elevations and store them in the lower elevations
10 for people on foot to grab them.
11 Q Okay. So just to be clear, did your position change
12 between December 2017 and January 2018?
13 A Yes.
14 Q Okay. All right. And so in January of 2018, you were
15 what's referred to as a replenisher?
16 A Yes.
17 Q Okay. Thanks. And what shift did you work at the
18 Company?
19 A Second shift, night shift.
20 Q Okay. Was that in both December 2017 and January 2018?
21 A Yes, sir.
22 Q Okay. And who did you report to?
23 A Gerber and Isidro.
24 Q Okay. Is that Gerber Flores?
25 A Yes, sir.

1 Q And is that Isidro Garcia?
2 A Yes, sir.
3 Q Okay. And do you know a Mr. Christian McCormick?
4 A Yes.
5 Q Okay. Was he also a supervisor during your shift during
6 December 2017 and January 2018?
7 A Yes.
8 Q Okay. Do you know what Mr. McCormick's title was then or
9 his actual job?
10 A I guess a supervisor.
11 Q Okay.
12 MR. WILSON: Can the court reporter show the witness
13 General Counsel Exhibit 12?
14 Q BY MR. WILSON: Okay. Now, in January of -- or excuse me,
15 December 2017 and January 2018, did you know a coworker in your
16 department named Alberto Rodriguez?
17 A Yes.
18 Q Okay. And I want to direct your attention in particular
19 to January 11, 2018, and were you and Mr. Rodriguez, if you
20 recall, on a break during that particular workday?
21 A Yes.
22 Q Were you on a break together?
23 A Yes.
24 Q And where were you taking a break?
25 A Against the wall, about 25 feet from the door in the

1 warehouse.
2 Q Okay. Is there a break room there, or is it an open area?
3 A It's an open area where we are allowed to sit. There's
4 chairs lined up, we just sit our backs against the wall.
5 Q Okay. And was anyone there, along with you and
6 Mr. Rodriguez, when you were taking that break?
7 A No, sir.
8 Q Okay. And was Mr. Rodriguez playing music?
9 A Yes, sir.
10 Q And what was he playing the music on?
11 A I believe, it was his phone.
12 Q Okay. And could you hear the music?
13 A Clearly.
14 Q Okay. And was there anything about that music that you
15 believed to be offensive?
16 A Yes.
17 Q Okay. Can you tell me what you believed to be offensive?
18 A The lyrics of the music was not, in my view,
19 work-appropriate.
20 Q In what way?
21 A As the lyricist was rapping, every other word was the N
22 word, and, you know, can I say it?
23 Q Sure.
24 A The song was mostly about bitches and hos and niggers.
25 Q Okay. And do you know the name of that artist?

1 A I do not, sir.
2 Q Okay. And how long was he playing this music, if you
3 recall?
4 A I do not recall how long he was playing the music.
5 MR. WILSON: Okay. I withdraw that question.
6 Q BY MR. WILSON: How far -- how long into the break did you
7 first hear the music?
8 A I would say probably a couple of minutes.
9 Q Okay. So did you arrive at the same time or was he there
10 first or were you there first?
11 A I believe I was there first.
12 Q Okay. And then he came to the break area?
13 A Yes.
14 Q Okay. And how far away from you was he?
15 A About 15 to 20 feet.
16 Q Could you hear the music clearly?
17 A Yes.
18 Q Okay. And so at some point did you encounter
19 Mr. McCormick during the time that Mr. Rodriguez --
20 MR. RIMBACH: Objection. Leading.
21 JUDGE LAWS: Sustained. Did anyone else encounter, would
22 be a better way to ask it.
23 MR. WILSON: Okay. I mean, I'd rather just cut to the
24 chase, but that's fine.
25 Q BY MR. WILSON: Did you -- after he was playing -- after

1 you were listening to Mr. Rodriguez's music, did you run into
2 any other employee in that area?
3 A Yes.
4 Q And who did you see?
5 A Chris.
6 Q Okay. And did you have a conversation with Chris?
7 MR. RIMBACH: Objection. Leading.
8 JUDGE LAWS: Overruled.
9 Q BY MR. WILSON: And what did you say to Chris?
10 A I asked Chris, "Is this work-appropriate music?"
11 Q Okay. And to your knowledge, could Chris hear the music?
12 A Yes.
13 Q And where was Chris in relation to Mr. Rodriguez?
14 A Rodriguez, Mr. Rodriguez is 15 to 20 feet of my left. And
15 Chris is coming out of the office about 20, maybe 15 feet from
16 me, to my right.
17 Q Okay. And by Chris, would you mean Christina McCormick?
18 A Christian McCormick, yes.
19 Q And did Mr. McCormick say anything to response to your
20 statement that the music was inappropriate?
21 A His immediate response, he walked right to that gentleman
22 and asked him to turn it off.
23 Q And by gentleman, do you mean Alberto Rodriguez?
24 A Yes.
25 Q Okay. And did Mr. Rodriguez respond to Mr. McCormick's

1 request to turn off the music?
2 A Yes, he did? He --
3 Q And what did he say?
4 A "I'm on my break. I can play whatever I want."
5 Q Okay. And did Chris respond to that?
6 A Yes. "Please turn it off."
7 Q Okay. So what happened after Chris, the second time, told
8 him to turn it off?
9 A Chris walked past myself and towards the restroom area,
10 which would be to my right, and the gentleman proceeded to turn
11 the music back on, and at that point, every other, "Fuck that
12 nigger," he would turn it up louder and then turn it down with
13 the lyrics. And every time that hook or that statement would
14 come up, he would turn it up.
15 Q Okay. Now, once again, you're referring to that
16 gentleman, do you mean Alberto Rodriguez?
17 A Alberto Rodriguez, yes, sir.
18 Q And so how long did you remain there with him on the
19 break?
20 A I would say probably another 30 to -- 30 seconds to one
21 minute. And then my response to him was, come on man, and got
22 up and walked towards where Chris would be, where I expected
23 him to be.
24 Q Was Chris there?
25 A Chris was not there, he was in the office. And I

1 encountered Chris there and I told him what happened.
2 Q Okay. And what was his response?
3 A He took me to another room and he said, please write down
4 your statement.
5 Q Okay. Now, when you walked out of the break room or the
6 break area to go talk to Chris, can you repeat what you said to
7 Mr. Rodriguez?
8 A Before I left?
9 Q Yes.
10 A "Come on, man."
11 Q Okay. Did you say anything else to him, other than that?
12 A No.
13 Q Did you threaten him in any way?
14 A No.
15 Q Okay. So those were the only words you spoke to him?
16 A Correct.
17 Q Did he say anything in response?
18 A No.
19 Q Okay. Was the music still playing when you left the break
20 room, the break area?
21 A It was still, you know, with that -- every time that hook
22 would come up, he would just turn it up.
23 Q Okay. Now, did you consider the music to be offensive?
24 A Yes.
25 Q Okay. And why did you consider it to be offensive?

1 A Well, I don't approach anyone like that. And I consider
2 it, you know, I know it's your personal music, but it's -- this
3 is a workplace, you can't be racist at your -- you know, this
4 is -- that's foul.
5 MR. WILSON: Okay. And can the record reflect that
6 Mr. Mack is an African-American gentleman?
7 JUDGE LAWS: So reflected.
8 MR. WILSON: Okay.
9 Q BY MR. WILSON: So you went to talk to Chris and what
10 happened?
11 A Chris -- I wrote down my statement and I went back to
12 work.
13 Q Okay. Now, can you look at, in front of you, we've got
14 General Counsel Exhibit 12, page 1. Is that the statement that
15 you wrote out?
16 A Yes.
17 Q Now, were you, at a later date, contacted by management in
18 your department to discuss alleged threats you had made against
19 Mr. Rodriguez?
20 A Yes.
21 Q Okay. And do you recall how long after you made that
22 statement that -- we've -- it's been admitted as General
23 Counsel Exhibit 12, page 1, how long after you made that
24 statement were you contacted regarding the alleged threats?
25 A I -- maybe a couple months, maybe. I'm not sure.

1 Q Okay. And did -- so you're not sure of the date?
2 A I'm not sure of the date, no.
3 Q Okay. So it could have been less than a couple?
4 A Yeah, it could have been a month, it could have been three
5 weeks. I'm not sure.
6 Q Okay. And who contacted you to discuss these alleged
7 threats?
8 A Chris, Christopher (sic).
9 Q Was anyone else present?
10 A Yes, Vasquez.
11 Q Okay. And where did you have this meeting?
12 A It's a room where they sell dishes. It's a big, like
13 conference room.
14 Q And who spoke at the meeting first?
15 A Chris.
16 Q Okay. What did he say to you?
17 A He asked me, you know, have I -- did I threaten him, did I
18 push him.
19 Q And by him, you're referring to Mr. Rodriguez?
20 A Yes.
21 Q Okay. Did they ask you if you bumped your shoulders with
22 him?
23 A Yes. That's what I meant by push. And I --
24 Q So how did you respond to these questions?
25 A Well, I didn't. I haven't had any kind of contact with

1 him.
2 Q So you denied the allegations that you threatened and
3 pushed him?
4 MR. RIMBACH: Objection. Leading.
5 JUDGE LAWS: Well, he's just summing up his -- the
6 testimony he just gave. So it's --
7 Go ahead.
8 THE WITNESS: That's correct.
9 Q BY MR. WILSON: And how long did the meeting last?
10 A About 30 minutes.
11 Q Okay. And it was just Mr. Vasquez and Mr. McCormick?
12 A Correct.
13 Q Okay. Now, I want to direct your attention back to
14 December 2017. Do you recall attending a meeting in the
15 warehouse dealing with respect in the workplace?
16 A Yes.
17 Q Okay. And who spoke at that meeting initially from
18 management?
19 A Christopher (sic).
20 Q Okay. And do you recall, was the whole department in
21 attendance, if you recall?
22 A Yes.
23 Q Okay. About how many employees, if you recall?
24 A If I had to guess, I would say maybe 30.
25 Q Okay. And when Chris opened the meeting, did he explain

1 the purpose of the meeting?
2 A Yes.
3 Q And what did he say the purpose was?
4 A How do you treat fellow employees and being disrespectful,
5 being courteous.
6 Q Okay. Did he indicate that there had been an incident
7 regarding disrespectful behavior prior to the December meeting?
8 MR. RIMBACH: Objection. Leading.
9 JUDGE LAWS: Sustained. We're -- we -- you're being a
10 little too leading in your questioning.
11 MR. WILSON: All right. I'm sorry. All right. I
12 apologize.
13 JUDGE LAWS: Yes.
14 MR. WILSON: So --
15 JUDGE LAWS: Did he indicate if anything prompted the
16 meeting, would be --
17 Q BY MR. WILSON: Did Mr. McCormick indicate why he called
18 the meeting?
19 A Yes.
20 Q And what reason did he give for that?
21 A An employee reported being -- being bullied, made fun of,
22 those type allegations.
23 Q Okay. Did Mr. McCormick mention the name of that
24 employee?
25 A He did.

1 Q Do you recall the name of the employee?
2 A I -- I do not. I do not.
3 Q Okay. And to your recollection was Mr. Rodriguez at this
4 meeting?
5 A Yes, he was.
6 Q Okay. Is there some reason you recall him being there?
7 A Yes.
8 Q Okay. And what was that reason?
9 A He was actually making fun of the guy that we were just
10 talking about.
11 Q Who was making fun of the guy you were just talking about?
12 A Mr. Rodriguez.
13 Q Okay. Did you hear him make fun of the person?
14 A Yes.
15 Q Do you recall what he said?
16 A Yeah. The guy was just being a baby. He just needed to
17 do his work. He was just slow.
18 Q Did Mr. Rodriguez state this openly in the meeting?
19 A Yes.
20 Q And you heard those words?
21 A Yes.
22 Q Okay. Now, after the music incident with you and
23 Mr. Rodriguez --
24 MR. WILSON: Strike that.
25 Q BY MR. WILSON: To your knowledge, does Mr. Rodriguez's

1 father work at -- in -- in January 2011 (sic), was
2 Mr. Rodriguez's father employed at Wismettac?
3 JUDGE LAWS: 2018, you mean?
4 MR. WILSON: 2018.
5 THE WITNESS: Yes.
6 Q BY MR. WILSON: And do you know what his name is?
7 A I do. It slips my mind.
8 Q Is --
9 A I'm sorry, sir.
10 Q You can't remember his name but you do know it was his
11 father?
12 A Yes.
13 Q Okay. And why did you go -- approach Mr. Rodriguez's
14 father?
15 MS. SANCHEZ: Objection. I think that misstates his
16 testimony.
17 JUDGE LAWS: Yeah, that question hasn't been asked yet.
18 Whether he did approach him or not.
19 MR. WILSON: Okay.
20 Q BY MR. WILSON: Did you approach Mr. Rodriguez's father?
21 A Yes.
22 Q And why did you approach him?
23 MR. RIMBACH: Objection. Lack of foundation as to time.
24 JUDGE LAWS: When? Where?
25 MR. RIMBACH: Where? When?

1 MR. WILSON: Well, that's where I was going to get to.
2 JUDGE LAWS: Okay. If you're going there, go ahead.
3 MR. WILSON: That's what -- yeah.
4 JUDGE LAWS: Okay.
5 Q BY MR. WILSON: Okay. When did you -- do you recall when
6 you went to him?
7 A I would say a couple of days after the incident.
8 Q With the music?
9 A With the music.
10 Q Okay. And where did you approach him?
11 A Right outside the freezer area in the warehouse.
12 Q Okay. And do you recall what time of day it was?
13 A It was roughly midnight.
14 Q Okay. And were just -- and when you approached him, was
15 it just the two of you?
16 A It was just the two of us. What I asked was, you know,
17 you know, how can we do this a little better and I explained
18 the situation that happened with the music, and he basically
19 said, you know, there's a lot of tension, he's going through a
20 lot of things right now, with his mom and myself. You know,
21 that's kind of where the pathway went.
22 Q So why did you approach his father?
23 MR. RIMBACH: Objection as to relevance.
24 JUDGE LAWS: Overruled.
25 THE WITNESS: I have a 25-year-old son. And a lot of

1 times, those young adults are going through a lot of stuff. So
2 I wanted to not -- I told Chris, but there's other things that
3 maybe his dad can help him with. You know, hey, he is
4 representing his father, you guys work at the same company.
5 You know, maybe there's -- you know, maybe he can talk to him.
6 Like, hey, you know what, this is kind of not the way to go.
7 You know?
8 Q BY MR. WILSON: And how long did that conversation last?
9 A I would say probably about 40 minutes.
10 Q Forty minutes? Okay. Do you recall anything else that
11 was said in the conversation?
12 A Yeah, he just said he had a lot of issues going on, you
13 know, with -- between him and his son, the mom, that's why he
14 believes his son is acting out and --
15 Q Okay. Okay. Now you recall that there was an election
16 conducted by the National Labor Relations Board on
17 approximately February 6, 2018?
18 A Yes.
19 Q Okay. Were you an observer at the election?
20 A Yes.
21 Q Okay. And can you explain what your duties were as an
22 observer?
23 A To make sure that the people that worked there were the
24 ones who voted.
25 Q Okay. And so can you explain what you did? I mean, how

1 that took place?
2 A There's a sheet, as individuals walk in, we check off
3 their name, make sure they don't vote twice, make sure their
4 name is there, make sure it's valid that they vote.
5 Q Okay. And were you at a -- did the voting take place in a
6 separate room?
7 A You walk into the warehouse and it's a closed door
8 setting, yes.
9 Q Okay. And there's a voting booth in the room, correct?
10 A Yes. Several.
11 Q And who else was in the room with you?
12 A Mr. Rodriguez.
13 Q Okay. Was there anyone from the government there?
14 A I believe so.
15 Q Okay. Were they conducting the election?
16 A Yes.
17 Q Okay. So were you given any instructions of what
18 materials you could bring into the voting room?
19 A Just a magazine.
20 Q And who told you, you could bring a magazine?
21 A Everybody. Everybody said you can just bring a magazine,
22 that's all. I had never been an observer, I didn't know the
23 rules or anything, so I just bring in reading material. That's
24 basically what I was doing.
25 Q Do you recall the type of magazine you brought in?

1 A Yes.
2 Q What was that?
3 A It's a -- it's a -- it's a Gun and Safety.
4 Q Okay. And did you show that to the Board agent conducting
5 the election?
6 A Yes.
7 Q Why did you show it to them?
8 A Well, because, again, I've never done this before. Want
9 to make sure all parties are okay. It's just reading material.
10 I also showed it to my supervisor at the time. So everybody
11 said, yes, it's no problem. So okay.
12 Q Okay. Now during the course of the voting did you say
13 anything to Mr. Rodriguez about guns?
14 A Not guns, particularly. We -- the only thing that we
15 actually talked about that came out of the magazine was stocks,
16 butt stocks, the type of wood or the shortness and those types
17 of things.
18 Q And you discussed that with Mr. Rodriguez?
19 A Yes. It was the topic that I was reading about at the
20 time.
21 Q Okay. Did you threaten him in any way at that meeting?
22 A No.
23 Q Okay. Did you tell him -- did you threaten him with guns
24 in any way at that meeting?
25 A No.

1 Q Did you mention that you wanted to shoot people at that
2 meeting?
3 A No.
4 Q Okay. Did the Board agents allow the two of you to have a
5 conversation?
6 A Yes. Only when nobody was in the room to vote.
7 Q Okay. Now, can you turn to page 2 of Exhibit 12? So in
8 late January, do you recall having a conversation with
9 Mr. McCormick about threats you had heard in the workplace?
10 A Yes.
11 Q Okay. And can you tell me what you told Mr. McCormick?
12 A Basically, it was a little gathering in the freezer, and
13 basically, it was, you know, we, basically, got a heads up that
14 if we vote no on -- on the election, there's going to be hell
15 to pay.
16 Q Okay. So did you hear the conversation in the freezer or
17 was it reported to you?
18 A It was actually going on as I was coming down from the top
19 ranks, the top level, pulling pallets down. And they were
20 already having a conversation and it was such a gathering is
21 why I came down, because they were in the way. So when I
22 overheard the conversation, I asked more questions.
23 Q Okay. So who was speaking in this conversation?
24 A Mr. McCormick? No. Yes.
25 Q Was Mr. Rodriguez speaking?

1 A Mr. Rodriguez was not in the freezer. There was another
2 gentleman who overheard Mr. Rodriguez and another gentleman
3 speaking at the door about that.
4 Q Okay. Did you know the person who overheard
5 Mr. Rodriguez? Do you know his name?
6 A I don't remember his name.
7 Q So what did the gentleman who overheard Mr. Rodriguez tell
8 you that Mr. Rodriguez said?
9 MR. RIMBACH: Objection. Hearsay.
10 MS. SANCHEZ: Objection. Hearsay.
11 MR. WILSON: It's not coming in for the truth --
12 JUDGE LAWS: Hearsay. I understand and I'll apply the
13 same hearsay ruling I've applied throughout. How do you know
14 somebody overheard Mr. Rodriguez? That's what I want to know
15 before this line of questioning continues?
16 THE WITNESS: How do I know?
17 JUDGE LAWS: How do you know this person who you can't
18 identify overheard Mr. Rodriguez.
19 THE WITNESS: Well, when he brought it to our attention,
20 was they followed him the car.
21 JUDGE LAWS: Who are they?
22 THE WITNESS: Mr. Rodriguez and another driver.
23 JUDGE LAWS: Followed this person whose name you can't
24 remember?
25 THE WITNESS: Yes.

1 JUDGE LAWS: Okay. Let's call him Employee X.
2 THE WITNESS: Okay. I'm sorry. I'm bad with names.
3 JUDGE LAWS: No, no, it's fine. I just -- we're getting
4 what's called foundation, so --
5 THE WITNESS: Okay.
6 JUDGE LAWS: -- continue on.
7 THE WITNESS: So basically he felt threatened when he
8 overheard this conversation.
9 JUDGE LAWS: How do you know this?
10 THE WITNESS: That's what he -- what he said.
11 JUDGE LAWS: To?
12 THE WITNESS: To us.
13 JUDGE LAWS: And who are us?
14 THE WITNESS: The guys in the freezer.
15 JUDGE LAWS: Who are?
16 THE WITNESS: All the employees in the freeze, which is
17 about six of us, seven of us.
18 JUDGE LAWS: Do you remember who else besides you?
19 THE WITNESS: It would be Paul -- good golly. I've got so
20 many names in my head here.
21 JUDGE LAWS: It's okay if you can't remember the names.
22 Don't sweat it. Just say you can't remember.
23 THE WITNESS: Yeah. So basically how it was put to us,
24 is, you know what, if we don't -- if we vote note, which we was
25 going to vote now anyway, like there was going to be hell to

1 pay. Like there's going to be some kind of altercation.
2 JUDGE LAWS: Who said that?
3 THE WITNESS: Gentleman X.
4 JUDGE LAWS: Okay. Thank you.
5 You can go ahead.
6 Q BY MR. WILSON: So when Gentleman X told you that, that
7 there was going to be an altercation, was he referring to what
8 he heard Alberto Rodriguez say?
9 A Yes. He said he felt threatened because they followed him
10 all the way to his car.
11 Q Okay. Did he indicate there was any damage done to his
12 car?
13 A No.
14 MS. SANCHEZ: Objection. Leading.
15 JUDGE LAWS: Overruled.
16 Q BY MR. WILSON: Okay. So after you heard this statement
17 from Employee X, did you report that to Chris McCormick?
18 A Yes, I did.
19 Q Okay. And as a result of that did you write out the
20 statement that's --
21 A Yes.
22 Q -- General Counsel's 12, page 2?
23 A Yes, I did.
24 Q And that's the statement in front of you, correct?
25 A That is correct.

1 MR. WILSON: Okay. I have no further questions.
2 JUDGE LAWS: All right. I assume that counsel's going to
3 ask if there's a statement?
4 MS. SANCHEZ: If there is, I'd like to review it in
5 detail, Your Honor.
6 JUDGE LAWS: All right. Let's go off the record and we
7 can figure out how much time is needed.
8 Off the record.
9 (Off the record at 9:33 a.m.)
10 JUDGE LAWS: General Counsel can proceed with any cross.
11 **CROSS-EXAMINATION**
12 Q BY MR. RIMBACH: Good morning, Mr. Mack.
13 A Good morning.
14 Q My name is Thomas Rimbach. I'm an attorney, one of the
15 attorneys, representing the General Counsel of the National
16 Labor Relations Board. Thank you for coming here for your
17 testimony this morning. You first started working for
18 Wismettac on September 14, 2017; is that right?
19 A Uh, yes.
20 Q When you started working for Wismettac you referred by
21 Randstad as a temporary employee; is that correct?
22 A That's right.
23 Q When you were a temporary employee through Randstad you
24 testified you worked the night shift?
25 A Yes.

1 Q And this was the same shift that Alberto Rodriguez worked,
2 correct?
3 A Yes.
4 Q And you testified that when you started working at
5 Wismettac that was in the freezer department?
6 A No. I said picker.
7 Q Picker?
8 A Yes, that was in the dry -- the dry department.
9 Q The dry department? And do you know what department
10 Alberto Rodriguez worked in? Was it the same department or a
11 different department?
12 A I think the same, but when I started Mr. Rodriguez wasn't
13 there.
14 Q On November 23, 2017, so about two months later, you
15 started working for Wismettac through a different staffing
16 agency called Spectrum, correct?
17 A Yes.
18 Q So when the contract between Wismettac and Randstad ended,
19 you continued your employment; is that right?
20 MR. WILSON: Objection. Beyond the scope of direct.
21 MR. RIMBACH: It goes to his background.
22 JUDGE LAWS: Yeah, because he was asked about his
23 employment. I'll allow it. I don't need a lot of detail on
24 it. But --
25 Q BY MR. RIMBACH: So around November 23, 2017, you started

1 working for Wismettac through Spectrum, the temporary staffing
2 agency, correct?
3 A Yes.
4 Q And your employment never ended when the contract between
5 Randstad and Wismettac ended; is that right?
6 A Well, no. I just came in the very next day and then I
7 went to work. I filled out -- I already had an application
8 with Spectrum.
9 Q So there was no break in your employment?
10 A No.
11 Q Between when you worked and the time you worked for
12 Spectrum?
13 A Correct.
14 Q And around February 26, 2018, you started working directly
15 for Wismettac as a permanent employee, correct?
16 A Yes.
17 Q You testified that you served as an observer at the Union
18 election that was on February 6, 2018; is that right?
19 A Yes.
20 Q You served as the observer on behalf of the Company,
21 correct?
22 A Yes.
23 Q Other than telling -- I'm going to switch topics for a
24 minute. You testified about an incident with Alberto Rodriguez
25 with him playing music. Other than telling Chris McCormick

1 about the incident, you never told any other supervisor or
2 manager about the incident, correct?
3 A Correct.
4 Q You did not speak to human resources about that incident,
5 correct?
6 A Not at the time, no.
7 Q Could I please ask you to look at GC Exhibit 12 in front
8 of you, page 2? That's -- I think it's the next page actually.
9 It's dated February 1, 2018 at the bottom?
10 A Okay.
11 Q You wrote this on February 1, 2018, correct?
12 A And this is in reference to an incident that's dated
13 January 31, 2018 at the top, correct?
14 A Yes.
15 Q And this incident, when you referred to, when you wrote
16 two employees, that's referring to Alberto Rodriguez and
17 Benjamin Feely, correct?
18 A I didn't know the other person's name.
19 Q But that's Eric McLoughlin, correct?
20 A Correct.
21 Q So that's the person that you did not recall earlier?
22 A Correct.
23 Q But you, yourself, never heard the conversation that this
24 statement is referring to, correct?
25 A Correct.

1 Q You don't know when that conversation took place, correct?
2 A No. I only know what Eric said.
3 Q Who asked you to write this witness statement?
4 A Nobody.
5 Q No one asked you to write this?
6 A No.
7 Q Where were you when you wrote it?
8 A I brought it to the supervisor's attention and he put me
9 in a cubicle by myself and I wrote it. Any time that -- that
10 there could possibly be any kind of violence whatsoever,
11 supervisory leadership team needs to know if it's even a
12 possibility.
13 MR. RIMBACH: Move to strike as unresponsive.
14 Q BY MR. RIMBACH: And who did you give the statement to?
15 A Chris.
16 Q Could you please look at page 5 of that document in front
17 of you? Could you please take a minute and review this
18 document?
19 JUDGE LAWS: Just the -- go ahead.
20 Q BY MR. RIMBACH: So Chris McCormick wrote this statement,
21 correct?
22 A Yes.
23 JUDGE LAWS: How do you know that?
24 MR. RIMBACH: I'm sorry, is that a yes?
25 THE WITNESS: Well, it has it right here. Yes. You said

1 Chris McCormick wrote this.
2 Q BY MR. RIMBACH: Typed this, correct?
3 A Typed this, yes.
4 Q He was the only supervisor you met to talk about your
5 statement that was dated February 1, 2018, correct?
6 A Yes.
7 Q And this first paragraph that starts with, "Marcus works
8 in the freezer," is that an accurate account of your
9 conversation with -- is that an accurate account of what you
10 told Chris McCormick?
11 A Yes.
12 Q How -- how tall are you?
13 A I'm 6'1."
14 Q And how much do you weigh?
15 A 240 pounds.
16 MR. RIMBACH: No further questions, Your Honor.
17 JUDGE LAWS: All right. Any cross from the Union?
18 MS. SANCHEZ: Your Honor, may we have a moment to confer?
19 JUDGE LAWS: Sure. If you need to speak out loud that's
20 fine. I thought I would just stay in the room. Thanks.
21 MS. SANCHEZ: Thank you, Your Honor, we're ready.
22 JUDGE LAWS: Okay. Go ahead.
23 **CROSS-EXAMINATION**
24 Q BY MS. SANCHEZ: Good morning. My name is Renee Sanchez,
25 I'm counsel for the Union. I'm going to ask you just a couple

1 of clarifying questions.

2 A Okay.

3 Q You testified earlier about a December 2017 meeting about

4 being respectful and you said the whole department was there.

5 I just wanted to clarify that that was the warehouse department

6 you were referring to?

7 A Yes.

8 Q Okay. Thank you.

9 MS. SANCHEZ: No further questions, Your Honor.

10 JUDGE LAWS: All right. Any redirect?

11 MR. WILSON: Yes, Your Honor.

12 **REDIRECT EXAMINATION**

13 Q BY MR. WILSON: Mr. Mack, will you turn to page 3 of

14 General Counsel Exhibit 12? And can you read that statement?

15 A Oh, right now? Do I need to do it?

16 Q No, not out loud.

17 JUDGE LAWS: Not out loud.

18 Q BY MR. WILSON: No, read it to yourself.

19 A Oh, I was like -- yeah.

20 Q Okay. Now, this appears to be a statement from Eric

21 McLoughlin, correct?

22 A Yes.

23 Q Okay. And Eric McLoughlin, I think we've not established,

24 is the person you referred to as Employee X, correct?

25 A Yes.

1 Q Okay. So does page 3 of General Counsel 12 accurately
2 summarize what Mr. McLoughlin told you about the incident
3 involving Albert Rodriguez?
4 A Yes.
5 MR. WILSON: Okay. I have no further questions.
6 JUDGE LAWS: Any recross from General Counsel?
7 MR. RIMBACH: No, Your Honor.
8 JUDGE LAWS: Any recross from the Union?
9 MS. SANCHEZ: No, Your Honor.
10 JUDGE LAWS: All right. Well, thank you for providing
11 your testimony. Please don't discuss your testimony with any
12 witnesses to this proceeding or any potential witnesses.
13 Okay. Off the record.
14 (Off the record at 9:52 a.m.)
15 JUDGE LAWS: Okay. Let's go back on the record.
16 I just want to remind you before your testimony starts
17 again that the oath I administered yesterday applies throughout
18 your testimony.
19 Whereupon,
20 **FRANK MATHEU**
21 having been previously sworn, was called as a witness herein
22 and was examined and testified as follows:
23 **DIRECT EXAMINATION (CONTINUED)**
24 Q BY MR. WILSON: Okay. Mr. Matheu, thank you for coming
25 back today. So when we left off yesterday, we were talking

1 about small group meetings. So what I want to ask you about
2 today is, so is it your recollection that there was an NLRB
3 election that was conducted on approximately September 19,
4 2017?
5 A Yes.
6 Q Okay. And prior to that election, was there a meeting of
7 employees where speeches were given by management
8 representatives?
9 A Yes.
10 Q Okay. And so let's -- we'll get into the specifics of
11 that. Do you recall a particular day when these speeches were
12 delivered?
13 Q Yes. They were conducted Friday and Monday before the
14 election.
15 Q Okay. And how were the -- can you tell me, logistically,
16 how this was set up? How it --
17 A Sure. So basically -- I'm sorry.
18 Q No, it's fine. In other words, how were the employees
19 informed, I mean, where did they go? How -- you know, what was
20 the plan in terms of delivering the speeches?
21 A So basically, sorry -- so basically, we were planning on
22 having these speeches for the employees prior to the election.
23 So what we did is we planned on Friday to have two meetings
24 Friday evening. One would be facilitated for the p.m. crew and
25 some of the late a.m. crew. And then the other one was for --

1 strictly for p.m. And then Monday morning it was for the
2 drivers and then the very early a.m. shift.
3 Q Now, you mentioned yesterday that you knew Mr. Susaki, who
4 is the owner of the Company, is that your recollection of your
5 testimony?
6 A Yeah, I met him. I don't know him, but yeah, I met him.
7 Q All right. Did he deliver a speech during the dates that
8 you just discussed?
9 A Yes, sir.
10 Q Okay. How many speeches -- how many different days did he
11 speak?
12 A Two.
13 Q Okay. What days were those?
14 A Friday and Monday.
15 Q And who were the speeches given to?
16 A The employees.
17 Q Okay. On -- the employees you just discussed on the two
18 days we just looked at?
19 A Correct.
20 Q Okay. Do you recall the content of his speech?
21 A On his part?
22 Q Yeah.
23 A You know, I don't know the exact word for word, but I know
24 he mentioned how the Company started back in the day, the
25 struggles that they went through getting started. He did

1 mention that, you know, as a company we've got to get better at
2 things. You know, like, we failed in the past. He also
3 mentioned that no company is perfect, but you know, we will
4 always try to accommodate our employees.
5 Yeah that's about it. Yeah, I don't know much about it.
6 Q Now, did you, yourself, give a speech?
7 A Yes, I did.
8 Q And what days or day did you give your speech on.
9 A My speech was on Friday and Monday as well.
10 Q So on Friday, how many different meetings were there to
11 give the speeches?
12 A Two on Friday, and one on Monday, Monday morning.
13 Q Okay.
14 A Monday morning was the early one, 5:30 in the morning.
15 Q Okay. Which group of employees attended the Friday one?
16 A The Friday one? It was --
17 JUDGE LAWS: There were two on Friday, so let's break it
18 down.
19 Q BY MR. WILSON: I meant the first one.
20 A The later a.m. and the early p.m., the other one was late
21 p.m.
22 Q Okay. So let me make myself clear. Were there both
23 warehouse employees and drivers there?
24 A On the Friday meeting it was strictly warehouse.
25 Q Okay. Friday, the first meeting or Friday, the second

1 meeting?
2 A Both.
3 Q Okay. And then when did the drivers attend the meeting?
4 A Monday morning.
5 Q Okay.
6 A And obviously, there was a lot of scattering of warehouse
7 supplies on the Monday meeting.
8 Q So did you give the same speech on all three occasions?
9 A Correct.
10 Q Okay. Did you have a written script to speak from?
11 A I was told to say something, on behalf to the employees.
12 I prepared, basically, it was a 24 hours thing. I scratched
13 some things in my head. My values, and what I want to bring to
14 the Company. My intentions to improve.
15 Q Okay. We'll get to that. So I'm sorry, I didn't meant to
16 interrupt.
17 So did you retain any notes or scripts from that speech?
18 A I always write things down. I have this notebook. I
19 don't know where it's at now, but yeah, I wrote some specifics
20 that I wanted to say.
21 Q Did you lose the notebook?
22 MS. SANCHEZ: Objection, leading.
23 JUDGE LAWS: No, he had just said he doesn't know where
24 the notebook is. In his testimony, the question proceeding.
25 MS. SANCHEZ: Yeah.

1 JUDGE LAWS: So it's just a follow-up, closing it up.
2 Q BY MR. WILSON: Do you recall when you could no longer
3 locate the notebook?
4 A You know what? There was -- there were two instances, I
5 travel quite a bit, I lost my set of notebook and my notes
6 twice. I think the first one I lost it in Dallas and the
7 second one in Houston. I can't recollect where it's at.
8 Q But you lost the notebooks prior to your testimony here
9 today?
10 A I just find them.
11 Q So when I asked you about the speech, you're testifying
12 from memory, correct?
13 A Yes.
14 Q Okay. So from the best of your recollection, can you
15 summarize what you said in those speeches?
16 A Sure. Basically, I started my conversation with the
17 employees stating my values at home. I come from a strong
18 military background and family. We value ourselves with
19 respect, truthful, as in efforts to what we say. I started --
20 that's my start. I also told them that, you know, coming from
21 3,000 miles away I wasn't going to come here and just waste
22 their time not doing anything. I was involved in the
23 operations, listen to them, fix the things that we could
24 legally do right away to make it better for them.
25 Q And that's all you recall saying?

1 A Yes, and I also spent some with the owner there, to give
2 them a sense that I've got his support to make any changes that
3 we could legally do.
4 Q All right. And that's all you recall doing?
5 A Yes.
6 Q Did anyone else speak at these meetings that you recall,
7 besides yourself and Robert?
8 A Yes.
9 Q Who else spoke?
10 A Mr. Narimoto introduced the owner briefly, just 15-second
11 introduction.
12 Q And Mr. Narimoto, we're also referring to as Yoshie?
13 A Yoshie, correct.
14 Q Now you talked about the labor consultants yesterday. Did
15 any of these labor consultants speak at the -- at these
16 meetings?
17 A No.
18 Q And what I mean by speak, I mean addressing the audience?
19 A No.
20 Q Okay. All right.
21 So move on to another topic here. Do you know an employee
22 named Mr. Ruben Nunez?
23 A Yes.
24 Q And what is his current position?
25 A His current position today, he's an assembler on the

1 morning shift.
2 Q Okay. And previously did he serve in a lead position?
3 A Yes.
4 Q Okay. And do you recall the months he was a lead?
5 A Oh, I cannot recall the exact months, no. He was already
6 present, no, I do not recall exactly.
7 Q Do you recall approximately when he was no longer a lead?
8 A I think it was something in December when he was not a
9 lead anymore. I know you told me not to guess, but I --
10 Q No, no. And why was it that Mr. Munoz was no longer a
11 lead in November of 2017?
12 A There was obviously statements, and interviews, and
13 allegations of him overusing his power. There were mentions of
14 him, after becoming a lead, becoming more aggressive towards
15 his direction. Humiliating some of the lower employees.
16 Q Okay. So let's back up here. So is it your testimony
17 then in November of 2017 he was demoted?
18 A Yes.
19 Q To his current position?
20 A Yes.
21 Q You mentioned complaints. Can you tell me, to the best of
22 your recollection, which employees complained about Mr. Munoz?
23 A Walt Vargas, Oscar Ortiz, Jose Rosas.
24 Q Okay. And so let's just take them one at a time. Do you
25 recall what Mr. Vargas said about Mr. Munoz?

1 MS. SANCHEZ: Objection as to foundation.
2 JUDGE LAWS: I assume you're going to get the where, when,
3 how?
4 MR. WILSON: Yes, I am.
5 JUDGE LAWS: Okay.
6 THE WITNESS: Yes, he mentioned that he was highly
7 intimidated by Mr. Rueben's presence. He was harassed by
8 Mr. Munoz consistently. He was afraid to be around him or ask
9 him any questions.
10 Q BY MR. WILSON: Okay. So did you interview Mr. Vargas,
11 personally, yourself?
12 A Yes, sir, I did.
13 Q Okay. And where did these interviews take place?
14 A They were offsite.
15 Q Do you recall approximately what months you conducted
16 these interviews? Approximately?
17 A October. I don't know the exact month.
18 Q It was prior to Mr. Munoz demotion though, correct?
19 A Correct.
20 Q Can you recall anything else that he said about Mr. Munoz?
21 A He said he was very aggressive with this driving or with
22 his vehicle. He would tap or crash into folks, kind of like
23 intimidation kind of thing.
24 Q Okay. And how many interviews did you have with
25 Mr. Vargas, if you recall?

1 A One.
2 Q Okay. And where did that take place?
3 A That took place in Mr. Jose Rosas' house.
4 Q And why did it, if you know, why did it take place in
5 Mr. Jose Rosas' house?
6 A Mr. Vargas consistently mentioned that any time he would
7 have a meeting with myself, a supervisor, a member of
8 management, he would be harassed going back to the warehouse.
9 Q Who did he say harassed him?
10 A Mr. Munoz was part of that and he said other members; I
11 don't know who, but he mentioned others.
12 Q And what did he say specifically that Mr. Munoz did
13 regarding harassing him?
14 A He would ask him, hey, what were you talking about? Why
15 were you talking to Frank. You know, you know, you should be
16 out here and why are you over there? Were you talking about
17 things you weren't supposed to be talking about? So basically,
18 highly questioning him.
19 Q Do you recall anything else that Mr. Vargas said regarding
20 the conduct of Mr. Munoz?
21 Q Yes, he mentioned that whenever himself or others would
22 build pallets, what happens as you build grocery pallets, you
23 do it in -- depending on the workloads from lines created for
24 that grocery, you build the pallet. Once it is at a certain
25 height, you wrap it and put it to the side. He mentioned that

1 Mr. Munoz would come here and he's not satisfied with the way
2 it looks, he would crash it down to the floor aggressively,
3 and humiliate whoever was building that pallet, including
4 himself.
5 JUDGE LAWS: I'm going to jump in here. Was anybody else
6 present during the conversation you had with Mr. Vargas at
7 Mr. Rosas' house?
8 THE WITNESS: Yes, ma'am.
9 JUDGE LAWS: Who else?
10 THE WITNESS: Gustavo Flores and Carlos Flores.
11 JUDGE LAWS: Was Mr. Rosas there?
12 THE WITNESS: Yes, ma'am. I'm sorry.
13 JUDGE LAWS: Go ahead.
14 Q BY MR. WILSON: Anything else you can recall Mr. Vargas
15 saying?
16 A That's basically it.
17 Q And did you talk to Mr. Ortiz directly about complaints he
18 may have had regarding Mr. Munoz?
19 A Yes.
20 Q And when did this conversation take place?
21 A Around the same time, again, I cannot specify the month.
22 Q Do you know if it was at Jose Rosas' house?
23 A No, it was not.
24 Q Where was it?
25 A It was at a place, sort of like a little food pantry, or

1 what do you want to call it, it's like a little food area
2 around his house.
3 Q Okay. And what do you recall Mr. Ortiz saying?
4 A Mr. Ortiz mentioned that when Mr. Munoz, before being a
5 lead, they would talk, interact as normal, but then once he
6 became a lead he mentioned that --
7 MS. SANCHEZ: I'm going to object as to hearsay.
8 JUDGE LAWS: Overruled. Go ahead.
9 THE WITNESS: He mentioned that his direction became very
10 more aggressive. He felt like he was better than -- above
11 others in the operation. The direction was very, my way or no
12 way type of thing.
13 Q BY MR. WILSON: Okay. Now, can you describe the duties of
14 a lead? Why someone is designated that you're a lead? What
15 does that mean?
16 A The lead position consists of three main objectives.
17 Number one is support the employee, any questioning, anything
18 that he or she needs to do the work. The second one is
19 workload, make sure the workload is not only progressively
20 coming out, but distributed evenly. And of course, safety.
21 Safety is a big part of the lead, to make sure nobody's
22 lifting, operating the vehicles correctly, and so.
23 Q So they have some responsibility then, correct?
24 A Yes, yes. It's obviously elevated from a regular
25 assembler position.

1 Q And what sort of characteristics do you look for before
2 you make some leave?
3 A Well, I look, obviously, at work ethic. They have to be
4 hard workers to do, you know, that lead position, good
5 attitude. You know, obviously, will be interacting with
6 employees, all types of employees, all types of characters and,
7 you know, cultures.
8 And obviously, attendance is another one.
9 Q Okay. Now after you interviewed Mr. Vargas and Mr. Ortiz,
10 to your knowledge, did Gustavo Flores and/or Gus Flores do
11 additional interviews or follow up with employees about this
12 issue?
13 A I do not recall that, sorry.
14 Q Now, did you ever discuss the issues raised by Walter
15 Vargas and Oscar Ortiz to the behavior of Mr. Munoz? Did you
16 ever discuss those with Isidro Garcia?
17 A Yes, I did.
18 Q And do you recall his response?
19 A Isidro's response was yes, I've heard there was --
20 there -- some arguments amongst them and there's some issues
21 amongst them. He did mention that.
22 Q Okay. So was there a decision made then to demote
23 Mr. Munoz?
24 A Yes, sir.
25 Q Okay. And do you recall approximately when that was made?

1 A Approximately October, November-ish, kind of --
2 Q Okay.
3 A -- yeah.
4 Q Now after you did the interviews and you said you don't
5 know about interviews done by Mr. Flores, what was done with
6 that information? What did you do with the information you
7 gathered from the interviews?
8 A HR.
9 Q And who in HR?
10 A Jinna Baik.
11 Q Okay. And who's Jinna Baik?
12 A Jinna Baik is the -- was the -- currently the -- was the
13 employee relations manager.
14 Q Okay. And then thereafter a decision was made to demote
15 Mr. Munoz, correct?
16 A Yes.
17 Q Did you have input in that decision?
18 A Yes, sir.
19 Q And who else had input into that decision?
20 A Collectively as a -- as an organization, as we always do.
21 JUDGE LAWS: Who else, though?
22 THE WITNESS: Yoshie Narimoto, Toshi Nishikawa.
23 MR. WILSON: Okay.
24 THE WITNESS: Yep.
25 Q BY MR. WILSON: And why was Mr. Munoz then demoted?

1 A Obviously his temperament and his character was not fitted
2 for that lead position.
3 Q Okay. How come he wasn't terminated?
4 A My decision on that was obviously he did not cross that
5 line or -- you know, he didn't touch anybody, he didn't, you
6 know, aggressively violence -- his threatened violence.
7 Basically, my conclusion was, his character and the way he was,
8 was not fitted for that position. So I felt he wasn't -- you
9 know, wasn't not a warrant for termination.
10 Q Okay.
11 A So we decided to give him another chance in the a.m.
12 shift.
13 Q Okay. Is that where he currently works?
14 A Correct.
15 Q Okay. Now, we're going to move on to another topic, so --
16 A Okay.
17 Q -- so did you make a decision at some point in September,
18 October 2017 about the way you wanted to staff the shifts in
19 the warehouse?
20 A Yes, sir. We may -- I made quite a bit of changes and
21 experimented with the operation, yes.
22 Q Okay. And so what made you decide that you wanted to make
23 a change?
24 A Well, I think I expressed this earlier. When I first
25 arrived, we had a terrible time retaining employees,

1 specifically in the -- in the p.m. shift. So my goal was to
2 conso- -- to minimize the hours for the p.m. shift up to 1,
3 even midnight. That was my goal back in the day.
4 I think employees working for 14, 13 hours a day is just
5 unheard of and it is not, you know, sustainable. So that is
6 why I started to experiment with the times, you know, the work
7 flow, work load from sales to do that.
8 Q Okay. So what was the actual change that you made then?
9 A Boy, we made some -- many changes. A number of the
10 biggest changes, obviously, we had a meeting with sales, I
11 think about five or six meetings --
12 Q Okay.
13 A -- how they can produce more lines or work earlier to
14 facilitate the work load for the p.m. shift. Another change
15 that we made was from 5 through when to 1 p.m., and then we
16 inserted an additional start time at 3. Why we did that,
17 because obviously, from 1 to 3, there was some work, but not
18 that much then, and then from 3 to 5, a lot of lines came in,
19 so we add more people to the work.
20 Q Okay. So you wanted to condense the shifts basically?
21 A Right, right.
22 Q Okay. Now, there was testimony earlier in the hearing
23 about a temporary agency, Randstad. Are you familiar with who
24 Randstad is?
25 A Yes, sir.

1 Q Or what Randstad is? Okay.
2 A Yeah.
3 Q And what is Randstad?
4 A Randstad is a agency who provided employ -- temp employees
5 for us.
6 Q Okay. And were there other agencies -- and focusing on,
7 let's just say, September 2017, was Randstad providing
8 employees at that time?
9 A Yes. Yes.
10 Q Were there other agencies also providing employees at that
11 time?
12 A Yes.
13 Q Do you recall the names of the other agencies?
14 A Spectra, Horizon, and I believe, Aerotek, but I think --
15 I'm not sure about Aerotek.
16 Q Okay. And at some point, were you informed that Randstad
17 had terminated their contract --
18 A Yes.
19 Q -- with -- okay, with Wismettac?
20 A Yes, sir.
21 Q Okay. Who told you about that?
22 A During that -- how we knew about it was --
23 JUDGE LAWS: So the question was, who told you.
24 THE WITNESS: Who told you? HR.
25 Q BY MR. WILSON: Okay. And who in HR do you recall?

1 A Atsushi.
2 Q Okay. And what is Atsushi's position in HR, if you know?
3 A Back in that time, Atsushi was responsible for recruiting,
4 he was responsible for employee-relations type work as well.
5 Q Okay. So what exactly did -- and is his name Atsushi
6 Fujimoto?
7 A Yes, correct.
8 Q Okay. What exactly did Mr. Fujimoto tell you?
9 A Well, we found out through an email that he had sent out
10 saying that Randstad had pulled the contract and we had to
11 terminate or, you know, let go of all the Randstad employees
12 nationwide.
13 Q Okay. Now, do you recall approximately when that email
14 was sent out?
15 A Yes, because it took me by surprise. It was later in the
16 day, 7, 8:00 at night.
17 Q Okay. Well, to your knowledge, did the contract terminate
18 that day or was it going to terminate at a later date?
19 A Acco- -- when he sent that email, he gave us all -- and
20 when I say all, I'm going to explain that, I -- that it was
21 immediate, because I received a lot of calls from all the
22 branches, they, oh my God, what are we going to do, you know,
23 when do we have to let Scott go, but then obviously it came out
24 that it was up to the 23rd of November.
25 Q Okay. Now were you concerned in the meantime though,

1 about obtaining new employees when the Randstad contract
2 terminated?
3 MS. PEREDA: Objection, leading.
4 JUDGE LAWS: It -- let's try to be --
5 MR. WILSON: No, I know.
6 JUDGE LAWS: -- less leading. It's just more helpful to
7 me --
8 MR. WILSON: No, I know, I understand. Okay.
9 JUDGE LAWS: -- in evaluating --
10 Q BY MR. WILSON: So did you have any --
11 JUDGE LAWS: Hold on. It's just more helpful to me in
12 evaluating credibility if the -- if it can be a little more
13 open-ended.
14 MR. WILSON: Okay.
15 Q BY MR. WILSON: So when you heard the Randstad contract
16 was going to terminate November 23rd, did you have any
17 concerns?
18 A Yes.
19 Q And what were your concerns?
20 A Obviously we were operating at a -- you know, with -- with
21 people in place already, and you know, not only as -- to my
22 entire region, so yeah, we were wondering how it was going to
23 affect this operation.
24 Q Okay. Were you concerned about being able to obtain
25 sufficient employees?

1 MS. SANCHEZ: Objection, leading.
2 JUDGE LAWS: Overruled.
3 THE WITNESS: Concerning -- I'm sorry?
4 Q BY MR. WILSON: Well, no, so the Randstad contract was
5 going to terminate on the 23rd, were you -- did you have any
6 concerns about whether you'd have enough staffing in Los
7 Angeles?
8 A Yes, sir.
9 Q And what were those concerns?
10 A Specifically for that -- for the p.m. shift. We were
11 making such good progress and we had the majority of, you know,
12 people in place, going with our plan to make sure that we --
13 ultimately reach our goal.
14 Q Okay. So was there a dec- -- you said you were concerned
15 about being able to replace the p.m. shift. Was there a
16 decision made, what to do about the Randstad employees on the
17 a.m. shift?
18 A Yes, sir.
19 Q Okay, and what was that decision?
20 A The decision was made to let the a.m. shift go, retain the
21 employees in the p.m. to continue planning and continue to
22 operate -- you know, balance out the hours with those
23 employees.
24 Q And I believe you testified yesterday that the p.m. shift
25 employees, warehouse employees have a different skill set than

1 the a.m. shift; is that correct?
2 A Correct.
3 Q And can you, once again, explain to me exactly what that
4 is?
5 JUDGE LAWS: We don't need -- I remember it from --
6 MR. WILSON: Okay.
7 JUDGE LAWS: -- yesterday.
8 MR. WILSON: That's fine, doesn't matter.
9 THE WITNESS: Okay.
10 Q BY MR. WILSON: So why did you let the p.m. shift, the
11 Randstad employees go?
12 A The p.m. -- the a.m. shift --
13 MS. PEREDA: Objection, misstate his testimony.
14 MR. WILSON: The a.m. shift.
15 JUDGE LAWS: The a.m. shift. Go ahead.
16 THE WITNESS: The a.m. shift basically helped out with the
17 loading -- the loading -- sorry, they helped with many areas in
18 the warehouse, not in conjunction with assembling. They were
19 loaders, they were janitorial, so we could, you know, basically
20 let -- you know, it sounds horrible to say, but say, let them
21 go and work from those positions and then keep the main core of
22 work -- our plan --
23 Q BY MR. WILSON: Okay.
24 A -- was intact.
25 Q So when did you inform the a.m. shift that they were going

1 to be let go?
2 A Oh boy, late October. Can't remember. Because I know we
3 had approximately one month, so I'd say between -- and is --
4 end of October.
5 Q Okay.
6 A I'm not sure the exact date.
7 Q And how did you inform the a.m. shift that you were going
8 to let -- lay them off?
9 A We had a meeting with entire Randstad crew explaining the
10 unfortunate situation that, as a company, we had no control
11 over, that they have -- pull a contract, and that we also
12 reiterated the plans.
13 MS. PEREDA: I'm sorry, what?
14 JUDGE LAWS: Reiterated the plans.
15 MS. PEREDA: Thank you.
16 Q BY MR. WILSON: So who attended the meeting?
17 A I held the meeting and I had Mr. Anthony Vasquez as our --
18 as a witness.
19 Q Okay. And do you recall if all the a.m. shift employees
20 showed up at that meeting?
21 A I am not sure, because we had -- we had 15 in that meeting
22 from what I can remember, three were not there from the p.m. --
23 so yes, a.m. shift was there.
24 Q But the only people that came to the meeting from the a.m.
25 shift, they were Randstad employees, correct?

1 A Correct.
2 Q Or employees referred from Randstad?
3 A Correct.
4 Q Okay. So do you recall what you said at the meeting?
5 A Yes. It was a very short meeting, to the point I said,
6 look, guys, I apologize for the bad news, I said, Randstad had
7 pulled the contract and unfortunately, we had to make some
8 changes as a organization. I explained the situation between
9 a.m. and p.m., you know, I also told them that I do apologize,
10 because I mean, it affects people's lives.
11 Q Okay. Do you know an employee, a Jeremiah Zermeno?
12 A Yes.
13 Q Okay. Now do you recall him speaking up at this meeting
14 where you laid of the Randstad employees?
15 A Yes, sir.
16 Q Okay. And do you recall what he said?
17 A Yes.
18 Q Okay. And can you -- how far into the meeting were you
19 when he spoke?
20 A I'd say three minutes into the meeting, three, four
21 minutes into the meeting.
22 Q Okay, and what did he say?
23 A He says, I believe I'll respect everybody here --
24 Q You can say whatever he said.
25 A He said, if I would've known, I would've taken a fucking

1 job that I was offered at 18 an hour.
2 Q Okay. And were you done with your presentation when he
3 said that?
4 A No.
5 Q Okay. In what tone of voice did he say that?
6 A It was pretty angry, he was angry.
7 Q Okay. Do you recall anything else that he said?
8 A No, that was about it.
9 Q Okay. And after that meeting -- or excuse me, do you know
10 an employee -- former Randstad employee, a Pedro Hernandez?
11 A Yes, sir.
12 Q Okay. What -- was he on the day shift or the night shift?
13 A The night shift.
14 Q Okay. Did you speak to him sometime that same day you had
15 the layoff meeting with the a.m. shift?
16 A I spoke to him after the -- right after the meeting.
17 Q Okay. And what did you tell him?
18 A I took him obviously to an area where -- very private, and
19 I explained to him that that was his last day with the Company.
20 Q Okay. And why was it his last day?
21 A There were allegations of him also creating a hostile
22 environment in the p.m. shift, refusing to help employees,
23 being offensive to them.
24 Q Okay. And do you recall who made those allegations
25 against him?

1 A I believe it was Walter Vargas. I cannot recall that.
2 Q Did you interview Mr. Vargas personally regarding the
3 allegations about Pedro Hernandez?
4 A I did not.
5 Q Okay. Do you know who did?
6 JUDGE LAWS: Do you know if anybody did?
7 THE WITNESS: I believe somebody did, I don't know -- I
8 don't know who --
9 Q BY MR. WILSON: Okay.
10 A -- at this point.
11 Q Do you recall who reported that information to you?
12 A Yes.
13 Q Who was that?
14 A It was Gus Flores.
15 Q Okay. To your knowledge, did Gus Flores do an interview
16 with -- if you know, with Mr. Vargas regarding the allegations
17 made against Mr. Hernandez?
18 A I believe he did, yes.
19 Q Okay.
20 JUDGE LAWS: Do you know or not?
21 THE WITNESS: Yes, I do. I'm -- I -- it's a yes or no,
22 yes. If that's --
23 JUDGE LAWS: Okay.
24 THE WITNESS: -- we reported it obviously, he talked to
25 me.

1 JUDGE LAWS: Well, just because of my instruction --
2 THE WITNESS: Uh-huh.
3 JUDGE LAWS: -- to answer, unless you're asked to
4 speculate.
5 THE WITNESS: Oh, okay.
6 JUDGE LAWS: So I just need to know whether you're
7 assuming Mr. Flores interviewed Mr. --
8 THE WITNESS: Uh-huh.
9 JUDGE LAWS: -- Vargas or whether you actually know
10 directly.
11 THE WITNESS: Okay.
12 JUDGE LAWS: So which one is it?
13 THE WITNESS: I know.
14 JUDGE LAWS: Okay. And how do you know?
15 THE WITNESS: Mr. Gus approached me with the information.
16 JUDGE LAWS: And he said, I interviewed him -- okay.
17 Go ahead.
18 MR. WILSON: Okay.
19 Q BY MR. WILSON: Did you tell him that's the reason he was
20 being let go?
21 A Yes.
22 Q Okay. And what was his response?
23 A He said, okay. Oh, on his way out, he did ask me -- he
24 has to apply SSA, but anybody can apply.
25 Q Okay. Now do you recall if there was a Fanor Zamora at

1 the October 31st meeting regarding the lay off the a.m. shift?
2 A Yes, sir.
3 Q Okay. Did you speak to Mr. Zamora at the meeting?
4 A He asked a question during the meeting. He asked if he
5 can go to another agency right away, and I explained to him I
6 cannot -- obviously I cannot tell him to go -- contract with
7 some place, he could do whatever he feels like he wants to do.
8 Q Were the other employees given information by you about
9 obtaining work at Wismettac by going to other agencies?
10 A No. Did I tell them to go? No.
11 Q No? But did the topic come up in front of the whole
12 group?
13 A Yes. A few of them asked the same thing.
14 Q And what did you say?
15 A I says I cannot tell them what to do. I mean, there was a
16 contract that was still in place, I cannot -- they could do
17 whatever they want, but I could not tell them to go.
18 Q Did you tell them they could not go to another agency?
19 A No.
20 Q Okay. Did you have any further conversation with Fanor
21 Zamora at that meeting that you recall?
22 A Yeah, right after the meeting, he asked me again, you
23 know, why is it that I cannot go to an agency that says --
24 primarily -- I say, you could, I cannot tell you to go, but you
25 could do whatever you want.

1 Q Okay.
2 A But that was it. It was very brief.
3 Q Did he mention anything about applying online or that he
4 wanted to work at the Company in the future or --
5 A No.
6 Q Okay. Okay. Now, is there a -- so let me back up. So
7 with temporary employees, at some point, can they be converted
8 to full-time employees?
9 A Yes.
10 Q Okay. And is there a rule at the Company as to how many
11 weeks, months, or days that they have to work before they can
12 be converted?
13 A It's not a rule, it's -- what happens is, every agency
14 that we deal with has a contract with HR. Example is Spectra,
15 has a -- and again, this is not the exact -- I just gave you
16 guys an example that Spectra has a contract with Wismettac.
17 They provide an employee, and that employee works for five, six
18 months -- I'm sorry, five or -- five months. After the fifth
19 month, we can make a decision whether to hire that employee or
20 not.
21 If we decide to hire an employee before that contract, we
22 do have to pay a penalty to the agency to get that contract and
23 the -- and then pro -- get the employee into our --
24 Q Okay, but is there a set time limit where employees have
25 to be converted? In other words, if someone works there for,

1 oh, two months, are they automatically going to be converted to
2 a full-time employee?
3 A No.
4 Q Okay. Is there a 60-day rule that after 60 days employees
5 are automatically termin- -- converted?
6 A No.
7 Q Okay. Have you ever heard that term?
8 A No, sir.
9 Q So after the meeting on October 31st, as to the Randstad
10 layoff, did you have any further conversation with Fanor
11 Zamora?
12 A No, sir.
13 Q So before the meeting on the 31st, the layoff of Randstad
14 employees, did you have any discussions with Mr. Fujimoto as to
15 what you should tell those employees?
16 A No.
17 Q Did he give you any instructions of what you could tell
18 them or not tell them?
19 A No.
20 Q Okay. And were you familiar on October 31st, 2017 with
21 the methods Mr. Fujimoto used to hire employees?
22 MS. PEREDA: Objection as to foundation.
23 JUDGE LAWS: Why don't you ask if he's familiar? So if
24 the answer is yes, we'll get at that, I assume.
25 THE WITNESS: No.

1 Q BY MR. WILSON: Okay. And are you -- were you familiar in
2 January -- or excuse me, October 31st, 2017 with any procedures
3 Mr. Fujimoto used as it related to converting employees?
4 A No.
5 Q Okay.
6 So let's go on to another topic. Do you know former
7 Wismettac employee, Alberto Rodriguez?
8 A Yes, sir.
9 Q Okay. And do you recall, was Mr. Rodriguez employed at
10 Wismettac when you arrived in September 2017?
11 A I don't know if he was hired when I first arrived.
12 Q Okay. Do you know if he came in as a -- through a
13 temporary agency, or was hired directly?
14 A I believe he came through a temp agency.
15 Q And what was his position there, if you recall?
16 A He was a dry p.m. assembler.
17 Q Okay. And during the time that you were at the Los
18 Angeles facility, beginning in September 2017 up through the
19 end of, say, February 2017 (sic), did you become aware of
20 disciplinary issues involving Mr. Rodriguez?
21 A Yes, sir.
22 Q Okay. And what sort of issues were brought to your
23 attention?
24 A There were a few. There were obviously his lack of work
25 ethic in the p.m. shift, issues with other employees, lack of

1 following directions from his management team.
2 Q Okay. So do you recall who you heard these complaints
3 about Mr. Rodriguez from?
4 A Christian McCormick, obviously, brought them up to me,
5 Anthony Vasquez brought them up to me, Gerber Flores brought
6 them up to me.
7 Q But you were involved in the day-to-day review of
8 Mr. Rodriguez's performance, were you?
9 A I'm sorry, can you repeat the question.
10 Q Were you --
11 JUDGE LAWS: Were you --
12 Q BY MR. WILSON: -- involved --
13 JUDGE LAWS: -- were you -- yeah, go ahead.
14 MR. WILSON: Yeah.
15 Q BY MR. WILSON: Were you involved in the day-to-day issues
16 of Mr. Rodriguez's performance?
17 A My management team was, but I was -- yeah. So --
18 Q Okay. So as a manager, if there are disciplinary issues
19 and you have managers below you, would you delegate those
20 issues to them?
21 A Yes.
22 Q Okay. Was there a decision made to suspend Mr. Rodriguez
23 in late January 2018?
24 A Yes, sir.
25 Q Okay. And did you inform him of that suspension?

1 A Yes, sir.
2 Q Okay. Was anyone with you when you informed him?
3 A Yes, Anthony Vasquez, Jose Romero, and Christian
4 McCormick.
5 Q Okay. And do you recall the words you used when you told
6 Mr. Rodriguez he was suspended?
7 A Yeah, it was a very brief conversation. I presented the
8 letter from HR. I had -- I told him that he would be -- from
9 this point he is suspended without pay while we investigate
10 some issues.
11 Q Okay. And why was Mr. Rodriguez suspended in late January
12 2018?
13 A We had allegations of threat and violence in the
14 workplace.
15 Q Okay. Is that -- do you consider that to be a serious
16 allegation?
17 A Absolutely.
18 Q And that was the basis for the suspension, right?
19 A Correct.
20 Q Okay. And then was there a later decision to terminate
21 Mr. Rodriguez?
22 A Yes, sir.
23 Q Okay. Now let's go back to the suspension. Did you have
24 input into that -- making that decision to suspend Jim?
25 A Yes.

1 Q Okay. And subsequently he was terminated, correct?
2 A Uh-huh. Yes, sir.
3 Q Okay. And did you have input into that decision to
4 terminate him?
5 A Yes, sir.
6 Q And who else had input into that decision?
7 A The senior vice president, Mr. Toshi Nishikawa; the
8 director of logistics, Mr. Yoshinori -- Yoshie Narimoto; HR and
9 myself.
10 Q Okay. And why did you make a decision to terminate him?
11 A We looked at the overall disciplinary record of
12 Mr. Rodriguez and then we made a collective decision to
13 terminate him.
14 Q Okay. Okay, so let me ask you about one other particular
15 incident. And were you present during yesterday's testimony?
16 A Yes, sir.
17 Q Okay. And were you present during the testimony of a
18 Susan Sands?
19 A Yes.
20 Q Okay. So I want to ask you about the incident that she
21 testified to.
22 A Okay.
23 Q Okay. And so, do you recall then attending a -- or
24 holding a safety meeting on or about December 4th, 2017?
25 A Yes, sir.

1 Q Okay, and what was the purpose of that meeting?
2 A The purpose of the meeting was communication. When I
3 first arrived into the LA facility back in September, one of
4 the issues brought forth to me by drivers and warehouse was
5 communication. That communication between management, lack of
6 communication between things that were happening the Company,
7 so I decided to have a weekly safety communication meeting with
8 drivers and warehouse.
9 Q Okay. And -- so you recall that particular meeting, that
10 one on December 4th, correct?
11 A Yes.
12 Q Do you know why Susan Sands was there?
13 A Yeah. So what was happening at that time, all the
14 adjustments she's or -- are RMAs, are she has the drivers
15 utilize while they're delivering product. Example is if they
16 go to the customer and they're missing a case of tuna. There's
17 a code on there that you write down there's a shortage and
18 that's get back -- bri- -- brought back to the warehouse with,
19 you know -- with the driver. There are also many other codes
20 in there that are return items, there's damages that they
21 notate on the RMA.
22 During that time, there was an inconsistency in how they
23 were being filled out, which made a big impact on Susan's
24 department. And --
25 Q Okay.

1 A -- she was, at present, just to reiterate, how to properly
2 fill those out and how to turn them in.
3 Q Okay. Okay, did Mr. Rolando Lopez speak at that meeting?
4 A Yes, sir.
5 Q Okay. So can you describe what occurred with -- he was
6 speaking at the meeting?
7 A Yes. So I started the conversation, basic -- what I --
8 how I started the conversation in all my safety meetings,
9 especially with drivers is, I start with accidents that have
10 occurred, not only at that branch, but other branches for the
11 previous week. And then we start to reiterate safety. And as
12 I started, I think it was maybe three minutes into my meeting,
13 and he started bringing issues up with our -- overweight issues
14 with another driver's truck.
15 Q Who was that other driver, do you know?
16 A Augustine Troncoso.
17 Q Okay. And how would you describe his tone of voice?
18 A He was very, very angry, very aggressive.
19 Q Okay. And so what all did he say, if you recall?
20 A He said, well, I don't understand, you know, Vasquez and
21 Alvaro never cared about our overweight issues and just look at
22 Augustine, and you know, his truck is overweight every day.
23 And he kept pointing at Vasquez very aggressively.
24 Q Okay. And how long did he speak?
25 A Oh boy, before I jumped in, I'd say maybe a minute.

1 Q Okay. And you say you jumped in. What did you say to
2 him?
3 A I explained to him it was obviously a valid point and, you
4 know, but that was a discussion for a one-on-one discussion on
5 the side, other than that meeting.
6 Q And so was he ultimately disciplined?
7 A Yes.
8 Q And what sort of discipline did he receive?
9 A Due to the way he, you know, spoke in that meeting, it
10 was -- warranted a verbal.
11 Q Okay. And I'm sorry, I missed a point here. Getting back
12 to Mr. Alberto Rodriguez, so were you here during the testimony
13 this morning of Mr. Mack?
14 A Yes.
15 Q Okay. And there were allegations of threats being made by
16 Mr. Rodriguez. Were you aware of that information when you
17 made the decision to term- -- suspend Mr. Rodriguez?
18 A Yes, sir.
19 MR. WILSON: Right. I have no further questions of Mr. --
20 JUDGE LAWS: All right. Why don't we see what statements
21 there are and determine how long of a break we're going to
22 take?
23 MR. WILSON: There's a lot of statements.
24 JUDGE LAWS: There's a lot of statements? Okay, let's go
25 off the record, we can figure it out off the record.

1 UNIDENTIFIED SPEAKER: Thank you, Your Honor.
2 (Off the record at 10:47 a.m.)
3 JUDGE LAWS: Okay, let's go back on the record and the
4 counsel for the General Counsel can start cross whenever
5 they're ready.
6 **CROSS-EXAMINATION**
7 Q BY MS. PEREDA: Hi. Good morning, Mr. Matheu. We've met
8 before. I'm --
9 A Yes.
10 Q -- my name is Elvira Pereda and I'm going to be asking you
11 some questions about your testimony.
12 Mr. Matheu, you testified that currently you are the ADGM
13 for Wismettac. When did you -- when did you first hold this
14 position?
15 A I hold this position aroun- -- approximate -- can I be
16 approximate, because --
17 Q Sure you can approximate.
18 A February of 2017.
19 Q And as the ADGM, currently you report Mr. Yoshie Narimoto?
20 A Yoshinori, yes.
21 Q Did you always report to Mr. Narimoto or is that something
22 recent? And recent I mean when you were the new -- became the
23 ADGM in February of 2017, who did you report to?
24 A 2017. I've always reported to Mr. Narimoto as an ADGO.
25 Q And in this position, you are in charge of about nine

1 facilities nationwide?
2 A It's not about ni- --
3 Q It's nine facilities?
4 A Nine facilities.
5 Q Thank you. And that includes the Santa Fe branch, which
6 is also called the LA branch, correct?
7 A Correct.
8 Q Now, in -- as the ADGM, you over -- you supervise or
9 oversee about 500 employees, correct?
10 A Around that, yes. I'm not sure exactly.
11 Q And are you based off of Orlando, Florida?
12 A Yes, ma'am.
13 Q Now you first became in charge of the Santa Fe Springs
14 facility around Labor Day weekend of 2017, correct?
15 A Correct.
16 Q What, if any, were your res -- were your responsibilities
17 to the Santa Fe Springs facility before then?
18 A There was no responsibilities prior to that.
19 Q You mentioned that you had visited the Santa Fe Springs
20 facility in January --
21 A Uh-huh.
22 Q -- February more correctly of 20 --
23 A '17.
24 Q -- 17. For what --
25 A I'm sorry?

1 Q -- what was your role then and what was the purpose of
2 that visit?
3 A My role then, I was an ADGM for all the other facilities,
4 eight facilities. The reason why I attended the Santa Fe
5 Springs that time, we had a new headquarter meeting.
6 Q Okay. So you did not oversee any managers or supervisors
7 out of the Santa Fe Springs facility prior to September of
8 2017?
9 A In my visit in January of 2017, we did look at the
10 operation, we did -- you know, I mean, I was not particularly
11 involved being in charge of it, but we did talk about the
12 operation at that time, yes.
13 Q So you were assigned the Santa Fe Springs facility after
14 the Union file was petitioned for representation, correct?
15 A Yes. In September of 2017, yes.
16 Q Now it's no secret here that Wismettac ran a campaign
17 against the Union, correct?
18 A Meaning?
19 Q Meaning you guys wanted your employees to vote no against
20 the Union.
21 A Yes.
22 Q Now before the first election, as you know -- as you may
23 know, there were two elections, so before the first election
24 which took place on September 19, 2017, the Company hired
25 several labor consultants, correct?

1 A Correct.
2 Q And that was to assist with the Company's campaign against
3 the Union, correct?
4 A Correct.
5 Q And the -- there were four specific labor consultants that
6 were hired, correct?
7 A Okay, can you slow down --
8 Q Oh.
9 A -- I'm sorry?
10 Q Yes. Thank you. Thank you, yes.
11 A Talking very fast.
12 Q The company hired four consultants, correct?
13 A Correct.
14 Q And that was --
15 A Four -- hold on, yes.
16 Q That --
17 JUDGE LAWS: And we've had them named. If we're going to
18 get something new, let's get there, but we just don't need to
19 rehash the same old ground.
20 Q BY MS. PEREDA: Now those four consultants that were
21 hired, they were originally only -- or contracted, I should
22 say, they were only contracted to be with the Company until the
23 first election, correct?
24 A I am --
25 MR. WILSON: Objection, no --

1 THE WITNESS: -- not famil- --

2 MR. WILSON: -- foundation.

3 THE WITNESS: -- I'm not familiar with that.

4 JUDGE LAWS: Okay. So objection's moot, he said he didn't

5 know.

6 (Counsel confer)

7 MS. PEREDA: Just one moment, Your Honor.

8 JUDGE LAWS: Sure, take your time.

9 MS. PEREDA: Your Honor, at this moment I would like to

10 have -- the parties what's been handed as General Counsel

11 Exhibit 55.

12 **(General Counsel Exhibit Number 55 Marked for Identification)**

13 JUDGE LAWS: Thank you.

14 MS. PEREDA: Your Honor, I've been handed -- I've handed

15 the parties what's been marked as General Counsel's 55, which

16 is a three-page document. This is a public record from the

17 U.S. Department of Labor. Based on the fact that this

18 qualifies as a public record, I would move this into evidence

19 at this point, Your Honor.

20 JUDGE LAWS: Okay.

21 Any objection? If you want to take some time and look it

22 over --

23 UNIDENTIFIED SPEAKER: No, I did.

24 JUDGE LAWS: -- if you haven't seen it before.

25 MR. WILSON: I guess my objection would be relevance. I

1 don't -- I mean, we've testified there was labor consultants, I
2 don't understand why Mr. Matheu has no -- I don't believe
3 anyway, knowledge as to this report, LM20 report, and I don't
4 know that he can testify about it.
5 MS. PEREDA: I didn't ask him to testify about it; I said
6 it's a public record that should be admitted as a public
7 record, and this goes in. There was some testimony as to the
8 reason as to why these consultants were hired and this
9 specifically goes to the purpose and the time period as to
10 which they were originally contracted.
11 MR. WILSON: The purpose I understand, I don't get the
12 time period, because they're -- you know, he didn't know their
13 initial contract and what other --
14 JUDGE LAWS: No.
15 MR. WILSON: -- arrangements they had after that.
16 JUDGE LAWS: I agreed. I don't think it pertains to --
17 really to this witness. It probably could've been produced at
18 any time, not through this witness' testimony. You know, I --
19 we've had a lot of testimony about the labor consultants, I
20 think having the contract in the record pertains to that, so I
21 will admit General Counsel 55.
22 **(General Counsel Exhibit Number 55 Received into Evidence)**
23 MR. WILSON: Your Honor, just to clarify for the record,
24 this isn't a contract, this is a document apparently filed
25 by --

1 JUDGE LAWS: Uh-huh.
2 MR. WILSON: -- that references a time period that they
3 would perform services or not to say they couldn't have
4 contracted for another time period.
5 JUDGE LAWS: You are absolutely correct. Thank you for
6 that clarification. And I will, nonetheless, submit it. I
7 should not have said it was counteracted, it's not. But it
8 does detail some of the things we've testified about, so --
9 MR. WILSON: All right, fine.
10 Q BY MS. PEREDA: Mr. Matheu, none of Wismettac's facilities
11 are unionized, correct?
12 A Correct.
13 Q Now before the September 19th election, the Company held
14 several meetings with the drivers and the warehouse workers,
15 correct, and -- to talk about the Union and the election,
16 correct?
17 A Now to specify your question, if I may. When you say
18 meeting, was it about the speech meetings, just -- or a general
19 meeting is correct?
20 Q Correct.
21 A Yes.
22 Q Where the --
23 A Yes.
24 Q -- meeting -- correct. Yes, thank you. And those
25 meetings were both for permanent employees and for temporary

1 employees --
2 A Correct.
3 Q -- correct?
4 A Yes.
5 Q Mr. Matheu, you speak Spanish, correct?
6 A Correct.
7 Q And the labor consultant, Gustavo Flores also speaks
8 Spanish, correct?
9 A Yes.
10 Q And I just want to make sure that I have these dates
11 right. You were at the Santa Fe Springs facility from
12 September 5th through September 8th of last year, correct?
13 A Correct.
14 Q And on September 8th, you had about three meetings with
15 employees, again, to talk about the Union or the election,
16 correct?
17 A We had meetings during that time. I cannot specify how
18 many on what day.
19 Q That you then -- you then left the Santa Fe Springs
20 facility, but you return about September 14 and you were there
21 until about September 20, correct?
22 A Correct.
23 Q The labor consultants, they were present at some of these
24 meetings that the Company held with the drivers and the
25 warehouse workers to talk about why they should vote no,

1 correct?
2 A Yes.
3 Q So you testified that, again, the election was held on
4 the -- on September 19, the first election, and you testified
5 that there was a meeting that Monday before, as well as that
6 Friday before --
7 A Correct.
8 Q -- correct?
9 A Yes.
10 Q So that would've been September 15th and September 18th,
11 correct?
12 A Yes.
13 Q And you spoke at both of these meetings on September 15
14 and September 18, correct?
15 A Yes.
16 Q Now before this meeting, you -- let me back off. You were
17 not present on August 21st, 2017 when the Union came to the
18 facility, correct?
19 A No.
20 Q But you had see --
21 JUDGE LAWS: When you ask a negative and the ask correct
22 and he's says no, it's confusing as to what he's saying no,
23 whether it's correct or whether the visit took place. So let's
24 re -- let's circle back and re-ask that.
25 Q BY MS. PEREDA: Were you present when the Union came on

1 August 21st, 2017?
2 A No.
3 Q Are you -- you did view the videos that were recorded
4 pertaining to this event, correct?
5 A Yes.
6 Q So now, when you spoke to employees at the September 15
7 and September 18 meetings, you again encouraged employees to
8 vote no, correct?
9 A I didn't encourage them to vote no, I told them what my
10 plan for the operation was and why -- what I wanted to do for
11 them not to have a union. I did not tell them to vote no.
12 Q But you told -- you told them that you didn't -- you
13 didn't want to deal with a third party, correct?
14 A Yes.
15 Q And that third party being the Union?
16 A Yes.
17 Q You also spoke about the negatives of being union,
18 correct?
19 A Don't recall that.
20 Q Isn't it true that at this -- at these meetings on
21 September 15 and 18, you criticized employees for the action
22 that had happened on August 21st?
23 A Criticize? No.
24 Q Isn't it true that you told them that you -- isn't it true
25 that you told them that what you saw on those videos was

1 disrespectful?
2 A Oh, yes.
3 (Counsel confer)
4 Q BY MS. PEREDA: Now, Mr. Matheu, when you spoke at the
5 meetings on September 15 and September 18, you relied on some
6 talking points that you had prepared before the meetings,
7 correct?
8 A Yes, I did. Yeah.
9 **(General Counsel Exhibit Number 56 Marked for Identification)**
10 MS. PEREDA: Let the record reflect that I've handed the
11 witness what's been marked as General Counsel Exhibit 56.
12 Q BY MS. PEREDA: Mr. Matheu, do you have before you General
13 Counsel Exhibit 56?
14 A Yes, I do.
15 Q Now these are the talking points that you relied on when
16 you spoke to employees on September 15 and September 18,
17 correct?
18 A Yes.
19 MS. PEREDA: Your Honor, at this point I would like to
20 move General Counsel 56 into evidence.
21 JUDGE LAWS: Any objection?
22 MR. WILSON: No, with the witness' testimony, if he
23 recognizes this, then I have no objection.
24 JUDGE LAWS: General Counsel 56 is admitted.
25 **(General Counsel Exhibit Number 56 Received into Evidence)**

1 Q BY MS. PEREDA: You also testified about employee, Ruben
2 Munoz?
3 A Yes.
4 Q Employee Ruben Munoz, he had been a permanent employee of
5 the Company for about 10 years, correct, or he has been a
6 permanent employee at the Company for about 10 years, correct?
7 A I'm not sure about the exact date, but yes, he was a
8 permanent employee.
9 Q For many years, correct?
10 A Yes.
11 Q Now to your knowledge, during the months of September,
12 October of 2017, so last year, Mr. Ruben Munoz was the only
13 Ruben in the -- in the -- in the warehouse, correct? He was
14 the only employee with the name Ruben.
15 A That I -- yes, I -- from what I know, yes.
16 Q Thank you. Now Isidro Garcia, he was suspended on about
17 December 26, 2017, correct?
18 A Correct.
19 Q And before being suspended, Isidro had been the night
20 shift supervisor, correct?
21 A Nighttime assistant manager.
22 Q Thank you. And in that role, he supervised the night time
23 warehouse employees, correct?
24 A Correct.
25 Q While Mr. Munoz was a lead, he reported to -- his

1 immediate supervisor was Mr. Garcia, correct?
2 A Correct.
3 Q Now on about August -- on about October 23rd, 2017,
4 Mr. Munoz was demoted from his lead position and he was moved
5 to the day shift, correct?
6 A Correct.
7 Q And that action, to demote him and move him -- move
8 Mr. Munoz to the night shift -- or excuse me, to the day shift,
9 that was based on employee complaints that you had received,
10 correct?
11 A Correct.
12 Q One of those employees that complained was Jose Rosas,
13 correct?
14 A Correct.
15 Q Now, Jose Rosas had already complained about Mr. Munoz
16 sometime -- or he first complained about Mr. Munoz sometime
17 around the first election, correct?
18 MR. WILSON: Objection, no foundation.
19 JUDGE LAWS: Answer only if you know.
20 THE WITNESS: I do not.
21 MS. PEREDA: Okay.
22 Can I -- can I ask the Court Reporter to hand this witness
23 what's been marked as General Counsel Exhibit 47?
24 Q BY MS. PEREDA: If I can direct your attention,
25 Mr. Matheu, to -- please turn -- go to page 5. And if you can

1 read where it says -- where it starts with witnesses and read
2 that summary of the witness testimony and let me know when
3 you're done.
4 (Counsel confer)
5 THE WITNESS: You want me to read objection 6 and 7 as --
6 or just --
7 Q BY MS. PEREDA: No, just let me know when you're done with
8 the first witness and then summary of the witness testimony, so
9 the first two headings. And then you can stop where it says,
10 Objection 6.
11 A Okay.
12 Q And then can you turn over to page 6 and look where it
13 says, dated.
14 A Look where it says dated?
15 Q Yeah, the date that is noted there, September 26, 2017.
16 A Yes.
17 JUDGE LAWS: You can just point that out, it's in --
18 MS. PEREDA: Oh --
19 JUDGE LAWS: -- it's in evidence.
20 Q BY MS. PEREDA: So Mr. Rosas had already complained about
21 Mr. Ruben Munoz around the first election --
22 MR. WILSON: Ob- --
23 Q BY MS. PEREDA: -- correct?
24 MR. WILSON: -- objection, the document speaks for itself,
25 there's no foundation that he knew that he had complained.

1 JUDGE LAWS: That's true. I mean, you can certainly point
2 out something like this in brief, but what I'm getting at here
3 is his testimony about what he knew.
4 (Counsel confer)
5 Q BY MS. PEREDA: Does this document refresh your
6 recollection as to when Mr. Rosas first complained to you about
7 Mr. Ruben Munoz?
8 MR. WILSON: Objection, facts not in evidence that he
9 knows about a complaint by Mr. Rosas.
10 JUDGE LAWS: He testified he didn't know.
11 Does this document do anything to change that?
12 THE WITNESS: I don't know.
13 Q BY MS. PEREDA: When Mr. Rosas complained about Mr. Munoz,
14 Mr. Rosas wrote in the --
15 MR. WILSON: Objection, vague as to time.
16 JUDGE LAWS: They -- are we talking about the time he
17 knows about or the time referenced in this document that he
18 said he doesn't know about?
19 MS. PEREDA: Let me ask a first question.
20 Q BY MS. PEREDA: Mr. Matheu, excuse me, when do you recall
21 Mr. Rosas first complaining about Mr. Munoz? I -- if I
22 remember correctly, you said sometime around October of 2017?
23 A Correct, around that time. Yes.
24 Q Around that time. When Mr. Rosas made his complaints, he
25 worked in the freezer department, correct?

1 A Yes.
2 Q And that's a different department from the department
3 where Mr. Munoz worked, correct?
4 A Correct. But Mr. Rosas had, at that time --
5 MS. PEREDA: Strike as to nonresponsive, Your Honor.
6 JUDGE LAWS: Okay, just answer the question. Then
7 you're --
8 THE WITNESS: Okay.
9 JUDGE LAWS: -- if you're not asked to elaborate --
10 THE WITNESS: Got it, okay.
11 JUDGE LAWS: -- or don't know --
12 THE WITNESS: Yes.
13 Q BY MS. PEREDA: Now when Mr. Rosas complained against
14 Mr. Munoz, you knew that Mr. Rosas was -- that he was
15 anti-union, I mean he was not a Union supporter, correct?
16 A Correct.
17 Q And you knew that because he wore his anti-union T-shirt
18 to the warehouse on a daily basis, correct?
19 A I don't recall that.
20 Q You don't recall seeing Mr. Rosas wear his anti-union
21 T-shirt to the warehouse?
22 A No.
23 Q As the ADGM, do you walk about the facility when --
24 A Yes.
25 Q -- you are at the warehouse?

1 A Yes.
2 Q And you interact with employees during your walks, I
3 imagine?
4 A All the time.
5 Q Now you testified that you also received a complaint from
6 employee Walter Vargas. When Mr. -- when Mr. Vargas first
7 worked for Wismettac, he did not work directly for Wismettac,
8 correct? I'm sorry, at that time, Mr. Vargas was a temp
9 employee, correct?
10 A Yes.
11 Q And when Mr. Vargas submitted his complaint, he had only
12 been working at Wismettac for a couple of months, correct?
13 A Don't know.
14 Q You don't know when Mr. --
15 A That time frame.
16 Q Do you know -- do you know when Mr. Vargas started working
17 at Wismettac, whether it was directly, or through a temp
18 agency?
19 A He started directly from a temp age -- I do not know when
20 he started.
21 Q Now you've testified as to the meeting that you had with
22 Mr. Vargas. That meeting was conducted at Mr. Rosas' house,
23 correct?
24 A Correct.
25 Q And Mr. Rosas arranged this meeting, correct?

1 A Don't know who arranged it.
2 Q Who told you to show up at this place?
3 A We had a meeting with Gus Flores and we decided to go
4 there.
5 JUDGE LAWS: Who are we?
6 THE WITNESS: Gus and I. Gus Flores and myself.
7 Q BY MS. PEREDA: Now Mr. Matheu, Wismettac has an HR
8 department, correct?
9 A Correct.
10 Q And their duties include looking into employee complaints,
11 correct?
12 A Correct.
13 Q When you went to Mr. Rosas' house to meet with Mr. Vargas,
14 there were two labor consultants with you, correct?
15 A Yes.
16 Q And that was Gustavo Flores and Carlos Flores, correct?
17 A Correct.
18 Q Were there any other labor consultants in addition to them
19 too?
20 A No.
21 Q Now, as the ADGM, you don't typically investigate employee
22 complaints, correct?
23 A Depending on severity.
24 Q Isn't that something that's simply handled by HR?
25 A Yes.

1 Q And as a ADGM, you don't typically go to employee's homes
2 to meet with the complaining employees, correct?
3 A No.
4 JUDGE LAWS: Again, that was a negative asked if that was
5 correct, so I'm not sure if the no was to no, if that's not
6 correct or no, I don't typically go to employee's homes.
7 MS. PEREDA: Thank you, Your Honor.
8 Q BY MS. PEREDA: Mr. Matheu, do you typically go to
9 employee's homes to meet with the complaining employees?
10 A No.
11 (Counsel confer)
12 Q BY MS. PEREDA: Now Mr. Matheu, when you met with
13 Mr. Vargas, you took some notes from that meeting, correct?
14 A Yes.
15 (Counsel confer)
16 Q BY MS. PEREDA: And prior to that meeting, Mr. Vargas had
17 also prepare (sic) a statement that he submitted, correct?
18 A Don't recall.
19 MS. PEREDA: I'm just going to hand several documents
20 together, Your Honor, and then I'll go through one -- each one
21 of them.
22 (Counsel confer)
23 Q BY MS. PEREDA: Mr. Matheu, that meeting with Mr. Vargas
24 happened on about October 12th, correct?
25 A Don't recall the date.

1 Q It was sometime in October?
2 A Yes.
3 Q If you can please take a look at what's been marked as
4 General Counsel Exhibit 59.
5 A Uh-huh.
6 Q Do you have that before you?
7 A Yes.
8 Q These are the notes that you prepared based on that
9 conversation on -- based on that meeting with Mr. Vargas,
10 correct?
11 MR. WILSON: Objection, she needs to -- okay, there needs
12 to be a foundation laid these are his notes.
13 JUDGE LAWS: That's what she's just asking him.
14 MR. WILSON: Okay.
15 THE WITNESS: No, not these. This is not mine.
16 Q BY MS. PEREDA: 59, Mr. Matheu.
17 A Oh, 59?
18 Q Yes.
19 A Yes. You said 58.
20 Q Oh, I'm sorry. I apologize for that.
21 A Yeah, 59, yes.
22 Q Okay, and that's page 1 of both pages, correct? Those are
23 your notes?
24 A Correct. Yes.
25 Q Now in looking at 58, to your knowledge, is that the

1 witness -- I'm sorry, is that the complaint that Mr. Walter
2 submitted to the Company?
3 A I'm not sure if this is Walter's --
4 Q At that meeting that you had with him, did he submit
5 anything to you or to the labor consultants?
6 A Don't recall.
7 Q Before today, had you seen this statement --
8 A This one?
9 Q -- it's 58 -- yes.
10 A Oh, 58? No.
11 Q To your knowledge, did Mr. Vargas write any statements
12 regarding Mr. Ruben Munoz?
13 A Yes.
14 Q How many statements -- how do you know that?
15 A He made a -- obviously, he made complaints against him, so
16 he had to write --
17 Q I'm sorry, let me clarify. To your knowledge, did
18 Mr. Walter Vargas prepare any written statements about
19 Mr. Munoz or any other -- or Mr. Pedro Hernandez?
20 A I'm not sure.
21 Q He didn't mention that he had prepare (sic) a statement
22 for you?
23 A Don't recall him telling me.
24 MS. PEREDA: Your Honor, at this moment, I would like to
25 move GC Exhibit 59 into the record.

1 JUDGE LAWS: Okay, any objection to 59?
2 MR. WILSON: Can I voir dire the witness on this, Your
3 Honor?
4 JUDGE LAWS: Sure.
5 **VOIR DIRE**
6 Q BY MR. WILSON: Mr. Matheu, can you look at the second
7 page of GC-59? It has at the bottom WAF00160.
8 A Yes.
9 Q There's a first page and a second page.
10 JUDGE LAWS: He's on the second page.
11 THE WITNESS: Second page, yes.
12 Q BY MR. WILSON: Yes, we'll get the second page. And
13 was -- okay.
14 Is that your handwriting?
15 A Yes.
16 Q Okay. And the first page is your handwriting?
17 A Yes.
18 Q Okay. I just wanted to make sure. Okay. That's fine.
19 No objection.
20 JUDGE LAWS: Okay. I will admit it. I do have a question
21 for you, though. On the bottom of the second page, it looks
22 like there's a signature line with the type-written name Walter
23 Vargas written above it. Did Mr. Vargas sign this document?
24 THE WITNESS: Yes, Your Honor.
25 JUDGE LAWS: Did he do it in your presence?

1 THE WITNESS: Yes, Your Honor.

2 JUDGE LAWS: All right. I will admit General Counsel

3 Exhibit 59.

4 **(General Counsel Exhibit Number 59 Received into Evidence)**

5 MS. PEREDA: Your Honor, even though this witness could

6 not identify GC Exhibit 58, this document was produced by the

7 Respondent pursuant to a subpoena as a document that they

8 relied in demoting Mr. Munoz based on this being part of the

9 document that the Respondent relied and that it was a business

10 record kept by Respondent. At this moment, I would also like

11 to move GC -- GC-58 in to the record.

12 MR. WILSON: Your Honor, I don't know that that's a

13 business record. That's simply something that the client

14 turned over to us. We have no explanation of exactly, you

15 know, where they got that. It pertained to this issue and if

16 he can't authenticate it, I can't authenticate where it came

17 from or who even wrote it.

18 JUDGE LAWS: Yeah. I -- I don't have enough information

19 about who wrote this, how it was translated, who translated

20 it -- whether it's a correct translation. This document hasn't

21 been authenticated as to when it was created, who created it,

22 and -- and without that information and the information

23 regarding the translation -- assuming that's what it is it's

24 not authenticated.

25 MS. PEREDA: Your Honor, I would -- I would base GC

1 Exhibit 57 based on our belief that again this was produced by
2 Respondent to us pursuant to the subpoena and we believe that
3 this was kept as a business record. We would like to move this
4 exhibit and 57 into the record.
5 MR. WILSON: Your Honor, you need a foundation for a
6 business record. There's absolutely no foundation for this
7 document either. And the fact that we supplied something that
8 may have related to a topic -- my god -- all we've heard since
9 we've been here is that we were responsive to their subpoena.
10 So we were trying to go overbroad. We gave them everything and
11 anything we believed was relevant.
12 JUDGE LAWS: Well --
13 MR. WILSON: There's absolutely no foundation this was a
14 business record
15 JUDGE LAWS: -- the -- the foundation hasn't been laid for
16 me to admit this without authentication as a business record.
17 It's -- nobody's been asked if it was kept in the ordinary
18 course of business etcetera. All the foundations that are
19 required under the federal rules of evidence for admitting
20 something as a business record haven't been -- nobody's been
21 asked those questions about this form. So certainly I will
22 allow you to -- we can hold off on these --
23 MS. PEREDA: Yes, Your Honor. I guess at this point they
24 can be in the rejected pile if that's -- if that's what
25 they're -- sort of -- technically need to be in -- in or out.

1 JUDGE LAWS: -- sure. I -- I'm not going to admit those
2 at this point because I don't believe they've been
3 authenticated. GC-57, the foundation hasn't been laid to
4 admitted as a business record. GC-58 has more problems that
5 I've already articulated. I'm not going to do it again. So at
6 this point, I don't think the foundation has been laid. They
7 can go into rejected exhibits file. If I -- I'm certainly very
8 willing to give General Counsel the leeway to establish that
9 through this witness or another witness. But at this point,
10 that hasn't been established.
11 **(General Counsel Exhibit Number 57 and 58 Rejected)**
12 (Counsel confer)
13 **CROSS-EXAMINATION (RESUMED)**
14 Q BY MS. PEREDA: Mr. Matheu, you testified that you also
15 met with employee Oscar Ortiz, correct?
16 A Yes, ma'am.
17 Q And you met with him -- when did you meet with him to talk
18 about employee Ruben Munoz's concerns?
19 A Exact day I do not know. Somewhere -- sometime in
20 October.
21 Q Of 2017, correct?
22 A Yes.
23 Q And when you met with him -- you met with him offsite,
24 meaning not at the Company, correct?
25 A Correct.

1 Q And that's because Ms. -- at the Mr. Oscar Ortiz was on
2 medical leave, correct?
3 A Yes.
4 Q And he had been on medical leave for a few weeks, correct?
5 A We met -- one of the main reasons why we met offsite -- he
6 had babysitting issues that day. He even brought his little
7 girl.
8 Q Okay. But he had been on medical leave for a couple of
9 weeks, correct?
10 A Correct. But I'm -- I'm not sure if he was on leave that
11 particular day.
12 Q Okay. Aside -- I'm not sure if I heard you correctly,
13 Mr. Gustavo Flores was with you when you met with Mr. Ortiz?
14 A Yes.
15 Q Were there any other labor consultants with you at that
16 meeting?
17 A No.
18 Q At that meeting, did you take notes from that meeting with
19 Mr. Ortiz?
20 A Don't recall.
21 Q Do you recall if Mr. -- if the labor consultant Gustavo
22 Flores took notes?
23 A Don't recall.
24 Q Was Scott Wilson at that meeting with Mr. Ortiz?
25 A No.

1 **(General Counsel Exhibit Number 60 Marked for Identification)**
2 Q BY MS. PEREDA: Mr. -- Mr. Matheu, is this is your
3 handwriting in what I've handed you as GC-60?
4 A No, ma'am.
5 Q Do you whether that's Mr. Gustavo Flores' handwriting?
6 MR. WILSON: Your Honor, could we have just a second to
7 look at this?
8 JUDGE LAWS: Oh, sure.
9 MS. PEREDA: This came from the Company, Your Honor.
10 JUDGE LAWS: I know, but --
11 MR. WILSON: Your Honor, like we have memorized every
12 document we turned over, I mean.
13 JUDGE LAWS: Yeah. When -- when you hand out a document,
14 it's -- it's appropriate for parties to re-familiarize
15 themselves with that document and myself.
16 MR. WILSON: Okay. I've read it. I don't know if Frank
17 has.
18 THE WITNESS: I -- I looked it over if --
19 MR. WILSON: Yeah.
20 THE WITNESS: -- you want me to read it, but it's not my
21 handwriting. I can read it if you like.
22 Q BY MS. PEREDA: Do -- did you read the statement that I
23 just handed you GC Exhibit 60?
24 A No, ma'am. I glanced through it.
25 Q I'm sorry. Can you take a moment to read it?

1 JUDGE LAWS: Well and before we -- we do that I want to
2 ask are you familiar with this?
3 THE WITNESS: No, ma'am. I'm not.
4 JUDGE LAWS: Okay. So are you going -- is he going to try
5 to -- are you going to have him try to authenticate it because
6 I'm not sure why we're having him read it if -- if his
7 testimony is that he hasn't seen it before.
8 MS. PEREDA: Well, I want to see if reading it refreshing
9 the recollection as to what happened at this meeting with
10 Mr. Ortiz, Your Honor.
11 JUDGE LAWS: Okay.
12 MR. WILSON: Your Honor, I think I would object. If -- if
13 he doesn't know what the document is -- it hasn't been
14 authenticated and we didn't know what it is -- how can he use
15 that to refresh his recollection if it's -- no one even knows
16 what the document is. I mean, for all we know they wrote it.
17 I mean that isn't --
18 JUDGE LAWS: Let's -- let's -- let's exhaust his
19 recollection about the meeting if you haven't already. If you
20 have, we can proceed, but.
21 Q BY MS. PEREDA: Did you read it? I'm sorry, Mr. Matheu.
22 A I started.
23 Q Okay. If you can continue, thank you.
24 A Sorry I'm trying to -- for words --
25 Q That's okay. You let us know when you're done. Now that

1 you have read General Counsel Exhibit 60, Mr. Matheu, does that
2 refresh your recollection as to whether at the meeting that you
3 and Mr. Gustavo Flores had with Mr. Ortiz -- whether at that
4 meeting what's discussed in this statement -- whether or not
5 that was also mentioned at the meeting?
6 A Yes. Some of this was discussed at a meeting, yes.
7 Q And with this particular document GC-60, you don't
8 remember Mr. Gustavo Flores taking notes at the meeting,
9 correct?
10 A I do not remember, no.
11 Q At that meeting with Mr. Ortiz, he -- he -- he told you
12 guys about how the fact that he was feeling pressure by
13 Mr. Ruben to vote for the Union, correct?
14 A That's what it says here, yes.
15 JUDGE LAWS: But is that true? Do you remember?
16 THE WITNESS: I do not recall talking about that at that
17 meeting, no.
18 Q BY MS. PEREDA: When you met with Mr. Ortiz isn't it true
19 that he -- he talked about how he was feeling pressure by some
20 of the Union supporters including Mr. Munoz about how they
21 wanted him to vote for the Union?
22 A As I mentioned, I do not recall having a conversation
23 regarding that.
24 Q Did the topic of the Union come up at all with you and --
25 when you met with Mr. Ortiz -- you and the labor consultant?

1 A I don't remember that.
2 Q Isn't it true that when you met with Mr. Walter Vargas,
3 the topic of the Union did come up though?
4 A I don't remember. I really don't.
5 Q If I can ask you to go back to General Counsel Exhibit 59,
6 the second page. The first and second page -- sorry. The
7 bottom of the first page because the last point.
8 During this meeting Mr. -- Mr. Walter Vargas told you
9 and -- and the labor consultant that the people like Mr. Ruben
10 and others would gang up on them because he would want to speak
11 to you or the labor consultant, correct?
12 MR. WILSON: Your Honor, I'm going to object. They're
13 asking to look at the document, then asking him a question at
14 the same time. They should ask him if they want him -- point
15 out to a particular portion on the nose.
16 MS. PEREDA: He said he did not remember as to what --
17 JUDGE LAWS: Yeah. When he's -- she's refreshing
18 recollection but I -- I -- I'm looking around for what you're
19 getting out of this document too. So if could point to --
20 to -- to what you're -- what part of the document you're using
21 to refresh his recollection --
22 MS. PEREDA: -- oh sure.
23 JUDGE LAWS: -- that would be helpful.
24 Q BY MS. PEREDA: So the last point, Mr. Matheu -- the last
25 point on page 1.

1 A Okay.
2 JUDGE LAWS: All gang up on me?
3 MS. PEREDA: Yes.
4 JUDGE LAWS: Okay.
5 Q BY MS. PEREDA: Isn't it true that at this meeting,
6 Mr. Walter complained about the fact that the Union supporters
7 including Mr. Ruben were intimidating him because he would talk
8 to you or the labor consultant?
9 A He didn't specify Union supporters. He said people.
10 Q People that supported the Union, correct?
11 A Again, he said that he was threatened and -- and
12 approached by employees. He didn't mention Union supporters.
13 Q He did testify though that though --
14 JUDGE LAWS: He -- he didn't testify so, rephrase that.
15 MS. PEREDA: -- oh I'm sorry.
16 Q BY MS. PEREDA: He did mention he -- Walter Vargas that
17 employee Pedro Hernandez was making remarks about the Union
18 specifically the Union will win, correct?
19 A Yes.
20 Q And Mr. -- during the meeting with Mr. Walter Vargas he
21 also mentioned about how Union -- Union members were --
22 withdraw that. To your knowledge, did Mr. Ortiz submit any
23 statements to the Company about Mr. -- Mr. Ruben Munoz?
24 A I am not sure. Don't remember.
25 Q Don't remember. Okay.

1 MR. WILSON: Your Honor, to my -- again is Union 60 been
2 moved -- or excuse me, General Counsel 60 been moved in?
3 JUDGE LAWS: It hasn't.
4 MS. PEREDA: I did not move it, Your Honor.
5 JUDGE LAWS: Okay. And I note that this one's in Spanish.
6 Oh.
7 MS. PEREDA: Well can I first ask the witness some
8 questions about this statement?
9 JUDGE LAWS: Sure. But I'm not going to admit anything
10 that is in Spanish without it being translated.
11 MS. PEREDA: Sure, Your Honor. We -- we had already
12 presented -- well, obviously this is a document that we
13 received from the Company.
14 JUDGE LAWS: Yeah.
15 MS. PEREDA: We had already spoken with Scott about the --
16 the translation about this particular document.
17 JUDGE LAWS: Okay. Great, thank you.
18 **(General Counsel Exhibit Number 61 Marked for Identification)**
19 Q BY MS. PEREDA: Mr. Matheu, had -- are you looking at
20 GC-61?
21 A Yes, ma'am.
22 Q Before today, had you seen this document?
23 A I remember seeing the picture of the -- little dog --
24 because he wrote this in his daughter's -- yes I -- I've seen
25 it before during that time.

1 Q Who's he? You said he.
2 A Oscar -- Oscar Ortiz.
3 Q Okay. So this is a statement that Mr. Oscar Ortiz
4 prepared, correct?
5 A Right.
6 MS. PEREDA: Your Honor, at this moment I would like to
7 move GC Exhibit 61 into the record.
8 JUDGE LAWS: And I just note that all but the last page --
9 and I'm going to go through and paginate -- this pen and ink 1,
10 2, 3, 4, 5, 6, 7 -- I have a 7 page document and I want to make
11 sure the court reporter has a paginated document -- 1 through 7
12 is in Spanish. So I'm not going to admit the first 6 pages
13 until I know that -- what is on page 7 is the translation of
14 those 6 pages and that has not been established.
15 MS. PEREDA: Sure. Your Honor, if I may, the first day of
16 the hearing -- so last Tuesday when this issue first came up,
17 we spoke about this issue. And at that moment General Counsel
18 handed the document in Spanish and English to the interpreter
19 to verify the accuracy of the translation. Mr. Wilson at the
20 moment said that, you know, and -- I don't -- remember exactly
21 if it was Mr. Wilson or yourself said that as long as the
22 interpreter interpreted or verified the accuracy of the
23 translation -- so long as that happened, then it could be
24 admitted based on that.
25 JUDGE LAWS: I don't remember her doing that for this

1 document.

2 MR. WILSON: Neither do I.

3 MS. PEREDA: She did not do it on the record. She did it

4 off -- she did it while --

5 JUDGE LAWS: I don't -- then I don't have her saying that

6 though. I -- I -- I guess I'm confused as to, you know,

7 that -- I haven't from the interpreter one way or the other

8 about this document.

9 MS. PEREDA: Can I just go off the record for a moment,

10 Your Honor?

11 JUDGE LAWS: Sure.

12 (Off the record at 12:05 p.m.)

13 JUDGE LAWS: This was provided to the interpreter that I

14 swore in, in this proceeding and that she verified this

15 translated.

16 MS. PEREDA: Yes. We will stipulate to that, Your Honor.

17 JUDGE LAWS: Okay. And the Respondent as well?

18 MR. WILSON: Yeah, that's fine.

19 JUDGE LAWS: Okay. Let's go back on the record.

20 While we were off the record, the parties stipulated that

21 page 7 is a translation pages 1 through 6 of General Counsel's

22 61 that was verified by the interpreter who was sworn as part

23 of this proceeding. So with that are there any objections?

24 MR. WILSON: No objections, Your Honor.

25 JUDGE LAWS: All right. I will admit General Counsel 61.

1 **(General Counsel Exhibit Number 61 Received into Evidence)**
2 Q BY MS. PEREDA: Mr. Matheu, one last question regarding
3 Exhibit 61. This is a document that you had seen before
4 Mr. Munoz -- Mr. Munoz from his lead position, correct?
5 A Yes.
6 Q Now after you received the complaints from Mr. Vargas,
7 Mr. Ortiz, and Mr. Rosas about Mr. Munoz, before demoting
8 Mr. Munoz you did not speak with Mr. Munoz about the complaints
9 that these three employees were making against him, correct?
10 A Correct.
11 Q Now Mr. Matheu after you received the complaints from the
12 three employees Mr. Vargas, Mr. Ortiz, and Mr. Rosas, you
13 referred this matter to HR, correct?
14 A Correct.
15 Q But you were not involved in HR's investigation of this
16 matter, correct?
17 A Correct.
18 Q So you don't know who HR spoke with regarding the
19 complaints that were being made, correct?
20 A That's correct.
21 Q And you don't know what HR's -- excuse me, you don't know
22 what HR's investigation consisted of, correct?
23 A That's correct.
24 Q When you met with Mr. Rosas, where did that meeting take
25 place? I'm sorry. Did you meet with Mr. Rosas when he -- you

1 testified earlier that Mr. Rosas also complained about
2 Mr. Munoz, correct?
3 A Correct.
4 Q Where did that meeting take place?
5 JUDGE LAWS: I don't think. I don't think he asked about
6 a Rosas meeting. I think it was the other two.
7 MR. WILSON: He testified that he didn't recall a
8 complaint because when he was --
9 JUDGE LAWS: Well, but let -- let's just -- why don't we
10 just ask?
11 MS. PEREDA: Okay, that's fine.
12 JUDGE LAWS: Did -- did you meet with Mr. Rosas?
13 THE WITNESS: Don't recall. Don't recall.
14 **(General Counsel Exhibit Number 62 Marked for Identification)**
15 Q BY MS. PEREDA: Mr. Matheu, if could please review what's
16 been marked as General Counsel Exhibit 62?
17 A Uh-huh.
18 Q And let us know when you're done.
19 A You want me to read it?
20 Q To yourself, please.
21 A Okay.
22 Q Before today, have you seen this document?
23 JUDGE LAWS: Yes or no?
24 THE WITNESS: No, sorry.
25 Q BY MS. PEREDA: So you don't know one way or -- you don't

1 know whether this document was prepared by Mr. Rosas, correct?
2 A I'm not sure, ma'am.
3 Q Now and you're the one that recommended that Mr. Munoz be
4 removed from his lead position, correct?
5 A Correct.
6 Q And that also included moving him from the night time
7 shift to the daytime shift, correct?
8 A Correct.
9 Q When Mr. Munoz was removed from his lead position or let
10 me backtrack. As a lead, it was -- Mr. Munoz didn't operate
11 the forklift on a regular basis, correct?
12 A He did.
13 Q Isn't it true that you had people assigned specifically
14 to -- as forklift operators?
15 A Yes.
16 Q Mr. -- Mr. Munoz was not a forklift operator, correct?
17 A He was a lead. And he was also assembling orders.
18 Q But his title was not forklift operator, correct?
19 A There's no such thing as forklift operator. There's
20 assemblers, which they use the pallet jacks to do orders --
21 it's not forklifts.
22 Q Isn't it true that there was people that have more
23 training to operate the forklifts?
24 A I'm sorry. I don't get your question.
25 Q Meaning not -- not everyone at the warehouse gets to

1 operate the forklift, correct?
2 A No.
3 JUDGE LAWS: And again, that was phrased in a negative
4 followed with correct.
5 MS. PEREDA: Just -- just --
6 JUDGE LAWS: Which is a -- lawyers do it all the time. I
7 don't know why, because it creates nothing but --
8 MS. PEREDA: -- does everyone --
9 JUDGE LAWS: -- hold on --
10 MS. PEREDA: -- sorry --
11 JUDGE LAWS: -- because it creates nothing but confusion.
12 So let's -- let's try to not ask in a negative and follow it up
13 with a positive question.
14 Q BY MS. PEREDA: Mr. Matheu, does everyone at the warehouse
15 operate the forklifts?
16 A No.
17 Q There are people specifically assigned with the task of
18 operating the forklift, correct?
19 A Yes.
20 Q Now after Mr. Munoz was -- was removed from his lead
21 position he was not prohibited from operating any equipment,
22 correct?
23 A No.
24 Q And he was --
25 JUDGE LAWS: Again, same problem.

1 Q BY MS. PEREDA: -- to your knowledge after Mr. Munoz was
2 demoted, was he prohibited from operating any equipment?
3 A No.
4 Q To your knowledge, was he required to take any type of
5 safety training courses?
6 A No.
7 Q No. He was not required to take any safety courses?
8 A No.
9 Q All right. In your testimony, Mr. Munoz, you -- you
10 talked about there being three shifts at the warehouse.
11 Regardless of whether an employee at the warehouse -- whether
12 they were working the first, the second, or the third shift
13 they all performed general warehouse duties, correct?
14 A Let me think about the question for one second. So they
15 one, two, three -- yes.
16 MS. PEREDA: And if I can ask the court reporter to hand
17 this witness what's been marked as General Counsel's Exhibit
18 11?
19 Q BY MS. PEREDA: Mr. Matheu, do you have before you what's
20 been marked as GC-11, title assembler?
21 A Yes.
22 Q And that document -- those are the general duties of the
23 warehouse employees, correct?
24 A Can I read it?
25 Q Yes, of course.

1 A Yes, I read it.
2 Q Now that you've read GC-11 -- again, these are the general
3 tasks that the warehouse employees are -- that they perform as
4 warehouse employees, correct?
5 A Correct. Assemblers, yes.
6 Q Assemblers are warehouse workers, correct?
7 A Yes.
8 Q Mr. Matheu, are you aware that -- so Mr. Rosas he became a
9 lead -- let me backtrack. Do you recall about when Mr. Rosas
10 first started working for Wismettac?
11 A I don't recall.
12 Q So you don't know whether it's been two years or more than
13 that, correct? You don't remember?
14 A I don't remember.
15 Q Now -- but he was recently or not recently -- sometime at
16 the beginning of 2017, he was promoted to the lead position,
17 correct?
18 A Correct.
19 Q And more -- most recently, he's been promoted to a
20 supervisory position, correct?
21 A It's still pending.
22 Q It's still pending, okay. So what is his current position
23 right now?
24 A A lead.
25 Q A lead? Okay. Are you aware that within the last month

1 or two he got into an accident while operating the forklift?
2 A I'm not aware.
3 Q You haven't heard of that before today that he got in --
4 that Mr. Rosas had an accident involving -- while he was
5 operating the forklift, running into one of the warehouse
6 doors?
7 A Don't recall.
8 Q So no one from the facility mentioned to you that there
9 had been an -- an incident involving Mr. Rosas at the
10 warehouse, correct?
11 A Correct.
12 JUDGE LAWS: Are we still on GC-11?
13 MS. PEREDA: I am done with GC-11.
14 JUDGE LAWS: Okay.
15 Q BY MS. PEREDA: So let's talk about Randstad and the temp
16 employees. If I -- if I remember correctly, Mr. Matheu, you
17 testified that there isn't a policy that temp employees must be
18 converted to permanent Wismettac employees, is that your
19 testimony?
20 A No. There's no such rule.
21 Q But from time to time, Wismettac will convert temp
22 employees to permanent employees, correct?
23 A Yes.
24 Q And that happened even before the Union came into the
25 picture, correct?

1 A Yes.
2 Q And that's still the practice at Wismettac, correct?
3 A Correct.
4 Q And this process converting someone from a temp agency to
5 a Wismettac employee, is that what you guys refer to as temp to
6 hire?
7 A Yes.
8 Q And typically that conversion happens once that employee
9 has been working for 90 days at Wismettac, correct?
10 A Depending on the contract with the Agency.
11 Q You testified about the termination of the Randstad
12 contract with Wismettac that was scheduled to happen on
13 November 23, 2017. You made that decision in late October 2017
14 that you were going to terminate the assignment of the daytime
15 Randstad employees, correct?
16 A Correct.
17 Q You didn't notify Randstad -- you ended up -- you had a
18 meeting with employees where you first notified the Randstad
19 employees that their -- the daytime employees that their
20 assignment was going to end that day, correct?
21 A I didn't understand your question.
22 Q You had a meeting with -- you had a meeting with the
23 Randstad daytime employees where you notified those employees
24 that their assignment was going to end effective that date,
25 correct?

1 A I had a meeting with daytime and night time --
2 Q Where you notified --
3 A -- Randstad employees.
4 Q -- where you notified the daytime employees that their
5 assignment was going to end effective that day, correct?
6 A Correct.
7 Q Prior to that date, you had not told any of the Randstad
8 daytime employees that their assignment was going to be ending,
9 correct?
10 A Correct.
11 Q And you also hadn't told Randstad that you were going to
12 terminate the assignment of those Randstad daytime employees
13 effective October 31st, 2017.
14 MR. WILSON: Objection, irrelevant.
15 THE WITNESS: Well, we couldn't --
16 JUDGE LAWS: Hold on. Finish -- let her finish the
17 question. Re-ask it and -- and then I'll take any objections.
18 Everyone was speaking over each other -- all three of you. So
19 let's -- let's -- let her finish the question before any
20 objection is lodged and before you start answering.
21 Q BY MS. PEREDA: Before you made the decision to end the
22 assignment of the Randstad daytime employees you hadn't
23 notified Randstad that you were planning on doing this,
24 correct?
25 MR. WILSON: And I object on relevance, Your Honor.

1 JUDGE LAWS: Okay. And I'll -- I'll allow it. Overruled.
2 THE WITNESS: No.
3 Q BY MS. PEREDA: After the Randstad daytime employees were
4 let go -- so in the months of November -- December of 2017,
5 Wismettac continued to receive new temp employees from other
6 staffing agencies, correct?
7 A Correct.
8 Q And that include Horizon, correct?
9 A Yes, yes. Again I'm not sure what agencies, but yeah, we
10 had some employees.
11 MS. PEREDA: And if can again ask the court reporter to
12 hand this witness what's been marked as General Counsel both 24
13 and 47. I'm sorry. Not 47. Sorry about that. 46.
14 Q BY MS. PEREDA: Mr. Matheu, do you have before you what's
15 been marked as General Counsel Exhibits 24 and 46?
16 A Yes.
17 Q And these two lists represent the temp employees that were
18 referred to Wismettac during October of 2017 through March of
19 this year, correct?
20 A Well can I --
21 Q What?
22 A (No audible response)
23 JUDGE LAWS: Okay. I -- I guess I'm wondering why we're
24 going here with this witness if this is already in evidence and
25 he said there were employees hired through staffing agencies.

1 MS. PEREDA: Well, Your Honor, because Respondent produced
2 this document and -- I just want to make sure -- and there's no
3 titles on the -- on the sheets themselves -- I want to make
4 sure that that's clear on the record as to what these lists
5 represent.
6 JUDGE LAWS: I -- I'm not sure there's any confusion. Is
7 there? Did -- I mean, you didn't object to these and they were
8 offered --
9 MR. WILSON: No. They're in evidence and unless he --
10 they're going to ask him to go through each person -- I mean,
11 the document speaks for itself.
12 MS. PEREDA: Okay. That's fine, Your Honor.
13 Q BY MS. PEREDA: Mr. Matheu, have you heard of the term
14 rolling employees from one staff agency to another?
15 A Yes.
16 Q What does that mean?
17 A Basically one employee goes from one agency to the other.
18 Q Is -- is Wismettac involved in any way when that happens
19 or how -- how does that process take place?
20 A Well, that's up to the employee. If the employees -- for
21 example, employ -- if I worked for Spectra, am I happy that --
22 how they process my payment? I'm unhappy with how they react
23 to my issues, then I'm going to go to Aerotek. So that's the
24 employee's decision to go there.
25 Q But to your knowledge, is Wismettac involved in that

1 process when one employee changes or moves from one staffing
2 agency to another staffing agency?
3 A No.
4 Q You don't know what -- what role if any does Wismettac
5 play in that?
6 A Please -- please give me a second. I mean, it's just
7 that -- shooting the --
8 Q Okay.
9 A So rolling is basically one employee going from one agency
10 to another. Are we involved? No.
11 Q Mr. Matheu, are you familiar with the -- with the Randstad
12 employee -- with the former Randstad employee name Harumi
13 Tomimura?
14 A Harumi, yes.
15 Q Now she was a formal Randstad daytime employee, correct?
16 A Uh-huh.
17 JUDGE LAWS: Yes?
18 THE WITNESS: Yes. I'm sorry, ma'am. Yes.
19 Q BY MS. PEREDA: And when the contract with Randstad
20 ending, she continued to work at Wismettac, but through another
21 staffing agency, correct?
22 A No. No -- no -- no. I think she was hired on. Yes, she
23 was hired on.
24 Q Hired on as a Wismettac employee?
25 A Yes.

1 Q So to your knowledge, she didn't go into another staffing
2 agency between Randstad and Wismettac?
3 A To my knowledge, no. And reason why she hired, she wasn't
4 a specific --
5 JUDGE LAWS: You answered.
6 THE WITNESS: Oh, sorry.
7 JUDGE LAWS: Let's -- let's move on.
8 Q BY MS. PEREDA: Now Wismettac did not pay any type of pay
9 to Randstad when she was converted to a Wismettac employee,
10 correct?
11 MR. WILSON: What's your foundation?
12 JUDGE LAWS: Yeah. Do you know?
13 THE WITNESS: No.
14 JUDGE LAWS: Okay.
15 MS. PEREDA: Mr. -- if the court reporter can please hand
16 this witness GC-23?
17 Q BY MS. PEREDA: Do you have before you what's been marked
18 as General Counsel Exhibit 23?
19 A Yes.
20 Q And I just want to understand some -- some codes here that
21 I'm not -- I'm not sure what they mean. So if you look under
22 the column department right about the middle of the page, LA
23 500 -- that refers to the Santa Fe Springs facility, correct?
24 A Correct, 5000.
25 Q Correct. Thank you for correcting me.

1 Mr. Matheu, do you know what -- what difference, if any,
2 there is between what is classified under job title as W dash
3 1, W dash 2, or W dash 3 -- what does the different number
4 after the W represent?
5 A W-1 is an assembler. I'm sorry. Finish your question.
6 Sorry.
7 Q That's okay.
8 A W-1 is assembler, W-2 receiver, and W-3 will be more like
9 janitorial or butler.
10 Q And if you turn over -- sorry about that. What does --
11 also looking under department FL 6000 -- what branch was that?
12 A I'm sorry. What was that -- which one?
13 Q FL 6000?
14 A XL?
15 JUDGE LAWS: F as in Florida
16 Q BY MS. PEREDA: I -- I'm sorry. I don't know if I said.
17 A FL 6000 is a Florida driver.
18 JUDGE LAWS: I didn't mean that literally, but.
19 Q BY MS. PEREDA: I'm sorry. FL -- is that a facility that
20 you oversee? The FL 6000?
21 A Yes.
22 JUDGE LAWS: And I'm just going to jump in here because LA
23 5000 you said Los Angeles -- what's the difference between LA
24 5000 and LA 6000?
25 THE WITNESS: LA 5000 is warehouse --

1 JUDGE LAWS: Yeah.
2 THE WITNESS: -- LA 6000 is driver.
3 JUDGE LAWS: Thank you.
4 Q BY MS. PEREDA: And towards the bottom where it says OL
5 5000, what does the OL represent?
6 A Orlando.
7 Q And you're also in charge -- at the time you were also in
8 charge of that facility?
9 A Yes.
10 Q Just to clarify, at the time you were -- you were in
11 charge -- back on in October -- November of last year -- you
12 were also in charge of the Florida -- FL 6000 facility?
13 A Correct.
14 Q For the Randstad night time employees -- so the employees
15 that were kept on until sometime around November 23, 2017 when
16 the contract with Randstad ended. Some of those employees were
17 rolled over to another staffing agency, correct?
18 A After the contract, yes.
19 Q And they continued to work for Wismettac through another
20 staffing agency, correct?
21 A Correct.
22 Q Employee Pedro Hernandez, he worked at -- at Wismettac
23 through Randstad, correct?
24 A Yes.
25 Q Now around the same time that you received those

1 complaints and I'm sorry -- this -- I'm not sure if it's clear
2 on the record, so I apologize for this -- did you receive
3 complaints from Mr. Rosas about Mr. Munoz's work or attitude
4 prior to him being demoted?
5 A Did I receive complaints from Mr. Rosas regarding
6 Mr. Munoz's attitude?
7 Q His performance or his behavior or attitude towards
8 employees?
9 A Don't recall.
10 Q You don't recall if he complained?
11 A Correct.
12 MS. PEREDA: Your Honor, can I have a minute?
13 JUDGE LAWS: Sure.
14 MR. WILSON: How much longer are we going to go?
15 JUDGE LAWS: Yeah.
16 MR. WILSON: I have witnesses in the witness room. I
17 don't know whether I should tell them to just take off -- we'll
18 be here all afternoon with this or --
19 JUDGE LAWS: Are we -- give us -- we've been a while.
20 Are -- are we wrapping up cross?
21 MS. PEREDA: I still have about six pages of questions,
22 Your Honor.
23 MR. WILSON: Okay. Your Honor, so --
24 MS. PEREDA: At -- at least 20, 30 minutes.
25 JUDGE LAWS: All right. I -- I'd like to finish with

1 cross, but if you want to go tell the employees -- yeah. I --
2 I would assume we'll have time for at least one more person.
3 MR. WILSON: -- we have one short witness.
4 JUDGE LAWS: Okay.
5 MR. WILSON: So maybe I'll have that one stay and the
6 other one take off. And then we can bring the longer one back
7 tomorrow morning.
8 JUDGE LAWS: All right. Why don't we -- well it's only --
9 it's only 12:30. I mean, how -- how long is the longer one?
10 MR. WILSON: Pretty long. It's Mr. Fujimoto.
11 JUDGE LAWS: You know, I -- I'm just wondering if -- if we
12 shouldn't try to get him at least started today, but if he's at
13 a hotel nearby or could -- could go somewhere nearby so he's
14 not stuck here, that's fine. I don't see this -- I mean, there
15 can't -- I understand there are more pages, but cross is
16 necessarily limited in scope by direct. I just can't see that
17 cross is going to take three times longer than direct. At some
18 point it's going to move along and I -- I don't want to have
19 time this afternoon.
20 MR. WILSON: No, I understand. And we're not --
21 JUDGE LAWS: Yeah.
22 MR. WILSON: -- you know, I just don't want people sitting
23 around and saying --
24 JUDGE LAWS: Yeah.
25 MR. WILSON: -- oh well, okay. Sorry, go home.

1 JUDGE LAWS: Why -- why don't we take five minutes? You
2 can excuse the witnesses, I would say, building in a lunch
3 break. Nobody's going to have to be here until at least
4 probably 2:00 or 2:30. If you want to scoot out and tell them.
5 MR. WILSON: Okay.
6 MS. PEREDA: We're off the record.
7 JUDGE LAWS: Let's go. Well now -- now we are.
8 (Off the record at 12:34 p.m.)
9 JUDGE LAWS: Let's go back on the record. Just resume
10 whenever you're ready.
11 Q BY MS. PEREDA: Mr. Matheu, if I remember correctly you --
12 you mentioned or you testified that Mr. Pedro Hernandez that
13 his assignment was terminated based on employee complaints, was
14 that what you testified?
15 A Yes, ma'am.
16 Q And which employees complain about him?
17 A There were complaints -- I'm not sure which employees, but
18 I know there were complaints about -- well you asked the
19 question about what employees, so you can guess. Mr. Walter
20 Vargas mentioned it.
21 Q To your knowledge, was he the only one that complained
22 about Mr. Pedro Hernandez?
23 A The ones I could recall. He was -- I can't remember the
24 names of -- but I know for sure he was very vocal about them.
25 Q And he meaning -- being?

1 A Walter Vargas.
2 Q Walter Vargas. And Mr. Walter Vargas complained about
3 Mr. Pedro Hernandez at the same time that he complained about
4 Mr. Ruben Munoz, correct?
5 A I'm not sure it was the same time. I don't recall that.
6 But I know that --
7 JUDGE LAWS: Don't reach for your document unless you're
8 specifically directed to it.
9 Q BY MS. PEREDA: So -- maybe that's the easiest way
10 actually. If you could take a look -- let's see. If you could
11 take a look at GC-59. And if you can turn to page 2. In
12 looking GC-59, do you now remember whether when you met with
13 Mr. Walter Vargas when he complained about Mr. Munoz that at
14 that time he also complained about Mr. Pedro Hernandez?
15 A Yes.
16 Q So those complaints were raised at the same -- in the same
17 meeting, correct?
18 A Yes. If it's run like this, yes.
19 Q Now you -- you made the decision to terminate Mr. Pedro
20 Hernandez's assignment, correct?
21 A Correct.
22 Q Before terminating his assignment, Mr. Pedro Hernandez's
23 assignment, you did not meet with Mr. Pedro to talk to him
24 about the complaints that Mr. Walter Vargas was making against
25 him, correct?

1 A No.

2 JUDGE LAWS: Did you or did you not meet with him?

3 THE WITNESS: No. No.

4 JUDGE LAWS: You didn't -- you did not?

5 THE WITNESS: I did not. I'm sorry.

6 JUDGE LAWS: Thank you.

7 Q BY MS. PEREDA: Now prior to terminating, Mr. Pedro

8 Hernandez's assignment -- a couple of weeks before terminating

9 his assignment Mr. Vargas had complained about Mr. Pedro

10 Hernandez, correct?

11 A Well, I'm not sure if it was a couple weeks before that.

12 Again, it's dates I don't --

13 JUDGE LAWS: If the dates are a matter of record, we don't

14 need to nail them down right here right now with this witness.

15 Sorry about that. If they're not, go ahead and do so.

16 MS. PEREDA: Well, I'm afraid that this statement is not

17 dated so.

18 JUDGE LAWS: Okay.

19 Q BY MS. PEREDA: Mr. Frank Matheu, do you recall providing

20 an affidavit to the NLRB regarding Mr. -- the termination of

21 assignment of Mr. Pedro Hernandez?

22 A Yes.

23 MS. PEREDA: Do you want me to show you, I mean?

24 MR. WILSON: Yeah. Let me see it just real fast. I'm

25 just going to look at --

1 MS. PEREDA: Bottom of page 6, and continue on to the
2 page 7.
3 Q BY MS. PEREDA: Mr. Matheu, I'm going to hand you one of
4 the affidavits that you provided the NLRB, and I just want you
5 to look at bottom of page 6 starting in line -- well with line
6 23 and then continue to page 7, just lines 1 and 2, okay?
7 A 23 and then 1 and 2. Okay.
8 Q Yes.
9 A I'm sorry from 23, correct?
10 Q Yes. And then --
11 A And then -- and then --
12 Q Bottom of page 6 and then --
13 A -- 1 and 2?
14 Q -- correct.
15 A Got it.
16 Q And just let us know when you're done.
17 A Okay.
18 Q So it had been at least a few weeks -- couple of weeks
19 before you decided to terminate Mr. Hernandez's assignment that
20 you had received the complaints from Mr. Walter Vargas,
21 correct?
22 A Yes. Uh-huh.
23 Q Regarding Randstad employee Fanor Zamora, while he was
24 working at Wismettac through Randstad he applied to work
25 directly with Wismettac, correct?

1 A Yes.
2 Q But he was never converted into a permanent Wismettac
3 employee, correct?
4 A Correct.
5 Q And -- and both Mr. Pedro Hernandez and Mr. Fanor Zamora,
6 they submitted job after the -- after they were let go, they
7 both submitted job applications to work directly with
8 Wismettac, correct?
9 A Not sure about that. I don't know who -- who applied to
10 Wismettac, but.
11 Q Regarding Mr. Jeremiah Zermeno, while he was working
12 through Randstad at Wismettac there were -- there was -- there
13 was a discussion about converting him to a permanent Wismettac
14 employee, correct?
15 A I don't recall that conversation.
16 Q Now in your testimony earlier today, you testified that at
17 the meeting with Randstad -- with the Randstad employees
18 Mr. Jeremiah Zermeno made a remark, but you didn't report
19 that -- that remark to Randstad, correct?
20 A No.
21 JUDGE LAWS: And again I'm going to have that clarified.
22 Are you saying no that's not correct or no you didn't report
23 it?
24 THE WITNESS: No, I did not report it.
25 JUDGE LAWS: Thank you.

1 Q BY MS. PEREDA: Regarding Mr. Alberto Rodriguez, his
2 written warning that he received on December 31st, 2018 you
3 were involved in the decision to issue Mr. Rodriguez that
4 written warning, correct?
5 A He received two. I'm not sure which one was the one on
6 the 31st.
7 Q The 21st.
8 A Oh you -- I'm sorry.
9 Q Oh, that's okay.
10 A Yeah. I believe yeah -- I'm not sure which one that was.
11 MS. PEREDA: If I can ask the court reporter to hand this
12 witness GC-34.
13 Q BY MS. PEREDA: Do you have before you General Counsel
14 Exhibit 34, Mr. Matheu?
15 A Yes.
16 Q Okay. And so again you were involved in the decision to
17 issue Mr. Rodriguez that written warning, correct?
18 A Yes.
19 Q Now the complaints on which the written warning is based,
20 those -- those complaints came to you through Mr. McCormick and
21 Mr. Gerber Flores, correct?
22 A Yes.
23 Q You didn't speak with the employees that were making those
24 complaints, correct?
25 A That was HR's investigation.

1 Q So again, you did not speak with those employees that were
2 making the complaints, correct?
3 A No.
4 Q No, you did not. Did you meet with the employees that
5 were making the complaints?
6 A No.
7 Q And again, you don't know -- you were not involved in HR's
8 investigation as to this matter, correct?
9 A Correct.
10 Q Regarding Mr. Rodriguez's suspension, you were involved in
11 the decision to suspend him, correct?
12 A Yes.
13 Q Now, Mr. Rodriguez was suspended, or he was placed on
14 suspension based on the threats that were reported to you, and
15 also the incident with Mr. Marcus Mack; is that correct?
16 A That's right, yes.
17 Q You never spoke with Mr. Marcus Mack about the incident
18 involving -- the music incident involving himself and
19 Mr. Alberto Rodriguez, correct?
20 A Correct.
21 Q And before placing Mr. Rodriguez on suspension, you did
22 not speak to him as to the alleged threats that he was making,
23 or the music incident, correct?
24 A That was HR's investigation, so no, I did not speak to
25 him.

1 Q And you don't know -- you don't know what HR's
2 investigation consisted of, correct?
3 A Correct.
4 Q Regarding the -- the alleged threats that Mr. Rodriguez
5 made, you don't know which employees filed those complaints,
6 correct?
7 A The only thing I know they were freezer workers.
8 Q But you don't know how many, correct?
9 A Correct.
10 Q And which employees, correct?
11 A Correct.
12 Q When Mr. Rodriguez was placed on suspension, you knew that
13 he was a Union supporter, correct?
14 A Yes.
15 Q Now, on about February 16, the Company made a decision to
16 terminate Mr. Rodriguez's employment, correct?
17 A Correct.
18 Q And you were involved in that decision to terminate his
19 employment, correct?
20 A Yes.
21 MS. PEREDA: If I can please ask the court reporter to
22 provide this witness General Counsel Exhibit 36.
23 Q BY MS. PEREDA: Mr. Matheu, do you have before you Exhibit
24 36?
25 A Yes.

1 Q Before terminating Mr. Rodriguez's employment, you never
2 met with him to talk about the reasons why he was being
3 terminated, correct?
4 A That's HR's part.
5 JUDGE LAWS: Did you meet with him or not?
6 THE WITNESS: No.
7 Q BY MS. PEREDA: Now, regarding the last -- so under number
8 two, the last part, insubordination. So this termination
9 notice says that he engaged in insubordination. But you don't
10 know what that pertains to, correct?
11 A Correct. HR's investigation.
12 MS. PEREDA: Nothing further, Your Honor.
13 JUDGE LAWS: All right, I would love to get through cross
14 on both sides before we break for lunch, but if you have much
15 more than about 15, 20 minutes, we might want to break.
16 MS. SANCHEZ: May I confer for one second?
17 JUDGE LAWS: Sure. I'm hoping there's not much more
18 ground to cover.
19 MS. SANCHEZ: Your Honor, I think we can get through it.
20 JUDGE LAWS: Okay. Let's give it a shot.
21 **CROSS-EXAMINATION**
22 Q BY MS. SANCHEZ: Good morning. We know each other as
23 well. I'm going to ask you just a couple of questions.
24 A Sure, sure, sure. And I have a bad ear, so if I say
25 repeat it.

1 Q You got it. I'll try to speak up as well.
2 A Thank you.
3 Q There was a document you mentioned yesterday, as well as
4 today, that drivers utilized. It was part of a meeting. This
5 document -- I wasn't sure if it was called an RMA or a request
6 for admissions.
7 A It's an RMA. It's a returns merchandise authorization
8 form.
9 Q Okay, and this is a document -- this is used by drivers,
10 and it's a document that they use for returns or --
11 A Yes.
12 Q -- problems and these sorts of things, correct?
13 A Yes, ma'am.
14 Q Okay, and that -- and they bring that back at the end of
15 their shift to the supervisors, or the next day?
16 A Yes, if I may add to that, that document wasn't used by
17 sales department. For example, if a customer calls sales and
18 says, hey, I want you to pick up five cases of tuna that I'm
19 not going to use, so sales writes the information and gives it
20 to the driver.
21 Q Your Honor, I'm going to ask that to be stricken as
22 nonresponsive.
23 A Oh.
24 Q I just needed a clarification.
25 JUDGE LAWS: It doesn't matter.

1 THE WITNESS: Oh, sorry.
2 MS. SANCHEZ: Okay, thank you.
3 JUDGE LAWS: Let's just move on, please.
4 MS. SANCHEZ: Thank you.
5 Q BY MS. SANCHEZ: But I don't think you heard the last part
6 of my question. This is brought back to the supervisors at the
7 end of their shift?
8 A Yes.
9 Q Okay. Thanks for that clarification.
10 You testified about a management team earlier, and this
11 was in response to questions about Alberto Rodriguez. You had
12 said that you weren't -- you were not involved in the day to
13 day review, but that you had heard from Christian McCormick,
14 Anthony Vasquez, and Gerber Flores, is that -- are those the
15 people on the management team?
16 A Yes.
17 Q Okay, and prior to Isidro Garcia's suspension, he would
18 have been on that management team as well?
19 A Yes.
20 Q So when you met with Mr. Walter Vargas, Mr. Isidro Garcia
21 wasn't present, was he?
22 A Correct.
23 Q And but Mr. Vargas worked on the night shift, right?
24 A Yes.
25 Q And Mr. Isidro Garcia was the night shift assistant

1 warehouse manager, wasn't he?
2 A Yes.
3 Q And you also testified about the meeting with Mr. Oscar
4 Ortiz off site.
5 A Yes.
6 Q He had complaints about Mr. Munoz. You testified about
7 that. That was in October 2017. And Mr. Isidro Garcia was
8 still the assistant warehouse manager at that time, right?
9 A Correct.
10 Q Okay. But he was not present at that offsite meeting, was
11 he?
12 A No.
13 Q But Mr. -- the labor consultant Gus Flores, was present at
14 that meeting?
15 A Correct.
16 Q Okay, thank you. Jose Rosas and Oscar Ortiz did not
17 support the Union, right?
18 A No.
19 Q Right, they didn't support?
20 A They did not support it.
21 Q Thank you. And to your knowledge, Mr. Munoz did support
22 the Union?
23 A Yes.
24 Q You also testified -- excuse me, one second. Sorry, you
25 also testified that -- about the discipline and eventual

1 termination of Mr. Alberto Rodriguez. And you said that you
2 rightly took threats of violence -- or you and the Company took
3 threats of violence very seriously, right? You're shaking your
4 head?
5 A Yes, yes, sorry.
6 Q So it would follow that you would also have taken the
7 complaint, the threats of violence complaint about Marcus Mack,
8 very seriously, too, right?
9 A Yes. They were both investigated.
10 Q Okay, but Marcus Mack, to your knowledge, was not
11 disciplined, was he?
12 A No.
13 Q And Marcus Mack was also an anti-union employee, correct?
14 Meaning he did not support the Union.
15 A Correct.
16 Q Okay. You -- I'm almost done. I told you it would be
17 short. You talked about the conversion of temp employees.
18 Marcus Mack was converted. But he had only been an employee
19 for a few months; isn't that right?
20 A Don't recall the exact time he was employed.
21 Q Okay. I think he testified about that on the record. You
22 do know he was converted, though, correct?
23 A Yes.
24 Q Okay, and you also talked about sometimes with the
25 conversions, there's a penalty that has to be paid?

1 A Yes, when -- okay, I'm sorry.

2 Q Yes, okay. And so the Company paid the penalty for Marcus

3 Mack?

4 A I am not sure.

5 Q Okay. No further questions, Your Honor.

6 JUDGE LAWS: All right. It is exactly 1:00. Why don't we

7 come back for any redirect at 2:00? Off the record.

8 (Off the record at 1:00 p.m.)

9 JUDGE LAWS: Okay, back on the record. We are back

10 following our lunch break. We were going to start with

11 redirect, but counsel for the Union said she had one additional

12 question. So go ahead.

13 MS. SANCHEZ: Thank you, Your Honor.

14 **CROSS-EXAMINATION (CONTINUED)**

15 Q BY MS. SANCHEZ: Mr. Matheu, the other question that I

16 forgot to ask you, going back to your earlier testimony, I'd

17 asked you whether you knew that Mr. Munoz was a Union

18 supporter. And you said, yes. Same question with regard to

19 Pedro Hernandez. You knew he was also a Union supporter,

20 correct?

21 A Yes, ma'am.

22 Q Thank you. No further questions.

23 JUDGE LAWS: Any redirect?

24 MR. WILSON: So can we show the witness General Counsel

25 Number 2?

1 **REDIRECT EXAMINATION**

2 Q BY MR. WILSON: And Mr. Matheu, can you turn to page 6 of
3 General Counsel Number 2?
4 A Okay.
5 Q And Mr. Matheu, this is a demotion document Mr. Munoz
6 received when he was demoted from lead. And the first sentence
7 with the bullet points, can you read that sentence? Not out
8 loud. To yourself.
9 A Yes.
10 Q Okay. Did Mr. Munoz -- what equipment did Mr. Munoz
11 operate?
12 A Mr. Munoz operated a E pallet jack.
13 Q Okay. Is the reference to a forklift in there correct or
14 incorrect?
15 A It is incorrect.
16 Q And why didn't you train -- retrain Mr. Munoz after he was
17 reassigned, as to the pallet jack operation?
18 A Mr. Munoz knew how to operate the machine. The ramming
19 and intimidation with -- with the E pallet jack was violation.
20 It was done on purpose.
21 Q Okay, and with regard to the operation -- excuse me, the
22 investigation, where you testified, as related to Mr. Munoz,
23 and there was testimony that Gus Flores was involved. Why was
24 Mr. Flores involved, as opposed to human resources?
25 A There was a lot going on during that time period. A lot

1 going on. And HR was shorthanded. Obviously with the legality
2 and the size of this -- this, you know, this thing, this
3 situation, we needed help.
4 Q Do you mean, this thing, the Union organization --
5 A The Union -- the Union --
6 JUDGE LAWS: Hold on. Let's circle back one at a time.
7 Q BY MR. WILSON: When you use the word, this thing, what --
8 what were you referring to?
9 A This whole Union campaign for --
10 Q Okay.
11 A -- yeah.
12 Q And there was a question about, her name is Humari (sic)?
13 A Harumi.
14 Q Harumi.
15 A Yes, yes.
16 Q Do you know who I'm referring to?
17 A Yes, sir.
18 Q Okay, now she was a Randstad day shift employee, correct?
19 A Yes.
20 Q Okay, was she laid off with the other day shift employees
21 on October 31st?
22 A No.
23 Q And why was she retained on?
24 A She worked in a position that was out of -- it was
25 different from the others.

1 Q Was she performing the same duties as the other Randstad
2 day shift employees who were laid off on October 31st?
3 A No.
4 Q Okay. Okay, that's all the questions I have.
5 JUDGE LAWS: All right. Any recross?
6 MS. PEREDA: Just very briefly, Your Honor.
7 **RECROSS-EXAMINATION**
8 Q BY MS. PEREDA: Mr. Matheu, regarding Mr. Munoz, prior to
9 the complaints that you received from employees that ultimately
10 led to his demotion from the lead position, the Company hadn't
11 received any other written complaints from employees
12 complaining about Mr. Munoz's operation of the equipment,
13 correct?
14 A I'm not sure. I don't remember.
15 Q Nothing further.
16 JUDGE LAWS: Okay, any recross from the Union?
17 MS. SANCHEZ: Yes.
18 **RECROSS-EXAMINATION**
19 Q BY MS. SANCHEZ: Mr. Matheu, to be clear, Mr. Flores, Gus
20 Flores, was not hired as HR, correct?
21 A No.
22 Q Thank you. No, he was not hired as HR?
23 A No, he was not hired as HR
24 Q Thank you. No further questions, Your Honor.
25 JUDGE LAWS: All right, anything else from the Employer?

1 MR. WILSON: No, Your Honor.

2 JUDGE LAWS: Well, thank you for providing your testimony.

3 Please don't discuss what you testified about with any witness

4 or any potential witnesses.

5 All right. Let's go off the record and let Troy

6 organize --

7 (Off the record at 2:06 p.m.)

8 Whereupon,

9 **RON MINCH**

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

11 examined and testified as follows:

12 JUDGE LAWS: Can you have a seat, and please state and

13 spell your name for the record?

14 THE WITNESS: My name is Ron Minch. That's R-O-N. Last

15 name, M-I-N-C-H.

16 JUDGE LAWS: Thank you, Mr. Minch. A couple of things

17 before counsel starts asking you questions. First is, if

18 you're asked a question and you don't know the answer, just go

19 ahead and say I don't know. Only guess or speculate if you're

20 asked to do so.

21 THE WITNESS: Understood.

22 JUDGE LAWS: And if you don't understand a question,

23 that's fine, but say I don't understand the question, and it

24 will be re-asked for you, in a way that's hopefully more clear.

25 And then finally, just make sure you don't start speaking over

1 the person who's asking you the questions because our court
2 reporter can only take down one voice at a time.
3 THE WITNESS: Understood.
4 JUDGE LAWS: Thanks.
5 **DIRECT EXAMINATION**
6 Q BY MR. WILSON: Good afternoon, Mr. Minch. Thank you for
7 coming down this afternoon. So where are you currently
8 employed?
9 A Wismettac Asian Foods.
10 MR. WILSON: Okay, and can the court reporter hand the
11 witness Employer's Exhibit 4 and 5? And also Exhibit 12, which
12 has been marked.
13 Q BY MR. WILSON: Okay, so what's your position there at
14 Wismettac, Mr. Minch?
15 A I am the national distribution logistics GM for the
16 operations.
17 Q Okay, what does that involve?
18 A So I have oversight to the regions. So I manage the
19 regional managers for all of our distribution logistics at our
20 operations.
21 Q Okay, and how long have you been there?
22 A Going on year two.
23 Q Okay, did you hold that same position in August of 2017?
24 A I did.
25 Q Okay, and where's your office -- excuse me.

1 So the Company is located in Santa Fe Springs on Orden
2 Drive, correct?
3 A That is correct.
4 Q Okay. So I want you to take a look at what's been marked
5 as Employer Exhibit Number 5.
6 A Okay.
7 Q Okay. Does that appear to be a screenshot of the
8 facility?
9 A Yeah, that appears to be the facility.
10 Q Okay, and is the -- and can you look at Employer -- what's
11 been admitted as Employer Exhibit Number 4?
12 A Okay.
13 Q Okay, and does that appear to be a map, or layout, of the
14 warehouse?
15 A Yes.
16 Q Okay.
17 A That is the warehouse.
18 Q Okay, and where is your office in the Company?
19 A So my office is on the second floor of the corporate
20 headquarters offices.
21 Q And that's --
22 A In the same building.
23 Q Okay, on Orden Drive in Santa Fe Springs?
24 A Correct.
25 Q Okay, and is there -- what is on the first floor besides

1 the warehouse?
2 A So the second -- or the first floor consists of the branch
3 offices. So it would be all of the customer service, the sales
4 staff, all the folks that support the Los Angeles Branch.
5 Q Okay. And can you take a look what's been marked as
6 Employer Exhibit 12?
7 A Okay.
8 Q Okay, and can you tell me what that document is?
9 A This appears to be an overview of the first floor office
10 area, and the rest or break area, lunch room.
11 Q Okay. Now have you seen this document before today?
12 A I have -- yeah, I have.
13 Q Okay, did you help prepare this document, or was it a
14 company document?
15 A No, I did not help prepare this document. It came from
16 the Company.
17 Q Okay, and if you're looking at the top of exhibit --
18 Employer Exhibit Number 12, there's in red, it says, "From
19 Warehouse." What does that represent?
20 A Sure, so that -- that arrow -- you see the red arrow there
21 alongside there, is a walkway that separates the warehousing
22 area, as it comes in from the warehouse, into the kitchen area.
23 There's a stairwell, actually, to the left of it.
24 Q Okay, so if you wanted to enter the office from the
25 warehouse, would you go where that red arrow is that says, on

1 Employer Exhibit 12, that says --
2 MS. SANCHEZ: Objection. As to red arrow. I see four.
3 JUDGE LAWS: Yeah, he was going to describe which one, I
4 think.
5 MS. SANCHEZ: Oh.
6 MR. WILSON: Okay, go on, I'm sorry, sir.
7 MS. SANCHEZ: Thank you, Your Honor.
8 THE WITNESS: You want me to continue?
9 Q BY MR. WILSON: Yeah, so just explain.
10 A Yeah, so the -- yeah, so the red arrow there actually is
11 an indicator there's a -- again, this is the kitchen area or
12 the dining area.
13 JUDGE LAWS: The one that says from warehouse?
14 THE WITNESS: Yes, the one that says from warehouse. So
15 that's -- that area comes into the kitchen area. As you can
16 see, the arrow actually at the bottom, makes a turn, and a
17 second turn. That second door that does through there is where
18 it enters into the -- what I would consider the first floor
19 office area for the branch.
20 Q BY MR. WILSON: Okay, and so as I indicated, if someone
21 wanted to enter from the warehouse into the office -- the first
22 floor office, they would go in the manner suggested on those
23 arrows?
24 A That is correct.
25 Q Okay. Now, were you at the Company on August 21st, 2017?

1 A I was there.
2 Q Okay. And on that particular day, did you become aware of
3 a demonstration that was going on, on the property?
4 A Yes.
5 Q And so how did you become aware of this?
6 A So, yeah, I received a call from Mario De La Cruz, he's
7 our safety and compliance administrator. So he happened to be
8 down in the warehouse at the time and phoned up to my office
9 and said that I should come down, that there was folks at the
10 site. Possibly represented the Union. And he said I should
11 probably come down and see what was going on.
12 Q Okay, so when you got downstairs, what did you observe?
13 A Well, when I first got down -- well, so it was a few
14 minutes had gone by, so I collected my stuff. I shut off my
15 computer and we kind of walked down. And I'm on the second
16 floor and so if you look at this drawing, like second floor
17 would be the same layout. I'm on the opposite end of the
18 building. So by the time I come down the stairs and walk down
19 through this office area here, there was already a large group
20 of people along that back wall, along where the long red arrow
21 is.
22 Q Okay, so where the long red arrow --
23 JUDGE LAWS: So the long red arrow that runs parallel to
24 the word that says first floor main office?
25 THE WITNESS: There, yep, yes, thank you.

1 Q BY MR. WILSON: Okay, so when you say a large group of
2 people, what do you mean by a large group of people?
3 A Estimate probably 50 or 60 people in there.
4 Q Okay, and did you recognize any of these people?
5 A I'd seen some of them that were some of our employees.
6 There were drivers, there was an assortment of different people
7 that were there. Some I recognized, some of them I did not.
8 Q Okay, and what were those people doing?
9 A Well, I don't know, I guess it's a form of my own opinion,
10 but I mean, I think they were -- they were somewhat
11 demonstrating. There was a large group congregated in the
12 area. They had somebody who was speaking on behalf of -- a
13 piece of paper he was holding in his hand. There was periods
14 where they were chanting, or singing, large voices of some kind
15 of a -- I don't know what it was, but some kind of a chant.
16 Q Okay. And how would you describe their tone of voice?
17 A Loud.
18 Q Okay.
19 A Loud and disruptive.
20 Q Okay, and what time of day was this again?
21 A It was probably 9:00, 9:30-ish in the morning.
22 Q Okay. At 9:30 in the morning, were there people working
23 below the red arrow that runs perpendicular to where you would
24 come into the warehouse?
25 A Yes. Yeah, typically 8:00 or beyond, there's people in

1 that area.
2 Q Okay, so below that red arrow, there's like a diagram
3 of -- of something. What is that something?
4 A Sure, so those are -- those are cubicles in that work
5 space there. And so the little squares are like computers.
6 Those are -- people are sitting in all those work spaces.
7 Q Okay, and were they working that morning?
8 A They were.
9 Q Okay. So back to what you observed then. You saw the
10 people against the wall. And then what happened after that?
11 A So again, I -- there was already some level of engagement.
12 I don't know what exactly the details were. Like I said I had
13 just come in from the back door, across. So I seen that. I
14 looked around the room, and if you look all the way to the far
15 right of the drawing, there's an X on there. And there's a
16 little section that says Mr. Narimoto's office. I had seen him
17 down there, Mr. Narimoto, having a conversation with a couple
18 of other folks that seemed to be in the front of this group.
19 And so I walked down that way to get an understanding of what
20 was happening.
21 Q Okay, and did you have a conversation with anyone that was
22 part of the group?
23 A No, well, not at first. When I got down there, I was more
24 listening and observing to see what was happening.
25 Q Okay, and then at some point did you have a conversation

1 with someone who was part of the group?
2 A I did. After the -- the group that was there, after I got
3 there, one of the gentlemen who identified himself as the
4 treasurer, was speaking about a piece of paper that he was
5 holding. He was naming off a list of names and positions in
6 the Company. And so he had finished that. And so he was
7 asking for a signature, and I --
8 Q Okay, so let's back up.
9 Okay, so he was treasurer of what organization?
10 A He said he was the treasurer of the Union. He was
11 representing the people that were there.
12 Q Okay, is that the Teamsters Union, to your knowledge?
13 A Yes.
14 Q Okay, and so did you have a conversation with the person
15 who was the treasurer?
16 A I did. It was brief. I basically -- after he had talked
17 about what was on the paper, I approached him and he was asking
18 for a signature. And I told him that we weren't authorized to
19 do that. We would have to seek legal guidance to do that.
20 Q Okay, so what paper was he referring to?
21 A He was holding a piece of paper. I don't know. I didn't
22 see it. I mean he was holding it, I couldn't see what it was.
23 He just had a piece of paper and he was listing positions of
24 people who were asking for union, or something to that nature.
25 He was listing all of the names of the workers in the

1 warehouse.
2 Q Okay, do you --
3 A Not by people, by position.
4 Q Do you recall any of those names that he listed?
5 A They weren't people names, they were position names. He
6 was talking about like --
7 Q Oh, position.
8 A -- warehouse --
9 JUDGE LAWS: One at a time.
10 THE WITNESS: Forklift, yeah, sorry.
11 Q BY MR. WILSON: Okay, I'm sorry. Okay, I understand now.
12 Did he ask to speak with anyone else at the Company?
13 A Well, originally he was asking for Mr. Narimoto.
14 Q And who is Mr. Narimoto?
15 A So he's the general manager for Global Logistics.
16 Q Okay, and did he ultimately have a conversation with
17 Mr. Narimoto?
18 A Well, again, as I approached the area where he was at,
19 they were having this conversation. It was of -- it was a one
20 directional conversation.
21 Q Okay, and do you recall what -- and this is the person who
22 was the treasurer speaking, correct?
23 A Correct.
24 Q Okay, and do you recall what he said to Mr. Narimoto?
25 A Again, he was quoting what was on the paper. And then he

1 was holding up a handful of these things he said were cards.
2 And that they were employees asking for representation. And he
3 wanted him to sign acknowledgement.
4 Q Okay, and what did -- how did Mr. Narimoto respond?
5 A In my opinion, I think he was -- he was -- he seemed
6 intimidated, because he kept backing away and backing away,
7 further and further, as the other gentleman kept approaching
8 him, and telling him that he wanted him to do this -- sign this
9 paper or whatever it was.
10 Q How tall is Mr. Narimoto, if you know?
11 A I couldn't tell you exactly, but I think he's probably in
12 the five --
13 MS. SANCHEZ: Objection, calls for speculation.
14 MR. WILSON: I said if he knew.
15 THE WITNESS: Yeah, 5 --
16 Q BY MR. WILSON: Okay, how tall would you estimate that he
17 is?
18 A 5'2, 5'4.
19 Q Okay, is he shorter than you?
20 A Much shorter than me.
21 Q Okay, and would you describe him, if you recall, as heavy
22 set, or thin or --
23 A No.
24 MR. RIMBACH: Objection, relevance.
25 JUDGE LAWS: Overruled.

1 Q BY MR. WILSON: How would you --
2 A Very thin.
3 Q Okay.
4 A He's very thin.
5 Q So he's a small man. Would that be fair to say?
6 A Yeah, I would say that's accurate.
7 Q Okay, now the people that were sitting in the cubicles,
8 when this was going on, did you observe what they were doing?
9 A I did. I kind of took a survey as I walked in the room.
10 Again, like I said, I was trying to understand what -- what was
11 happening. And so I could see the force -- the work force was
12 in mixed behaviors. Some were at their desk kind of looking
13 around to see what was happening. Others were kind of moving
14 away from their desk to get a better understanding of what the
15 situation was.
16 Q Okay.
17 A It was disrupting. They didn't know what to do.
18 Q Now, were the people against the wall where the red arrow
19 is, were they primarily male or female?
20 A Well, from what I could recall, I only seen one female in
21 the entire group of 50 or 60 men.
22 Q Okay, and in the cubicles, the workforce there, are they
23 primarily male or female, if you recall?
24 A In that area, it's mostly females.
25 Q Okay. So how long did this last?

1 A I would estimate probably from the beginning to end about
2 15 minutes.
3 Q Okay, and how did it end?
4 A Well, it was different. I mean in this area, there's
5 several things that happened, right. But what happened here is
6 after I mentioned what I said earlier about not being able to
7 sign the paperwork, they began to sing some kind of a union
8 song of sort. And march out of the building, heading back
9 towards the warehouse.
10 Q Okay. Do you know what happened when they got back to the
11 warehouse?
12 A Well, originally, I -- I trailed the group as they went
13 out of the office area, to confirm that everybody was secure
14 inside, and was going to retreat back to my office. I received
15 another phone call that they had assembled again in the
16 warehouse. So I came back out to the warehouse.
17 Q And what did you do when you got back out to the
18 warehouse?
19 A Well, I looked again. I surveyed the area and I could see
20 a large group of folks standing around. So I approached again,
21 the treasurer, to listen what was the conversation he was
22 having with three or four people in the circle.
23 Q What -- did you say anything to him?
24 A Not at first. I just approached and listened.
25 Q And did he say anything to you?

1 A He originally was talking to that other person, so I
2 didn't interrupt that conversation. I was just listening.
3 Q Okay, did you then have a discussion with the treasurer?
4 A I did. I asked him again, you know, I mentioned that it
5 was disruptive. And that, you know, this was disrupting our
6 work. And I asked again why he was there and what his purpose
7 was.
8 Q And what did he say?
9 A He responded a couple of different ways. One he had
10 said -- he held the cards again and he was throwing them at me
11 and saying all these people, you know, asked me to come here.
12 And I'm like, well, you're disrupting our work. I had made a
13 comment that, you know, you could have done this in a different
14 way, other than disrupting our work force. And we went back
15 and forth on a couple like that.
16 And then at some point he got a little agitated because he
17 had asked me again about decision on the cards and the paper.
18 And I said I told you earlier that I don't have authority to do
19 that. And he ultimately got angry and started to escalate a
20 little bit.
21 Q Do you recall what else he said to you?
22 A Yeah, yeah, I do.
23 Q What did he say?
24 A I do recall. So after I told him that I didn't have the
25 authority, he aggressively turned to me and was approaching me

1 in an aggressive manner and said you have no authority, why
2 don't you just go back up to your office and mind you own
3 business.
4 Q Okay. So how much longer did -- was there anything else
5 said after he said that to you?
6 A No, that -- the group started to disband. A couple of
7 gentlemen who were outside came in and started to escort him
8 back outside.
9 Q Okay.
10 A And some of the more -- more folks who had came in with
11 him.
12 Q Okay, now after this incident, did the Company -- was the
13 Company able to gather any videotapes of what occurred?
14 A So there was a few small videotapes that were acquired.
15 They were turned in by employees who were in that area and that
16 space at the time.
17 Q Okay, and did you review those videotapes before you came
18 here today?
19 A I have seen them.
20 Q Okay, and do those coincide with the events that you've
21 described today?
22 A I think they do, yeah.
23 Q Okay, so if you looked at those videotapes, would you be
24 able to testify that they were videotaping, or taking pictures
25 of what you testified to about today?

1 A Yes.
2 Q Okay, and was there also another videotape that came from
3 outside the Company, that you had?
4 A Yes, there was another videotape that was presented, that
5 was from the website of the Teamsters Union.
6 Q Okay, do you know what website that was?
7 A Local something, 630 Union website.
8 Q Okay, so where did you get this Union --
9 A That was supplied from --
10 JUDGE LAWS: Hold on.
11 THE WITNESS: I'm sorry.
12 JUDGE LAWS: Go ahead and ask.
13 Q BY MR. WILSON: Where did you get the Union videotape? Do
14 you know who did -- you said it came from outside the
15 companies.
16 A Yeah, so the Company -- yeah, the Company had requested to
17 retrieve that through your office.
18 Q Through our -- my office?
19 A Correct.
20 Q Meaning Scott Wilson?
21 A Scott Wilson's office.
22 Q Okay. All right. And to your knowledge, did they supply
23 the Company with a copy of that video?
24 A They did, but it was -- it was complicated, because they
25 had to put it on a flash drive because it was too big to

1 transport via email.
2 Q Okay, so you received it via flash drive?
3 A Yes, sir.
4 Q Okay. Are you -- do you have a projector here today where
5 you can show us these videos you've touched on?
6 A We do.
7 Q Okay.
8 A Yes.
9 MR. WILSON: Are we going to show it there?
10 JUDGE LAWS: Sure. If someone can get the lights. If you
11 want to go off the record, to get it set up.
12 MR. WILSON: Yeah.
13 (Off the record at 2:33 p.m.)
14 JUDGE LAWS: Back on the record. And I want the record to
15 reflect now that a video is being shown on one of the walls of
16 the hearing room, and it's visible to everybody in the room.
17 MR. WILSON: Okay, now can you turn off the sound?
18 Q BY MR. WILSON: So Mr. Minch, can you tell us what
19 Employer video 1 is?
20 A Yeah, so this is the first floor office space that I had
21 mentioned earlier. And the wall that you're looking at all the
22 way back where the group is there is --
23 MR. RIMBACH: Objection, can we play the video first,
24 before he testifies? It's --
25 MR. WILSON: Okay, it's fine with us. However you guys

1 want to do it, so --

2 JUDGE LAWS: Well, if you want to ask him questions

3 during, why don't we stop it, because otherwise we have

4 background vocals from the video, at the same time as the

5 testimony. It's hard to hear both.

6 MR. WILSON: Well, so why don't I have her play it, and

7 then say, turn the sound down and then ask him. Is that fair?

8 JUDGE LAWS: That works.

9 Q BY MR. WILSON: Yeah, however everyone wants. Okay. So

10 Mr. Minch, we just had the sound on, on the projector, as it

11 relates to Employer video 1. Can you describe what that is?

12 Or was?

13 A Yeah, so this is -- this is again, as I said, this is the

14 downstairs office space that we had talked about earlier in

15 the -- in the facility in Los Angeles.

16 Q Okay, and when it was playing, did you hear chanting?

17 A I did.

18 Q Okay, and was that the same chanting that you testified

19 to?

20 A That is -- that is true, yes, it is.

21 MR. WILSON: Okay. So is there more on this? So keep

22 going. Is that the end of it? Okay, can you rewind it?

23 (Video played at 2:37 p.m.)

24 Q BY MR. WILSON: Now, Mr. Minch, there appear to be people

25 against the wall. There's also people walking through the

1 screen. Like this gentleman here in the blue. Do you know who
2 that was?
3 A So that was one of our drivers. I can tell by his
4 uniform.
5 Q Did he have a reason to be in the office?
6 A Not in normal operations. Normally at this time, they
7 would be loading their trucks and getting ready to depart the
8 facility.
9 Q Are these people who are walking through the screen part
10 of the demonstration?
11 A Yes.
12 MR. RIMBACH: Objection. Can -- sorry, can you please
13 refer to the second that you're referring to, because it will
14 be unclear on the record.
15 MR. WILSON: Is there a second hand?
16 JUDGE LAWS: Over, down in the lower left.
17 MR. WILSON: Okay, so that's at approximately 37 seconds.
18 And that's what I'm just reading on the video.
19 JUDGE LAWS: So 37 through 43 is what we just viewed, if
20 you want to ask questions about what happened in those seconds.
21 BY MR. WILSON: Do you recall? Okay. No, I think the
22 video is self-explanatory.
23 JUDGE LAWS: Okay.
24 MR. WILSON: So we can go -- did you play the whole video?
25 Yeah, okay. So we can go to the next one.

1 Q BY MR. WILSON: So this video is very short. Only seven
2 seconds. But looking at that, can you identify who the people
3 are, and at the point of the video where it says seven seconds?
4 Can you see what's on the screen?
5 A I can see the screen, yeah.
6 Q Okay, so what -- what -- who are these people, and what's
7 happening?
8 A Well, to the right, I can see some of the employees
9 working within their cubicles and their space area. To the
10 left of the screen, I see what looks like a combination of some
11 of our driver worker, warehouse, and quite a few people that I
12 don't know or recognize.
13 Q Okay, so is that all of video two? Okay, can we go to
14 video 3?
15 (Video played at 2:39 p.m.)
16 MR. WILSON: Okay, so can you go back to the beginning
17 again?
18 Q BY MR. WILSON: Now, do you know where -- what part of the
19 Company this video is --
20 A Yes.
21 Q Okay, what part?
22 A This is in our warehouse area, right outside of our
23 warehouse office, and at our entry point from our yard into our
24 office.
25 Q Okay, and do you know the identity of the people on the

1 picture?
2 A There's so many people there, I couldn't honestly say I
3 know them all, but there are employees and like I said,
4 combination of people I have not seen before.
5 Q Okay, looking at the way it is right now, do you recognize
6 the person that you referred to as the treasurer? If you need
7 to go closer than this?
8 A Yeah, I don't -- I don't see him standing there. No, I
9 don't see it.
10 MR. WILSON: If we play the video, can you turn it up?
11 Okay, can we stop there?
12 THE WITNESS: There. That was him that just crossed the
13 screen right there.
14 MR. WILSON: Okay, can you rewind it for just a second?
15 JUDGE LAWS: And just describe what he's wearing.
16 THE WITNESS: He's in a blue shirt, polo shirt,
17 short-sleeved.
18 JUDGE LAWS: Sunglasses on his head, it looks like?
19 THE WITNESS: Sunglasses on his head.
20 JUDGE LAWS: Okay, and we're at 21 seconds.
21 MR. WILSON: Okay, and can you go forward just a little
22 bit? Okay, stop there. So at 20 -- well, we're at 23.
23 There's a -- back up a little bit. Stop there.
24 Q BY MR. WILSON: Do you see a person in the middle of the
25 screen with his back to the screen, in a brown shirt?

1 A I do.
2 Q Okay. Did you recognize that person as a company
3 employee?
4 A No, he's definitely not a company employee.
5 MR. WILSON: Keep playing it. Back up to about 20. Okay,
6 back up. Go to the end. Okay, stop right there.
7 Q BY MR. WILSON: So do you see there's a person in the
8 middle of the screen. He has a -- appears to have a brown
9 shirt and sunglasses. Do you recognize that person?
10 A I recognized him the day that this happened, but I'd never
11 seen him before that.
12 Q Okay.
13 JUDGE LAWS: And we're at one second in.
14 Q BY MR. WILSON: Okay, is he a company employee?
15 A No.
16 MS. SANCHEZ: Asked and answered, Your Honor.
17 MR. WILSON: Well, no, I wanted to make sure -- I wasn't
18 sure if it was the same person, because the first time he had
19 his back to the screen, so, okay. All right. So we can go to
20 the next video.
21 JUDGE LAWS: This is video 4.
22 MR. WILSON: Yes.
23 Okay, can we stop right there? Or actually back up.
24 MR. RIMBACH: Sorry, is there a way to play the volume so
25 we can hear it?

1 MR. WILSON: That was -- the volume's up. Yeah, on that
2 one, the volume's not on it.
3 JUDGE LAWS: Okay.
4 MR. WILSON: Do you have it turned up as loud as you can
5 make it? No, you can't hear it. So go back a little bit.
6 Q BY MR. WILSON: So do you see a person in red at 13
7 seconds, whose back is to the screen, and appears to have
8 sunglasses on his head?
9 A Yes, I see that person.
10 Q Okay. Is that the person you identified as the treasurer?
11 A Well I mean, I can see the back of his head, it looks like
12 it him, but I mean, not seeing his face, I can't guarantee
13 that.
14 Q Okay. All right. Okay, are you in this particular video
15 yourself?
16 A I am not in this video yet.
17 MR. WILSON: Can you go to video 5?
18 JUDGE LAWS: So video 5 is now playing.
19 (Video played at 2:46 p.m.)
20 MR. WILSON: Can we stop there?
21 Q BY MR. WILSON: Now, Mr. Minch, do you recognize yourself
22 in this video?
23 A I do. That's me there with the yellow-white shirt, back
24 to the screen.
25 Q And you're talking to the person who you deem to be the

1 treasurer?

2 MS. SANCHEZ: Objection, misstates his testimony. He said

3 he couldn't tell who that person was in the last video.

4 JUDGE LAWS: In the last video, but this is a different

5 video. Can you tell who --

6 THE WITNESS: Can I answer?

7 JUDGE LAWS: Yes.

8 THE WITNESS: Yes, I can tell it's him. He's the one who

9 identified himself as the treasurer for the Union.

10 Q BY MR. WILSON: Okay, and what were you discussing -- or

11 in that conversation, you appear to be talking to him. What

12 were you saying?

13 A So as I -- as I testified earlier, this is the point where

14 I'd told him that we were not able to sign the paperwork,

15 because we were not authorized without checking with our legal

16 counsel.

17 JUDGE LAWS: And if it doesn't already reflect, the record

18 should reflect that we're at 8 seconds.

19 MR. WILSON: Thank you. So can we stop the video here?

20 (Video played at 2:47 p.m.)

21 Q BY MR. WILSON: So Mr. Minch, it appears that at about 45

22 seconds, the people in the demonstration are leaving; is that

23 your understanding?

24 A That is correct.

25 (Video played at 2:48 p.m.)

1 MR. WILSON: Right here.
2 JUDGE LAWS: Video 6 is now playing.
3 (Video played at 2:48 p.m.)
4 MR. WILSON: Okay, so you can stop there.
5 MR. RIMBACH: I'd just like to object to the extent that
6 there's clearly auditorily (sic) -- like there's clearly sound
7 that I can't really hear because I'm not close to the laptop
8 that's playing.
9 MR. WILSON: Well, then stand by the laptop.
10 JUDGE LAWS: You can stand by the laptop or you can review
11 it on the flash drive on your -- well, not allowed to use those
12 anymore. You'll be able to review that. I imagine you were
13 going to get a copy.
14 MR. WILSON: Yeah.
15 JUDGE LAWS: Because otherwise we wouldn't be able to
16 consider it as part of the record.
17 MR. WILSON: Your Honor, these were videos that employees
18 turned in from their phones. We didn't hire a professional
19 videographer to come in and film this.
20 JUDGE LAWS: Yeah, every --
21 MR. WILSON: So the audio is what it is.
22 JUDGE LAWS: It is what it is. We're all hearing it the
23 same way, in the hearing room.
24 MS. SANCHEZ: May I ask a question about the audio? A
25 moment ago the counsel said that the audio was turned up. I

1 don't recall which video it is. Can we assume that the audio
2 is turned all the way up for all of these videos?
3 JUDGE LAWS: Yes.
4 MR. WILSON: Yes.
5 MS. SANCHEZ: Thank you.
6 Q BY MR. WILSON: Okay, so Mr. Minch on -- and this is 7, do
7 you know was that the end of the demonstration, or the middle
8 of it, if you know?
9 A No, from what I could recognize here, this is the
10 beginning. This is even before I came down in the room,
11 because I could tell before when I was standing in the corner
12 speaking, that was the last video. That was the last one they
13 exited. That's when I first came in.
14 Q So you can go to the next video. Oh, there's one more.
15 So what is the next video? So where it says Union video, is
16 that the video that was obtained through Facebook?
17 A That is correct.
18 Q Okay, to your knowledge was it obtained through Facebook
19 and supplied by your office?
20 A That's -- that's what I was told, that it came through
21 your office, yes.
22 Q Okay.
23 JUDGE LAWS: All right. And these will be given exhibit
24 numbers, but for now we'll refer to this as the Union video.
25 MR. WILSON: So Your Honor, on --

1 JUDGE LAWS: We'll sort it out when we're off the record.
2 We'll probably just go next in order with video 1 being the
3 next Employer exhibit.
4 MR. WILSON: Oh, I see what you're saying, okay. Go
5 ahead.
6 MS. SANCHEZ: Your Honor, I'm just going to lodge an
7 objection that this witness has -- he's assuming where it comes
8 from, he doesn't know where it comes from, so I think that -- I
9 think that he can't testify to that.
10 JUDGE LAWS: I don't need him to authenticate where it
11 comes from. That's fine.
12 (Video played at 2:51 p.m.)
13 MR. WILSON: We are still on the record?
14 JUDGE LAWS: Yes.
15 Q BY MR. WILSON: Okay. So --
16 MR. RIMBACH: You have to come up here.
17 MR. WILSON: Okay.
18 Q BY MR. WILSON: So Mr. Minch, a question with regard to
19 the last video we showed that's titled on the screen Union
20 video. Is -- I think about halfway through the video the
21 person that you identified as the treasurer earlier was having
22 a conversation with a smaller Asian gentleman. Is that
23 gentleman Mr. Narimoto?
24 A Yes, that is correct.
25 MR. WILSON: Okay. I have no further questions.

1 JUDGE LAWS: And I think even though we haven't identified
2 the time, I think it was all pretty clear from his previous
3 identification of the treasurer and the description of
4 Mr. Narimoto, and really just the context, he came out of the
5 office. Can everybody agree that was him that the treasurer
6 was talking to?
7 MS. SANCHEZ: Yes, Your Honor.
8 JUDGE LAWS: Yes?
9 MR. RIMBACH: No objection.
10 JUDGE LAWS: Okay. All right.
11 MR. WILSON: Okay. So Your Honor, we would move then next
12 in order, Employer 14 into evidence. Now, how we identified --
13 MR. RIMBACH: 13.
14 JUDGE LAWS: Well, this is 12 which I will -- is there any
15 objection to 12? I don't know if that's been offered.
16 MR. RIMBACH: No, I don't believe it's been offered, but
17 there's no objection from the General Counsel.
18 JUDGE LAWS: Okay.
19 MR. RIMBACH: Your Honor.
20 MS. SANCHEZ: Your Honor, I don't have a specific
21 objection. I will note for the record that this is among the
22 documents the Union has subpoenaed from the Employer. We've
23 been asking for those documents for close to two weeks, and
24 we've been given promises that we'd receive the documents. And
25 so we'd request the rest of our subpoenaed documents. It's

1 frustrating to see it come into evidence prior to being
2 produced.
3 JUDGE LAWS: Turned over, yeah, if it's something they've
4 requested, please turn it over.
5 MR. WILSON: Your Honor, we will start providing them
6 records as early as tomorrow.
7 JUDGE LAWS: Okay.
8 MR. WILSON: And by the end -- early next week, the
9 subpoena will be complied with.
10 JUDGE LAWS: All right. I will go ahead and admit
11 Employer Exhibit 12.
12 **(Employer Exhibit Number 12 Received into Evidence)**
13 JUDGE LAWS: I want to go off the record and discuss,
14 really, with the court reporter how best to go about the video
15 exhibits, because I know that can sometimes be complicated.
16 And I also think it evolves over time. So let's go off the
17 record and talk about that.
18 (Off the record at 3:11 p.m.)
19 JUDGE LAWS: Counsel for the Respondent is distributing a
20 flash drive to myself, the court reporter, and counsel. This
21 is going to be offered into evidence as Employer Exhibit 13.
22 **(Employer Exhibit Number 13 Marked for Identification)**
23 JUDGE LAWS: It contains what has previously been
24 identified on the record as Employer's video 1, 2, 3, 4, 5, and
25 6 as well as the Union video. All of those are contained in

1 Employer Exhibit 13. Any objection, first, from General
2 Counsel?
3 MR. RIMBACH: No, Your Honor.
4 JUDGE LAWS: Okay. From the Union?
5 MS. SANCHEZ: No, Your Honor.
6 JUDGE LAWS: All right, Employer Exhibit 13 is admitted.
7 **(Employer Exhibit Number 13 Received into Evidence)**
8 JUDGE LAWS: All right.
9 MR. WILSON: And I have no further questions for Mr. Minch
10 so --
11 JUDGE LAWS: Is there a statement? Do we want to --
12 MS. PEREDA: There is no statement, Your Honor.
13 JUDGE LAWS: Okay. All right, is General Counsel ready
14 for cross or do you need a -- it's -- we've been going,
15 actually, over an hour. Do people want to take a five,
16 ten-minute --
17 MR. WILSON: That would be nice, Your Honor.
18 JUDGE LAWS: Okay. It's 3:15. Let's be ready to go back
19 on the record at 3:25.
20 MR. WILSON: At 3:25, Your Honor?
21 JUDGE LAWS: 3:25.
22 (Off the record at 3:23 p.m.)
23 JUDGE LAWS: Okay. Back on the record, and General
24 Counsel can proceed with cross whenever they're ready.
25 ///

1 **CROSS-EXAMINATION**

2 Q BY MR. RIMBACH: Good afternoon, Mr. Minch.

3 A Good afternoon.

4 Q My name is Thomas Rimbach. I am one of the attorneys

5 representing the General Counsel of the National Labor

6 Relations Board.

7 On August 21st, 2017, you never heard any threats of

8 violence, did you?

9 A No.

10 Q And you never saw any physical altercations, correct?

11 A Correct.

12 Q In the various videos that were just shown, you were able

13 to identify the employees in those videos, correct?

14 A No. I could identify them in such that I could see that

15 their uniforms, they worked for the Company. I recognized a

16 few faces, but you're talking about a lot of people, and, no, I

17 don't recall who all of them are.

18 Q But you would be able to if you looked at the videos, and

19 reviewed them you would be able to identify them, correct?

20 A In what terms?

21 Q By terms of --

22 A By name?

23 Q -- who they were?

24 A No.

25 Q You don't -- and is that because you don't know those

1 employees individually by name?
2 A I don't spend that much time with them that I would know
3 every one of them by name that is correct.
4 Q So a different manager or a supervisor would be able to
5 identify those employees, correct?
6 A I believe so.
7 Q So the Company would be able to identify known Union
8 supporters at the Company, correct?
9 MR. WILSON: Objection. Lack of foundation, the term
10 known Union supporters.
11 JUDGE LAWS: Do you mean the individuals in the video?
12 MR. RIMBACH: Yes.
13 JUDGE LAWS: Okay.
14 Q BY MR. RIMBACH: So the Company would be able to identify
15 which employees participated in that request for recognition,
16 correct?
17 A Again, I think by looking at the facial recognitions of
18 the people in the video, I think those who work closely with
19 them would be able to identify who they are.
20 Q Who did you personally receive those videos from?
21 A Again, those videos came from the Company, so the first
22 six were from employees that were presented to the Company
23 Wismettac.
24 Q Who personally gave you a copy of the videos?
25 A Mr. Narimoto.

1 Q And when -- and he provided you a copy of those videos
2 shortly after August 21st, 2017?
3 A No. It was recent.
4 Q It was recent? So you don't know when the employees who
5 took those videos gave them to Mr. Narimoto?
6 A I do not.
7 Q Who did you review these videos with?
8 A When?
9 Q At any point?
10 A With myself. I reviewed the videos over the last couple
11 of days that I received them.
12 Q You never -- who did you -- oh, sorry. When did you first
13 see these videos?
14 A Again, I've seen the batch that I have on this disc over
15 the last couple of days.
16 Q Did you review these videos with any other Wismettac
17 employee or supervisor or manager?
18 A No.
19 MR. RIMBACH: No further questions, Your Honor.
20 JUDGE LAWS: All right, any cross from the Union?
21 MS. SANCHEZ: Yes, thank you.
22 **CROSS-EXAMINATION**
23 Q BY MS. SANCHEZ: I was going to say good morning. Good
24 afternoon, my name is Renee Sanchez. I'm going to ask you a
25 couple of questions about your testimony. With regard to

1 Employer Exhibit 12, when was the first time you saw that
2 document?
3 A The same time I received the videos.
4 Q That was -- I'm sorry, that was in the last couple of
5 days?
6 A Last couple of days.
7 Q Okay. Thank you. Could you please take --
8 MS. SANCHEZ: Could Mr. Court Reporter provide the witness
9 with Union Exhibit 1, please?
10 Q BY MS. SANCHEZ: If you turn to the second page of that
11 document, sir?
12 JUDGE LAWS: Union Exhibit 1 or 2? Oh, okay. Gotcha.
13 MS. SANCHEZ: Union 1, page 2.
14 JUDGE LAWS: It's Union Exhibit 1. It's three pages.
15 MS. SANCHEZ: Yeah, page 2 of Union Exhibit 1.
16 Q BY MS. SANCHEZ: Do you have that in front of you?
17 A I don't see any exhibits numbers on here.
18 JUDGE LAWS: Oh, just -- you're there.
19 MS. SANCHEZ: Okay. You're there.
20 Thank you, Your Honor.
21 Q BY MS. SANCHEZ: You -- page 2, the page that you're
22 looking at now, displays the same setup as Employer Exhibit 12
23 which is the first floor main office, correct?
24 A Minus the lunch area.
25 Q Okay. And the lunch area you're describing is on Employer

1 Exhibit 12 above the longest arrow on the page, correct?
2 A That is correct.
3 Q Okay. Thank you. I'm going to move on to a different
4 subject which is the videos. You testified a number of times
5 about the person you identified as the treasurer. I will
6 contend to you that the title is secretary treasurer, does that
7 sound familiar to you?
8 A It sounds familiar.
9 Q Okay. You testified that when you heard of it you were
10 upstairs, you came downstairs, and by that time the group was
11 near Mr. Narimoto's office; is that correct?
12 A That's correct.
13 Q Okay. And you said that you walked towards where the
14 secretary treasurer was speaking because you wanted to hear
15 what he was saying, correct?
16 A That's correct.
17 Q And we saw you in the last, is it the last? In one of the
18 videos speaking to the secretary treasurer, correct?
19 A That's correct.
20 Q So from the other side of the room, you couldn't hear him
21 speaking, that's why you had to approach him, correct?
22 A That is correct.
23 Q Thank you. And I wanted to ask you about your testimony
24 about speaking with the secretary treasurer at the end of this
25 meeting. You said -- you testified that he threw cards at you,

1 but none of the videos showed him throwing cards at you,
2 correct?
3 A That is not correct.
4 Q The videos -- can you please tell me which video shows him
5 throwing cards at you?
6 A That is not correct. I did not say he was throwing
7 anything.
8 Q So your testimony is that the secretary treasurer did not
9 throw cards at you?
10 A I did not say he threw cards at me at any time.
11 Q Okay. On direct examination you said he threw cards at
12 you?
13 A I did not say he threw cards at anybody.
14 JUDGE LAWS: The transcript will say what it says. Let's
15 move on.
16 MS. SANCHEZ: Fair enough. I would like to ask you
17 questions about specific videos that were shown.
18 Your Honor, I may ask them to be played.
19 JUDGE LAWS: Okay.
20 MS. SANCHEZ: So I'm not sure how to coordinate that, but
21 let me try to get there.
22 JUDGE LAWS: You can figure it out.
23 Yeah, you may need to move, but wait.
24 Q BY MS. SANCHEZ: I wanted to be clear I understood your
25 testimony on direct examination. You testified that you

1 identified a -- that you saw a driver because of his shirt. Do
2 you remember that testimony?
3 A I do.
4 Q And you said that you recognized him and that drivers
5 aren't usually in that area; is that right?
6 A That is correct.
7 Q That's your testimony? Thank you. You test -- you just
8 testified that you did not witness any violence or threats, but
9 you did witness on those videos employees smiling and laughing,
10 didn't you?
11 MR. WILSON: Objection, Your Honor. The videos speak for
12 themselves.
13 JUDGE LAWS: Yeah. Sustained.
14 MS. SANCHEZ: We would like to look at -- we would like to
15 look at the Union video, what's been mar -- what's been
16 identified as the Union video.
17 JUDGE LAWS: And I guess I'll give you -- we can look at
18 it a couple of ways. We can put it back up on the screen, or
19 if everybody has flash drives now, we can play it on a computer
20 screen. I don't have any preferences.
21 MS. SANCHEZ: Maybe back up on the wall?
22 JUDGE LAWS: Is it possible to get it back up? Okay.
23 MR. WILSON: Can we go off the record, Your Honor?
24 JUDGE LAWS: Sure. To get it set up, and then is there --
25 MS. SANCHEZ: Thank you.

1 JUDGE LAWS: -- a specific time?
2 MS. SANCHEZ: Yeah, I'm going to --
3 JUDGE LAWS: Okay.
4 MS. SANCHEZ: -- try to get us there.
5 JUDGE LAWS: All right.
6 MS. SANCHEZ: Thank you.
7 JUDGE LAWS: Let's go off the record and get to --
8 (Off the record at 3:33 p.m.)
9 JUDGE LAWS: For the record, we are looking at Employer
10 Exhibit 13, the Union video, starting video at 5 minutes, 12
11 seconds.
12 (Video played at 3:35 p.m.)
13 MS. SANCHEZ: Can you stop?
14 JUDGE LAWS: The video stopped at 5 minutes, 19 seconds.
15 Q BY MS. SANCHEZ: Do you hear any speaking or singing at
16 this point in the video?
17 A I did not hear anything.
18 MS. SANCHEZ: Okay. Please go on.
19 (Video played at 3:35 p.m.)
20 MS. SANCHEZ: Okay. I'm sorry. Stop.
21 JUDGE LAWS: We're stopped at --
22 MS. SANCHEZ: Can you jump to minute 8?
23 JUDGE LAWS: Okay. And we stopped at 5 minutes, 36
24 seconds, and now we're going to minute 8.
25 MS. SANCHEZ: Okay. Go ahead and start at 8.

1 (Video played at 3:36 p.m.)

2 MS. SANCHEZ: Can you stop? Can you back up three seconds

3 if possible? Stop. Okay, play it.

4 (Video played at 3:36 p.m.)

5 MS. SANCHEZ: Stop. Sorry. Play and stop immediately.

6 (Video played at 3:36 p.m.)

7 MS. SANCHEZ: Stop.

8 Q BY MS. SANCHEZ: Mr. Minch, you testified in your direct

9 testimony that the treasurer, or now if we know him as the

10 secretary/treasurer, I think was much taller than Mr. Narimoto.

11 Can you tell me if this video depicts Mr. Secretary/Treasurer

12 being taller than Mr. Narimoto?

13 MR. WILSON: Objection. I don't recall that testimony,

14 and I think that misstates his testimony.

15 JUDGE LAWS: He testified as --

16 MR. WILSON: He said he was taller.

17 JUDGE LAWS: He testified as to the height and build of

18 Mr. Narimoto.

19 I want the record to reflect -- because it doesn't -- that

20 we are at 8 minutes and 3 seconds.

21 MS. SANCHEZ: Thank you, Your Honor.

22 Q BY MS. SANCHEZ: Mr. Minch, does the person you identified

23 as the treasurer look to be any taller than Mr. Narimoto in

24 this video?

25 MR. WILSON: Your Honor, the video speaks for itself.

1 JUDGE LAWS: It does. I --
2 MS. SANCHEZ: That's fine, Your Honor.
3 JUDGE LAWS: I guess I want to get at questions that this
4 witness can help me with, the record that I can't observe for
5 myself, or that maybe adds to what I can see with my naked eye.
6 MS. SANCHEZ: Can we look to minute 9, second 41?
7 JUDGE LAWS: That's enough.
8 MS. SANCHEZ: Okay. Thank you. Go ahead and play it.
9 (Video played at 3:38 p.m.)
10 MS. SANCHEZ: Okay. Thank you.
11 Q BY MS. SANCHEZ: I believe you testified that the
12 secretary/treasurer was walking towards Mr. Narimoto, but isn't
13 it true that he's just simply standing next to him reading?
14 MR. WILSON: You're talking about a 15-minute video, and
15 he was walking towards him before this moment in the video.
16 MS. SANCHEZ: Okay. At this point he is not walking
17 towards him, right?
18 MR. WILSON: No.
19 MS. SANCHEZ: No further questions, Your Honor.
20 JUDGE LAWS: We're at 9, 55.
21 MS. SANCHEZ: No further questions.
22 JUDGE LAWS: Okay.
23 MR. WILSON: Just one question, Your Honor.
24 **REDIRECT EXAMINATION**
25 Q BY MR. WILSON: Mr. Minch, on the videos and in your

1 testimony, at some point you indicated that the demonstration
2 ended and the persons in the demonstration then exited the
3 office. Do you recall that?
4 A I do.
5 Q Okay. And that's on the video. So by the time that the
6 demonstration was ending, and I'm referring -- I want to refer
7 you now to Exhibit number 12. Is it your recollection, or do
8 you have any recollection as to whether the workers at the
9 cubicles in Exhibit 12 had left their desk?
10 MR. RIMBACH: Objection. Beyond the scope.
11 JUDGE LAWS: It is. It is beyond the scope.
12 MR. WILSON: Well, Your Honor, we had a substantial amount
13 of testimony as to what's going on.
14 JUDGE LAWS: I'll allow one question beyond the scope.
15 Go ahead and answer. If you know.
16 THE WITNESS: Yes. Based on the video and what I had seen
17 in my surveillance of being in the area at the time, there was
18 a large populous of people sitting in those cubicles that
19 appeared not to be there towards the end of the demonstration.
20 Q BY MR. WILSON: Okay.
21 MR. WILSON: I have no further questions.
22 JUDGE LAWS: Okay. Any recross from the General Counsel?
23 MR. RIMBACH: No, Your Honor.
24 JUDGE LAWS: Okay. From the Union?
25 MS. SANCHEZ: No thank you.

1 JUDGE LAWS: Okay. Thank you for providing your
2 testimony. Please don't discuss what you testified here about
3 with any other witnesses or any potential witnesses.
4 THE WITNESS: Yes, ma'am.
5 JUDGE LAWS: Okay. Let's go off the record and see where
6 we are for the day.
7 (Off the record at 3:40 p.m.)
8 JUDGE LAWS: All right. Come on through. And you're
9 going to -- it's a little bit of a maze, but walk right behind
10 that gentleman over there, and I'll swear you in.
11 Whereupon,
12 **ATSUSHI FUJIMOTO**
13 having been duly sworn, was called as a witness herein and was
14 examined and testified as follows:
15 JUDGE LAWS: Please have a seat. And can you state and
16 spell your name for the record?
17 THE WITNESS: Atsushi Fujimoto, A-T-S-U-S-H-I. Fujimoto
18 is F-U-J-I-M-O-T-O.
19 JUDGE LAWS: Thank you, Mr. Fujimoto. A couple of just
20 quick instructions before the attorneys ask you questions.
21 First is if you don't know or you're not sure about an answer,
22 just say I'm not sure, I don't know. Only take a guess or an
23 estimate if you're asked to do so.
24 THE WITNESS: Okay.
25 JUDGE LAWS: If you don't understand a question, that's

1 fine. Just say I don't understand, and it will be rephrased
2 for you.
3 And then, finally, the gentleman to your left is our court
4 reporter. He has to take down everything we say while we're on
5 the record, and he can't take down two voices at once, so just
6 try as best you can not to jump in with your answer until
7 you're sure the question's finished.
8 THE WITNESS: Okay.
9 JUDGE LAWS: Thanks. Okay. Whenever you're ready.
10 **DIRECT EXAMINATION**
11 Q BY MR. WILSON: Good afternoon, Mr. Fujimoto. Thank you
12 for coming down here today.
13 Where are you currently employed?
14 A Wismettac Asian Foods.
15 Q Okay. And how long have you worked there?
16 A Eleven years.
17 Q Okay. And what is your current position there?
18 A Planning and recruiting manager.
19 Q Okay. And how long have you been the planning and
20 recruiting manager?
21 A I want to say two to three years.
22 Q Okay. And what does the planning and recruiting manager
23 to?
24 A Mainly do all the new hire paperwork, background check
25 processing to hire employees at our company.

1 Q Okay. And how many different -- excuse me. Sir, does
2 that include both management and non-management employees?
3 A Yes.
4 Q Okay. And does the Company use temporary employees?
5 A Yes, we do.
6 Q Okay. And do you recall the agencies you normally deal
7 with?
8 A We have many different agencies, so it's up to the branch
9 offices to decide which one they want to utilize.
10 Q Okay. And how many does the LA office use?
11 A Off the top of my head, I don't know.
12 Q Okay. Do you, yourself, deal with the agencies, or is
13 that the branch managers?
14 A I only deal with the agencies with their national, I
15 guess, sales manager to do the agreements, and once the
16 agreement's in place I introduce them to the respective branch
17 managers, and then the branch managers will do all the
18 contacting with the agencies.
19 Q So can the branch managers call the temporary agency
20 directly and request employees?
21 A Yes. That's their main responsibilities.
22 Q And they don't need to go through human resources?
23 A Yeah. Once the agency is approved by Corporate, then it's
24 up to that manager to contact the agencies to request a job
25 order.

1 Q Okay. So, Mr. Fujimoto, I'm going to focus your attention
2 on a particular time period today, which would be October 2017
3 to the end of March 2018. So my questions are going to go to
4 that. If you're asked by the other attorneys questions outside
5 of that time period, that's fine, but my questions are going to
6 focus on that time period.
7 A Okay.
8 Q And so did you gather information in preparation for your
9 testimony today?
10 A Yes.
11 Q Okay. And what sort of information were you asked to
12 compile before you came here today?
13 A The list of the temp workers that we had and the ones that
14 we converted within that October to March time frame.
15 Q Okay. So I want to show you what we marked --
16 MR. WILSON: We're going to mark this exhibit.
17 (Counsel confer)
18 MR. WILSON: Your Honor, we're one copy short, but we'll
19 make one during --
20 UNIDENTIFIED SPEAKER: I have it.
21 JUDGE LAWS: Oh, you have it?
22 UNIDENTIFIED SPEAKER: Yes.
23 JUDGE LAWS: All right.
24 **(Employer Exhibit Number 14 Marked for Identification)**
25 Q BY MR. WILSON: So, Mr. Fujimoto, I have in front of you a

1 document that's been marked as Employer Exhibit 14. Can you
2 tell me what this document is?
3 A Yes. I pulled the data of all the temp workers that were
4 working, and then from there put this Excel sheet together.
5 And then the green highlighted areas that you see are the ones
6 that were converted to our -- a Wismettac employee. And then
7 the dates annotated will show when management approved it, when
8 we sent a conditional offer letter, when we did their
9 background check, and when we set their start dates.
10 MR. RIMBACH: Objection, Your Honor. I'd just like to
11 note for the record this -- this Employer exhibit was provided
12 to us this past Monday, and we requested the document, the
13 underlying documents that were used to create this spreadsheet,
14 but we never received them.
15 MR. WILSON: Your Honor, he's going to testify to that.
16 JUDGE LAWS: Okay. All right. And again, we're back in a
17 couple of weeks if we can't deal with that this week, but they
18 are entitled to the underlying documentation.
19 MR. WILSON: We have whatever underlying documentation
20 there is, but I think when he explains how he compiled it, what
21 they're requesting doesn't necessarily exist, so --
22 JUDGE LAWS: Well, let's hear it, and then I can go from
23 there.
24 MR. WILSON: Okay.
25 Q BY MR. WILSON: So on the -- so let's just say at the top

1 of Exhibit 14 there is an employee Omar Alberto, and then it
2 says, "Driver Spectra, start date 10/3/17, end date," and it
3 says "self-termination. Stopped showing up to work, ended
4 assignment."
5 Where did you get the information in the reason for ending
6 temp assignment?
7 A I received that from the Los Angeles logistics managers.
8 Q Okay. So did you send him a questionnaire, or how was it
9 you got this information?
10 A I sent him an email with the attached spreadsheet saying
11 that I need the information on why each person was termination
12 or assignment has ended.
13 Q Okay. And so they simply filled out -- they simply filled
14 in the blanks on the document that you sent them?
15 A Yes.
16 Q Is that correct?
17 A Yes.
18 Q Okay. And so once again, can you explain what the columns
19 are where, like, by Mr. Alberto that are in white, what does
20 that mean?
21 A So it has their last name, their first name, the position
22 that they were working in, the agency that they work for, the
23 temp start date, and then their temp end assignment date. And
24 then the reason for ending is the reason why they are no longer
25 temping with us. And then the --

1 Q Okay. So when you sent this document to be answered, it
2 was on an Excel spreadsheet. So would one page create -- show
3 all the information that you requested?
4 A Yes.
5 MS. SANCHEZ: Objection. Leading and misstates his
6 testimony. I don't believe that he testified to that, and it's
7 leading.
8 JUDGE LAWS: He didn't. Let's get a little more
9 foundation as to what -- who the information was requested to,
10 when, in what form, and how it was received.
11 MR. WILSON: Okay.
12 Q BY MR. WILSON: So who was the information requested from?
13 A For this list?
14 Q Yes.
15 A It was from you.
16 Q Okay. And then once you received the request from me, who
17 did you request it from?
18 A I pulled the data that -- to get this information, and
19 then I sent the email to the logistics managers, Christian
20 McCormick and Anthony Vasquez, because they are the line
21 managers that the temps reported to.
22 Q Okay. And in what form did they respond to you?
23 A An email.
24 Q Okay. But was it a separate email or was it an email
25 filling in the blanks on the document you sent them?

1 MS. SANCHEZ: Objection. Leading.
2 JUDGE LAWS: Did you send them -- let's get -- I'm going
3 to jump in here and just get a little bit more information.
4 Did you send just one email to Mr. McCormick and one to
5 Mr. Vasquez, or did you send one for each employee?
6 THE WITNESS: I sent it to both in the same email.
7 JUDGE LAWS: Same email. Were there any attachments to
8 that email?
9 THE WITNESS: Yes. There was an Excel sheet that was
10 attached, which is this.
11 JUDGE LAWS: Okay. So what we've now marked for
12 identification as Employer Exhibit 14 was attached?
13 THE WITNESS: Yes.
14 JUDGE LAWS: Okay. When you attached it, was the reason
15 for any temp assignment filled in or was it blank?
16 THE WITNESS: There were, I want to say, two that were
17 already filled in, because we have that information, but the
18 majority of it was blank.
19 JUDGE LAWS: Okay. And what did the email that you sent
20 say?
21 THE WITNESS: It just says I need the information on why
22 we ended the temp assignment for the individuals highlighted in
23 red, and then I made a red indication on which cells I needed
24 to be filled in.
25 Q BY MR. WILSON: Okay, so --

1 MR. WILSON: Are you done, Your Honor? Yes, okay.
2 JUDGE LAWS: I'm done. I guess, did you have -- has
3 counsel received that email?
4 MR. RIMBACH: No, Your Honor.
5 JUDGE LAWS: Okay. So that we will need to provide. But
6 again, we have time.
7 MR. WILSON: We have it right here.
8 JUDGE LAWS: Okay.
9 MR. RIMBACH: Also just a further objection. We would
10 like the records relied upon by Christian McCormick and Anthony
11 Vasquez for inserting the reasons for ending temp assignment,
12 which we haven't received.
13 MR. WILSON: Your Honor, you're assuming there are
14 records.
15 JUDGE LAWS: Yes. If there are records.
16 MR. WILSON: Okay.
17 JUDGE LAWS: So let's ask Mr. --
18 MR. RIMBACH: And if there are no records, we'd like that
19 information as well.
20 JUDGE LAWS: Okay. And presumably you can get that from
21 Mr. McCormick and Mr. Vasquez, so we'll deal with that.
22 Q BY MR. WILSON: Okay. So what I was getting to, and we'll
23 get to the emails, is the form of the document, because on
24 Exhibit 14 it looks like there's a break in the page. And why
25 is that?

1 JUDGE LAWS: Why are the cells not just continuous?
2 THE WITNESS: Because it was -- the width of it, I guess,
3 is too long to fit on landscape or portrait side, so it -- it's
4 one actual column or row, but because of, I guess, this purpose
5 it had to be cut to fit into this page.
6 JUDGE LAWS: Okay. So just for my clarification and
7 everybody else's, I supposed we start with --
8 THE WITNESS: Albert --
9 JUDGE LAWS: -- Omar Alberto, and the second block is just
10 a continuation.
11 THE WITNESS: Yes.
12 JUDGE LAWS: Okay.
13 Q BY MR. WILSON: Okay. So on the Excel, and that's what I
14 was trying to get to. So on the bottom part of the page, where
15 there's a break, on the document that you sent to Mr. McCormick
16 and Mr. Vasquez, where the second -- the bottom part of the
17 page would have just been on the right, correct?
18 A Yes.
19 Q Okay. It was a continuation.
20 A Yes, it was a continuation.
21 MR. WILSON: Your Honor, and we'll represent that we tried
22 to copy that document in that form --
23 JUDGE LAWS: That's fine.
24 MR. WILSON: -- but it -- it simply came out this way.
25 JUDGE LAWS: That's fine. It's legible.

1 MR. WILSON: And, Your Honor, we're willing to email to
2 the parties the document so they can look at it in this form.
3 JUDGE LAWS: And --
4 MR. WILSON: If they want that, we're happy to do that.
5 JUDGE LAWS: That would probably be a very good way to do
6 it, because then they could see it in the exact form in which
7 it was sent.
8 MR. WILSON: Okay. So let me -- okay with entering what
9 is marked as Employer Exhibit 15.
10 **(Employer Exhibit Number 15 Marked for Identification)**
11 JUDGE LAWS: And I just need one if you have another.
12 Thanks.
13 MR. WILSON: Oh.
14 JUDGE LAWS: Oh, he gave the witness too.
15 MR. WILSON: Oh, okay.
16 JUDGE LAWS: There you go.
17 MR. WILSON: And I'm sorry, Your Honor.
18 Q BY MR. WILSON: So can you identify what's the document
19 that's been marked as Employer Exhibit 15?
20 A So this is the email that I sent with the Excel attachment
21 to Mr. Christian McCormick or Gerber Flores and Anthony
22 Vasquez, which is our logistics managers for LA branch, and I
23 told them that I need the data on why we ended the temp
24 assignments for the people highlighted in red. And then I --
25 it's a follow-up email chain, because I didn't get a reply

1 back, and then Christian, or Mr. McCormick, and Mr. Vasquez
2 finally replied back this week, Tuesday, with the information
3 that I requested.
4 Q Okay. So in terms of backup documentation, all they did
5 was fill in the document that you sent them, correct?
6 MS. SANCHEZ: Objection. Leading.
7 JUDGE LAWS: Do you know what they did to get that
8 information?
9 THE WITNESS: Well, based on the email it says that they
10 went through the list and added comments in the section that
11 read "best to their abilities."
12 JUDGE LAWS: Thank you. And he's pointing to the bottom
13 line of --
14 THE WITNESS: The first.
15 JUDGE LAWS: -- Exhibit 15, page 1.
16 Q BY MR. WILSON: And so, once again, Exhibit 14 was
17 invented for purposes of this case, correct?
18 A Yes.
19 Q And the case you're testifying in today.
20 A Yes.
21 Q And that's why you sent out the email that's been marked
22 as Exhibit 15.
23 A Yes.
24 Q Okay. And to your knowledge, to the best of your
25 knowledge, was the information that was provided in response to

1 Exhibit 15, that was what was entered on Exhibit 14, correct?
2 A Yes.
3 Q And to the best of your knowledge, is that information
4 true and correct?
5 A Yes.
6 MR. RIMBACH: Objection. Leading.
7 JUDGE LAWS: Overruled.
8 MR. RIMBACH: And lack of foundation. I mean --
9 JUDGE LAWS: He said to the best of his knowledge, so if
10 you want to get into what that knowledge is on cross I'll
11 certainly allow it.
12 MR. WILSON: Okay. At that point, Your Honor, I would
13 move into evidence Employer Exhibits 14 and 15.
14 JUDGE LAWS: Okay. Starting with General Counsel, any
15 objection to 14? And I guess what I'll say is I would admit it
16 now provisionally, subject to counsel for both the General
17 Counsel and the Union being able to review any documents that
18 either Mr. McCormick or Vasquez relied upon in filling out this
19 document.
20 MR. RIMBACH: Yes, Your Honor. And we would provisionally
21 not having any objections, provided that we receive any and all
22 documents that they relied upon. And if there are none, we
23 would like that information.
24 JUDGE LAWS: That will be put in the record. Either it'll
25 provide it or counsel will after conferring with Mr. McCormick

1 and Mr. Vasquez indicate that they weren't relying on
2 documents.
3 MR. RIMBACH: Thank you, Your Honor.
4 JUDGE LAWS: Okay. From the Union, starting just with 14?
5 MS. SANCHEZ: As to 14, our objection would be best
6 evidence. I heard that Your Honor's provisional admission, but
7 for the record that's our objection.
8 JUDGE LAWS: Okay. I will admit 14 provisionally. If any
9 underlying document calls any part of it into question I will
10 reconsider.
11 **(Employer Exhibit Number 14 Received into Evidence)**
12 JUDGE LAWS: Turning to 15, is there any objection from
13 General Counsel?
14 MR. RIMBACH: No, Your Honor.
15 JUDGE LAWS: Okay. Any objection from the Union?
16 MS. SANCHEZ: The Union provides the objection, Your
17 Honor, and we also note that this email contains an attachment
18 that's not attached to this email, so it's an incomplete
19 document as well.
20 JUDGE LAWS: Was anything besides this document which I'm
21 holding up, which is Employer Exhibit 14, attached to this
22 email chain? And take your time to look through it, if you
23 need to.
24 THE WITNESS: It's the Excel sheet only.
25 JUDGE LAWS: Okay.

1 THE WITNESS: And then I just did a screenshot of how I
2 wanted the files if they had it.
3 JUDGE LAWS: Yes. And that's on there.
4 THE WITNESS: Yes.
5 JUDGE LAWS: I see that.
6 MS. SANCHEZ: And if I may, Your Honor?
7 JUDGE LAWS: Sure.
8 MS. SANCHEZ: I'll just add that this discusses an Excel
9 spreadsheet in red. I don't believe that Employer Exhibit 14
10 was the attachment. And so, again, that attachment, we don't
11 have it before us.
12 JUDGE LAWS: And what page are you referring to, on
13 Employer Exhibit 15?
14 MS. SANCHEZ: I'm referring to page 1 of Employer Exhibit
15 15 at the top, where it says one attachment. And I'm also
16 referring to the page 3 of 4. If you look at the -- there's an
17 email starting a little bit from the top from Mr. Fujimoto, it
18 looks like, and he says, "Attached is an Excel list." The
19 first bullet point says, "See the cell in red." I don't see
20 any document that has any red.
21 JUDGE LAWS: I think he testified already, but I'm not
22 positive, about this, so let's clarify.
23 Was any portion of what is Employer's Exhibit 14 marked in
24 red at any point in time?
25 THE WITNESS: Yes. When I initially sent the email to

1 Mr. Vasquez, Mr. Gerber, and Mr. McCormick to make sure that
2 they fill out the correct area, I highlighted it red. When
3 they replied back with the information that is necessary, when
4 I sent it over to Mr. Wilson, I changed it to the -- just
5 normal color, because it's already been filled out.
6 JUDGE LAWS: And just so it's clear, the part that was red
7 was the reason for ending temp assignment?
8 THE WITNESS: Yes, Your Honor.
9 JUDGE LAWS: Okay.
10 MR. RIMBACH: Your Honor, we would like to request all
11 versions that were emailed back and forth of this spreadsheet
12 then, Your Honor.
13 JUDGE LAWS: Okay. Do you still have the version that had
14 the red portion?
15 THE WITNESS: Yes.
16 JUDGE LAWS: Okay. Why don't we get that then?
17 MS. SANCHEZ: I would add to that the emails themselves as
18 well, including the versions.
19 JUDGE LAWS: The responses? Okay.
20 MR. WILSON: Yes. Thank you, Your Honor.
21 JUDGE LAWS: Okay. Well, let's get those. That shouldn't
22 be very hard.
23 MR. WILSON: Your Honor, I think the responses, the
24 only -- well, let me ask the witness.
25 Q BY MR. WILSON: Are the only responses you got to Exhibit

1 14 when you sent it out contained in the email chain that's
2 been marked as Employer Exhibit 15?
3 MS. SANCHEZ: Objection. Leading.
4 JUDGE LAWS: Well, presumably he got one from each manager
5 or not. I shouldn't -- I should -- I ask people not to assume,
6 and here I'm doing it.
7 Did you get a response from Mr. Vasquez and from
8 Mr. McCormick separately, or did they combine and send you one
9 response?
10 THE WITNESS: They emailed me separately.
11 JUDGE LAWS: Okay. So what he got from each person should
12 be provided to counsel.
13 MR. WILSON: Okay. We'll provide it.
14 JUDGE LAWS: I don't care if it's in the record, but they
15 have the right to look at it and possibly put it in the record
16 if they want to.
17 MR. WILSON: We'll provide that, Your Honor. And also
18 Mr. Fujimoto will testify after the break in our case, so --
19 JUDGE LAWS: Okay.
20 MR. WILSON: If there's issues regarding this that are
21 left open, we can deal with it.
22 JUDGE LAWS: Yes. Given that break, this is all doable.
23 All right. So I'm going to admit Employer Exhibit 14 and
24 15. If, upon receiving any of the documents that we've just
25 been talking about -- I'm not even going to venture to sum them

1 up -- counsel wants to admit additional documents or call into
2 question either of these documents, we can do that.
3 **(Employer Exhibit Number 15 Received into Evidence)**
4 Q BY MR. WILSON: Okay. So looking at Employer Exhibit 14,
5 which you testified about, there's reference to converting
6 temporary employees to full-time employees. And is that a
7 practice that takes place from time to time at the Company?
8 A Yes.
9 Q Okay. Is there any rule of thumb as to how long an
10 employee has to be a temporary employee before they're
11 converted to a regular employee?
12 A No.
13 Q Okay. And does the Company have a website that shows
14 positions that are open?
15 A Yes.
16 Q And is that for all the positions in the Company if there
17 is an available job?
18 A Yes.
19 Q Okay. And relating to temporary -- or, excuse me -- and
20 is there a designation on the website if a position is open?
21 A Well, the job order's opened, and it doesn't mean that we
22 have an opening. It's just that we have it open because we
23 need to convert a temporary employee to a Wismettac employee.
24 Q Okay. So when you were talking -- so, once again, your
25 testimony's relating to temporary employees, correct?

1 A Yes.
2 Q Okay. And so if the website says open as it relates to a
3 temporary employee, and, once again, can you explain, does that
4 mean it's open?
5 A No.
6 Q Okay. And why is that?
7 A Because for the process that we have in place we have to,
8 kind of, post the job opening on our website so the temporary
9 employee could apply online. So other people can see that
10 posting, but it doesn't mean that it -- they would be actually
11 recruiting for that position.
12 Q Okay.
13 THE WITNESS: Okay. I have no further questions.
14 JUDGE LAWS: All right. Is there a statement from --
15 MS. PEREDA: Oh, yes. Sorry.
16 JUDGE LAWS: Okay. All right. Why don't we go off the
17 record, and go from there?
18 (Off the record at 4:25 p.m.)
19 JUDGE LAWS: And General Counsel can start with cross
20 whenever you're ready.
21 MR. RIMBACH: Thank you, Your Honor.
22 **CROSS-EXAMINATION**
23 Q BY MR. RIMBACH: Good afternoon, Mr. Fujimoto.
24 A Uh-huh.
25 Q My name is Thomas Rimbach. I am an attorney representing

1 the General Counsel of the National Labor Relations Board.
2 You've worked for Wismettac for about 12 years, correct?
3 A Eleven, 12 years, yes.
4 Q Okay. And you're current job title is planning and
5 recruiting manager?
6 A Yes.
7 Q You've held that position for about two years?
8 A I think it's two to three years. I don't know the exact
9 term -- or period.
10 Q So you've held this position since at least the beginning
11 of 2017, correct?
12 A Yes.
13 Q As part of your job, you're familiar with the current
14 number of employees at Wismettac, correct?
15 A Yes.
16 Q And you are also familiar with the Company's budget for
17 hiring, correct?
18 A In terms of "familiar," what do you mean?
19 Q You're familiar with the Company's hiring needs, correct?
20 A It's hard to answer, because I don't know the budget off
21 the top of my head.
22 Q If you had a budget in front of you, part of your
23 responsibility is to determine whether there's room in the
24 budget for new employees, correct?
25 A No.

1 Q It's not?
2 A It's not.
3 Q Right. Is that something that you're familiar with
4 though?
5 A With the numbers, yes.
6 Q Okay. Are you responsible for posting job advertisements
7 on the Company's website?
8 A Yes.
9 Q And Wismettac uses ADP's human resources management
10 software to manage employee applications, correct?
11 A Yes.
12 Q You are also in charge of the processing for temporary
13 employees who are converted to permanent employees, correct?
14 A Can you repeat the question?
15 Q Sure. You are in charge of the processing for temporary
16 employees who are converted to permanent employees, correct?
17 A Yes.
18 Q And when Wismettac refers to an employee as a temporary
19 employee that just means that the employee has been referred to
20 Wismettac by a temporary staffing agency like Randstad or
21 Horizon, correct?
22 A Yes.
23 Q And when temporary employees are converted to permanent
24 employees, that means that they are now direct and permanent
25 employees of Wismettac and are no longer affiliated with the

1 temporary staffing agency, correct?
2 A Yes.
3 Q You are also responsible for communicating with -- you
4 said the national director of each temporary agency?
5 A When we set up the -- I guess the accounts with the
6 agencies.
7 Q Do you have any other communications with these temporary
8 staffing agencies other than that?
9 A There's occasional meet and greets, but that's about it.
10 Q But you're familiar with -- you are familiar with the
11 current status of, like, the number of employees each temporary
12 agency is sending to Wismettac, correct?
13 A No.
14 Q Okay.
15 MR. RIMBACH: Can you please -- could I please ask Mr. Ray
16 to hand the witness GC Exhibit 5?
17 Q BY MR. RIMBACH: This was a true and correct copy of the
18 Respondent's -- of Wismettac's budget that was entered into
19 evidence with respect to the number of employee positions
20 budgeted for and actually hired for the month of October, 2017,
21 and I'd like to ask you a few questions about it.
22 A Okay.
23 Q Can you please review this?
24 A Uh-huh.
25 Q Okay. If you look at the top left corner, LLS refers to

1 Wismettac's Santa Fe Springs facility, correct?
2 A Yes.
3 Q Okay. Wismettac was hiring warehouse employees in October
4 of 2017, correct?
5 A By this document, yes.
6 Q And Wismettac was also hiring warehouse employees in
7 November of 2017, correct?
8 A I don't know.
9 Q You don't know off the top of your head?
10 A Yeah.
11 Q Just under "LOS," it says "LOS Warehouse." That refers to
12 warehouse employees, correct?
13 A Yes.
14 Q And "LOS Driver" refers to drivers?
15 A Yes.
16 Q Okay. There are 53 positions budgeted for warehouse
17 employee positions at the beginning of October, 2017, correct?
18 A Yes.
19 Q And there was no change in the budget by the end of
20 October, 2017, correct?
21 A Yes.
22 Q Okay. And by the end of October, 2017, there were five
23 warehouse employee positions. They were budgeted for but
24 remained unfilled, correct?
25 A Yes.

1 Q So in November, 2017, there was room for hiring, correct?
2 A I don't know.
3 Q But at the end of October, 2017, there was room in the
4 budget for hiring, correct?
5 A Yes.
6 MR. RIMBACH: Can you please -- can I please ask Mr. Ray
7 to hand the witness GC Exhibit 7?
8 Q BY MR. RIMBACH: Can you please turn to page 8? Can you
9 please review this email?
10 A Okay.
11 Q You know who Ed Hinkle is, correct?
12 A Yes.
13 Q And he is a labor consultant hired by the Company,
14 correct?
15 A Yes.
16 Q Ed Hinkle was not involved in the hiring of warehouse
17 employees, correct?
18 A Yes. What was that?
19 Q Sorry. Ed Hinkle was not -- was Ed Hinkle involved in the
20 hiring of warehouse employees?
21 A No.
22 Q Okay. Was Ed Hinkle involved in the firing of warehouse
23 employees?
24 A I don't know.
25 Q It says AJ Jimenez. It refers to her job title as HRIS

1 coordinator. What does HRIS mean?
2 A Human Resource Information Systems.
3 Q Okay. And this email is dated November 3rd, and she sent
4 it to "Recruiting LA." Who gets emails as part of the
5 recruiting LA list?
6 A I do.
7 Q Is it only you?
8 A Me, Ms. Hikari Konishi, which is the HR manager, Jaime
9 Almeida (phonetic), which is my HR assistant, and then Ieka
10 Kaneko (phonetic), which is my other recruiter, but her title
11 is HR coordinator.
12 Q Okay. So you received this email that -- and that's -- or
13 AJ Jimenez sent?
14 A Yes.
15 Q Okay. And up at the top, you forwarded this email to
16 Frank Matheu and Ed Hinkle, correct?
17 A Yes.
18 Q Even though Ed Hinkle is not involved in the hiring or
19 firing of warehouse employees, correct?
20 A Yes.
21 Q Can you please turn to page 3 of that same exhibit? You
22 know who Tomimura Harumi is, correct?
23 A Yes.
24 Q Okay. And she was a Randstad temporary employee?
25 A I don't know.

1 Q This email refers to her as being converted to a permanent
2 employee, correct?
3 A Yes.
4 Q Okay. So your email address, tomi1957@hotmail.com, that
5 belongs to her?
6 A Based on this email, yes.
7 Q When employees are converted to a permanent employee, does
8 Wismettac have to pay a conversion fee?
9 A It depends on how long that person was temping.
10 Q Okay. And if an employee is rolled over to another
11 temporary staffing agency, does Wismettac have to pay any type
12 of fee to any staffing agency?
13 A No.
14 Q Okay. Can you please --
15 MR. RIMBACH: Could I please ask Mr. Ray to hand the
16 witness GC-23?
17 For the record, GC Exhibit 23 was entered into evidence as
18 a true and correct copy of Randstad temporary employees -- a
19 list of Randstad temporary employees and the reasons why their
20 assignment ended.
21 Q BY MR. RIMBACH: Are you familiar with this chart?
22 JUDGE LAWS: That's all right. You can look at mine.
23 All right. He has it in front of him now.
24 Q BY MR. RIMBACH: Can you please take a minute and review
25 this chart, the first page?

1 Are you familiar with this information?
2 A Yes.
3 Q Okay. If you look at Hernandez, Pedro Hernandez, do you
4 see his name?
5 A Yes.
6 Q Okay. As far as you know, his assignment ended due to
7 Randstad terminating service, correct?
8 A Yes.
9 Q And you know of no other reason why his assignment ended,
10 correct?
11 A No.
12 Q Okay.
13 JUDGE LAWS: Let's re-ask that.
14 MR. RIMBACH: Sure.
15 Q BY MR. RIMBACH: Are you aware of any other reason why his
16 assignment ended?
17 A No.
18 Q Okay. Can you please look at Employer Exhibit 14? I
19 believe it's in front of you.
20 JUDGE LAWS: You can hand me that one back. Great. Thank
21 you.
22 Q BY MR. RIMBACH: If you look at the column that says
23 "Reason for ending temp assignment," you have no idea of the
24 reasons that are entered into -- that are entered in right
25 there as accurate, correct?

1 MR. WILSON: Objection. Lack of foundation.
2 JUDGE LAWS: Did you have any independent basis for
3 knowing the reasons for the termination?
4 THE WITNESS: No.
5 JUDGE LAWS: Other than what was reported to you?
6 THE WITNESS: Yes.
7 JUDGE LAWS: So I want to clarify that.
8 Do you -- I asked it in two separate blocks. I'm going to
9 ask it as one question.
10 Other than what is reported here on this page, do you have
11 any independent reason to know why these employees' temp
12 assignments ended?
13 THE WITNESS: No.
14 JUDGE LAWS: Okay.
15 Q BY MR. RIMBACH: Why isn't Pedro Hernandez listed here?
16 A I don't know.
17 Q Okay. Why isn't Fanor Zamora listed here?
18 A I don't know.
19 Q Why isn't Jeremiah Zermeno listed here?
20 A I don't know.
21 Q Okay. So there's multiple employees that were temporary
22 employees from Randstad who are just not listed in this Excel
23 spreadsheet, correct?
24 MR. WILSON: Objection. The term "multiple."
25 JUDGE LAWS: Well, at least three.

1 THE WITNESS: I don't know. I just pulled the data from
2 our records and this is what pulled up.
3 Q BY MR. RIMBACH: So this is an incomplete list, correct?
4 A I don't know.
5 Q Okay. You don't know whether this is a complete list or
6 not?
7 A Huh-uh.
8 Q Correct?
9 A Based on the information I pulled, it's a complete list.
10 Q But you don't know that for sure?
11 A Yes.
12 Q Okay.
13 MR. RIMBACH: Could you please -- can I please ask Mr. Ray
14 to show the witness GC Exhibit 24?
15 This exhibit was admitted into evidence as a true and
16 correct copy of the status of temporary employees employed by
17 Wismettac. It appears as of around December, 2017.
18 Q BY MR. RIMBACH: Are you familiar with the information in
19 this chart?
20 A Yes.
21 Q Okay. And the start date, if you see the start date
22 column, this is a date that each employee started working at
23 Wismettac, correct?
24 A No.
25 Q What does the start date mean then?

1 A That the temp date start, the temp start date.
2 Q Oh. So this is a date that each employee started as a
3 temporary employee at Wismettac, correct?
4 A The temp workers started as a -- started with our company.
5 Q So just to make it clear, these employees -- the start
6 date is when they arrived at the Wismettac warehouse, correct?
7 A No.
8 Q As a temporary employee? Wait, could you explain that
9 again then? I'm confused.
10 A You said warehouse. There's peoples in here that are not
11 in the warehouse.
12 Q Okay. So this is a date that they were referred to
13 Wismettac, correct?
14 A Yes.
15 Q And they started working at Wismettac, correct?
16 A Yes.
17 Q Okay. Can you please turn to the second page? What does
18 "W-1" mean; do you know?
19 A No.
20 Q Okay. You also don't know what "W-3" or "W-6" means?
21 A No.
22 Q Okay. "LA5000" refers to the Santa Fe Springs facility,
23 correct?
24 A Yes.
25 Q Okay. This chart indicates that Spectra, Horizon,

1 Cornerstone, Aerotek, Randstad, Kelly and Trillium were all
2 different temporary staffing agencies that referred employees
3 to Wismettac, correct?
4 A Yes.
5 Q Specifically to the Santa Fe Springs facility, correct?
6 A Yes.
7 Q And this chart also shows that numerous employees were
8 referred to Wismettac in November of 2017, correct?
9 A Yes.
10 Q Okay.
11 MR. RIMBACH: Can I please ask Mr. Ray to hand the witness
12 GC Exhibit 51?
13 For the record, GC Exhibit 51 was admitted into evidence
14 as a true and correct copy of a list of temporary employees
15 referred to Wismettac by temporary staffing agencies and
16 include employees who were converted to permanent and direct
17 hires of Wismettac.
18 Q BY MR. RIMBACH: Are you familiar with the information in
19 this chart?
20 A Can you clarify by information?
21 Q Just the data here. Are you familiar with the data?
22 A Yes.
23 Q Okay. Now, again, here, the temp start date is when each
24 employee was initially referred to Wismettac, correct?
25 A Can you repeat the question?

1 Q Sure. The temp start date is the date that each employee
2 was referred to Wismettac as a temporary employee, correct?
3 A Yes.
4 Q And "WLA start date," that date indicates the date on
5 which each employee was converted to a direct permanent
6 employee of Wismettac, correct?
7 A Yes.
8 Q Okay. If you could please look at the chart just below
9 "Temp to direct hires." It says "Rollovers."
10 So just, for example, for Walter Vargas, this chart shows
11 that he was a temporary employee referred by Randstad on July
12 17th, 2017, correct?
13 A Uh-huh. Yes.
14 Q And he was rolled over to Horizon as a temp employee on
15 November 23rd, 2017, correct?
16 A Based on this chart, yes.
17 Q Okay. And he was converted to a full-time employee
18 directly with the Company on February 26th, 2018, correct?
19 A Based on this chart, yes.
20 Q Okay. Can you please look at Eric McLoughlin?
21 A Okay.
22 Q This chart indicates that he started as a temp through
23 Randstad on October 11, 2017, correct?
24 A Yes.
25 Q And he was rolled over to Horizon on November 23rd, 2017,

1 correct?
2 A Yes.
3 Q And his employment ended March 8th, 2018, correct?
4 A Temp assignment ended March 8th.
5 Q Okay. Did he become a full-time direct employee with the
6 Company?
7 A I don't know.
8 Q Okay. And I won't go through Marcus Mack or Harumi
9 Tomimura, but this information in here indicates the similar
10 progression of their employment status, correct?
11 A Yes.
12 Q Okay. And again, Wismettac did not have to pay any fees
13 to Randstad for rolling over Marcus Mack or Harumi Tomimura to
14 Spectra or Horizon respectively, correct?
15 A I don't know.
16 Q Okay.
17 MR. RIMBACH: Can I please ask Mr. Ray to show the witness
18 GC Exhibit 45?
19 Q BY MR. RIMBACH: Can you please review the first page?
20 A Okay.
21 Q This is an email that you sent to Diana Mesa (phonetic) on
22 November 1st, 2017, correct?
23 A Yes.
24 Q The email refers to Pedro Hernandez. You do not have any
25 personal knowledge of the reasons why his assignment ended,

1 correct?
2 A Just the information that was brought to the manager --
3 from the manager --
4 Q And Frank -- oh. Go ahead. Sorry.
5 A -- which states behavior performance issues.
6 Q Frank Matheu was the one who told you that, correct?
7 A I don't remember.
8 Q The manager who told you that did not specify what those
9 issues were, correct?
10 A No.
11 JUDGE LAWS: No, it's not correct or -- but -- let's try
12 to avoid asking a negative question and then asking if it's
13 correct.
14 MR. RIMBACH: I apologize, Your Honor.
15 JUDGE LAWS: Because it just creates confusion.
16 Q BY MR. RIMBACH: Did you ever receive any specific
17 information regarding the reasons for his termination beyond
18 what is listed in this email?
19 A No.
20 MR. RIMBACH: No further questions, Your Honor.
21 JUDGE LAWS: All right. Any cross from the Union?
22 MS. SANCHEZ: I believe so. I believe it will be short,
23 Your Honor.
24 JUDGE LAWS: Okay.
25 ///

1 **CROSS-EXAMINATION**

2 Q BY MS. SANCHEZ: Good afternoon, Mr. Fujimoto. My name is
3 Renee Sanchez. I'm just going to ask you a brief question.
4 Who originally instructed you to forward emails to Ed
5 Hinkle?
6 A I don't remember, but it was someone from management.
7 Q Okay. Do you have an office in the facility?
8 A Yes.
9 Q Where is that located?
10 A Second floor in the HR room.
11 Q Is there anybody else at the facility named Atsushi?
12 A No.
13 Q Okay.
14 MS. SANCHEZ: Thank you. No further questions.
15 JUDGE LAWS: Okay. Any redirect?
16 MR. WILSON: Just one.
17 **REDIRECT EXAMINATION**
18 Q BY MR. WILSON: Mr. Fujimoto, in the normal course of your
19 operations, if a temp employee is returned by a manager to the
20 agency, do they contact human resources?
21 A No.
22 Q Okay.
23 MR. WILSON: No further questions.
24 THE WITNESS: Well, they don't contact recruiting.
25 Q BY MR. WILSON: Okay. So just a follow up. So do you

1 have personal knowledge every time a temp employee is sent back
2 to the agency as to why that person is sent back?
3 A No.
4 Q Okay.
5 MR. WILSON: I have no further questions.
6 JUDGE LAWS: Okay. All right.
7 Any recross on the one of the two questions?
8 MR. RIMBACH: No, Your Honor. Thank you.
9 MS. SANCHEZ: No, thank you, Your Honor.
10 JUDGE LAWS: All right. Thank you for providing your
11 testimony.
12 Please don't discuss what you testified about here with
13 any other witnesses or any potential witnesses.
14 Okay. Off the record.
15 **(Whereupon, the hearing in the above-entitled matter was**
16 **recessed at 4:58 p.m. until Friday, October 12, 2018 at 9:00**
17 **a.m.)**
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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Thursday, October 11, 2018, 9:04 a.m., was
11 held according to the record, and that this is the original,
12 complete, and true and accurate transcript that has been
13 compared to the reporting or recording, accomplished at the
14 hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
18
19
20
21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

_____

_____

Place: Los Angeles, California

Dates: October 12, 2018

Pages: 1028 through 1067

Volume: 8

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7227 North 16th Street, Suite 207
Phoenix, AZ 85020
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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of: WISMETTAC ASIAN FOODS, INC., Employer, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union, and ROLANDO LOPEZ, An Individual, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Friday, October 12, 2018, 9:08 a.m.**

1 **APPEARANCES**

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1 **INDEX**

2

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
Gustavo Flores	1035	1052 1059	1064	1064	

1 **PROCEEDINGS**

2 JUDGE LAWS: Good morning. We are back for what we
3 thought was the final day of the ULP part of the trial. It may
4 not be for reasons that will become clear in a moment.
5 We had a brief discussion before we went on the record,
6 and the General Counsel is going to make a motion to amend. So
7 I'm going to allow him to do that now.
8 MR. RIMBACH: Thank you, Your Honor. We respectfully
9 request to make a motion to amend the complaint to add an
10 allegation to specifically allege that on or about January
11 31st, 2018, the Respondent issued employee Alberto Rodriguez a
12 written warning because Mr. Rodriguez assisted the Union and
13 engaged in Union and/or protected concerted activities, and to
14 discourage employees from engaging in these activities.
15 By this conduct, Respondent has been discriminating in
16 regard to the hire or tenure or terms or conditions of
17 employment of its employees, thereby discouraging membership in
18 a labor organization in violation of Section (8)(A)(1) and (3)
19 of the Act.
20 We amend -- we make this motion because the Respondent
21 produced Employer Exhibit 7 this past Monday, October 8th,
22 2018, and we believe the evidence contained in that exhibit
23 support this allegation. And the General Counsel was
24 previously unaware of these emails and had examined them for
25 the first time this past Monday.

1 JUDGE LAWS: And now I'm going to give the Employer an
2 opportunity to give a response.
3 MR. WILSON: Your Honor, obviously if they just received
4 this information and -- I understand why they wish to amend.
5 We oppose the amendment, and if it was allowed, then we would
6 deny the allegations.
7 JUDGE LAWS: So I'm guided in part by the Board's case law
8 in Rogan Brothers Sanitation Incorporated 362 and NLRB Number
9 61, specifically Footnote 8. In looking at whether I should
10 grant or deny a motion to amend the factors, I am to consider
11 is whether there was a surprise or lack of notice, whether
12 there was a valid excuse for the delay in moving to amend, and
13 whether the matter was fully litigated.
14 And in considering those factors, the General Counsel has
15 articulated that although they knew about the letter of
16 warning -- that's the subject of the motion to amend -- they
17 did not suspect that it was unlawfully motivated until seeing
18 Employer Exhibit 7 and, in particular, some emails involving
19 one of the labor consultants, and they received that Monday
20 evening. We've obviously been in trial all week, so I do find
21 there was a valid excuse for the delay.
22 We aren't breaking for the trial forever today. We are
23 reconvening in two weeks. So there is sufficient time for --
24 should the Employer want to put on evidence regarding this
25 allegation, there is time to do that.

1 And it was -- as the General Counsel noted off the record,
2 the letter of warning is in evidence, and it was discussed, and
3 quite a few witnesses testified about that. I don't consider
4 that it has been fully litigated. I'm not going to go that
5 far. It was testified about, but I will permit any party to
6 adduce additional testimony or other evidence regarding that
7 allegation because, up until now, no -- the Employer in
8 particular was not on notice that it was going to be an
9 allegation. It was just a piece of evidence in the record.
10 MR. WILSON: So, Your Honor, I assume they will issue a
11 written amended complaint that will -- or are they simply doing
12 this on the record?
13 MR. RIMBACH: No, Your Honor. It will just be on the
14 record.
15 MR. WILSON: Okay.
16 JUDGE LAWS: Okay. And we can discuss if you want
17 something written out that spells it out so that you don't have
18 to -- I don't know how soon you'll have the transcript. I'm --
19 that may be what you're getting at. But that states what
20 exactly the parameters of the complaint are. I'm sure we can
21 figure that out.
22 MR. WILSON: So if you're allowing the amendment, then we
23 deny the allegation.
24 JUDGE LAWS: And the denial is also a matter of record.
25 You don't need to --

1 MR. WILSON: Okay.

2 JUDGE LAWS: -- do anything else. All right?

3 Let's get on with the next witness who's been patiently

4 waiting while we talk legal mumbo-jumbo.

5 Come on around. Will you please raise your right hand?

6 Whereupon,

7 **GUSTAVO FLORES**

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

9 examined and testified as follows:

10 JUDGE LAWS: Have a seat. And if you could please state

11 and spell your name for the record.

12 THE WITNESS: My name is Gus or Gustavo, G-U-S-T-A-V-O,

13 Flores, F-L-O-R-E-S.

14 JUDGE LAWS: Thank you, Mr. Flores. Just a couple things

15 before the lawyers start asking you questions. The first is if

16 you don't know or you really aren't sure about the answer to a

17 question, just say, "I don't know." Only guess if you're asked

18 to estimate or take your best guess.

19 THE WITNESS: Very well.

20 JUDGE LAWS: If you don't understand something that's

21 asked of you, just say, "I don't understand the question," and

22 it will be rephrased.

23 And then finally, the gentleman to your left is our court

24 reporter. He has to take down every spoken word while we're on

25 the record, and he can't take down two words at once, so as

1 best you can, try not to start in with your answer until you're
2 sure the questioner is finished.
3 THE WITNESS: Very well.
4 JUDGE LAWS: Thank you.
5 THE WITNESS: Thank you.
6 **DIRECT EXAMINATION**
7 Q BY MR. WILSON: Good morning, Mr. Flores.
8 A Good morning.
9 Q I would ask the court reporter to hand the witness General
10 Counsel's Exhibit 20 and 21. So, Mr. Flores, are you currently
11 employed?
12 A Yes.
13 Q And who do you work for?
14 A I work for a firm by the name of LRSI.
15 Q Okay. And what does LRSI do?
16 A We are a consulting firm. Consult services.
17 Q Okay. And --
18 A Various clientele.
19 Q Okay. Do you work for LRSI exclusively, or do you have
20 other assignments?
21 A No, sir. I work for -- I have other assignments and other
22 firms that I am affiliated or I become affiliated with.
23 Q And that's to perform consulting services, correct?
24 A That is correct.
25 Q Okay. And did you perform consulting services for

1 Wismettac Asian Foods?
2 A I did.
3 Q Okay. And do you recall the approximate dates that you
4 performed such consulting services?
5 A August of 2017 through, I believe it was around February,
6 maybe March of 2018.
7 Q Okay. And can you take a look at what's been marked as
8 Employer Exhibit Number 20?
9 JUDGE LAWS: General Counsel.
10 Q BY MR. WILSON: General Counsel. I'm sorry.
11 A Okay.
12 Q General Counsel Number 20. Okay. And take a second and
13 read that document.
14 A Do I read it out loud?
15 Q No, no. Just read it to yourself.
16 A Oh, okay. Okay.
17 Q Okay. Have you seen that document before?
18 A I have.
19 Q Okay, and do you recall the first time you saw that
20 document; what month and year?
21 A It was in 2018, and I'm going to say between the times of
22 January and March.
23 Q Okay.
24 A I can't say specifically.
25 Q Okay. And did you -- and where did you first see that

1 document?
2 A At the client, within the property of the client with --
3 in --
4 Q Santa Fe Springs.
5 A -- through the -- through the management -- through the
6 management team, yes, at the Santa Fe Springs division,
7 correct.
8 Q Okay. And did you conduct employee meetings sometime
9 between January and March, 2018 as it relates to General
10 Counsel Exhibit 20?
11 A I did.
12 Q Okay. And so let's start with the first paragraph where
13 it states, "A number of employees have approached WLA
14 management," stating -- referencing revocation of authorization
15 cards.
16 A Okay.
17 Q Did you have -- at the time that you saw this document,
18 and the first time at the company, did you have knowledge of
19 employees approaching management about the issue that's
20 referenced in the first paragraph of GC-20?
21 MS. SANCHEZ: Objection. Leading.
22 JUDGE LAWS: Overruled. Go ahead and answer.
23 THE WITNESS: Okay. Here's -- going back to January, I
24 believe January was their -- there was a second petition filed
25 for a second election. And so meetings were held to inform

1 employees about the petition that had recently been filed.
2 MS. SANCHEZ: I'm going to object as nonresponsive.
3 MS. PEREDA: Same objection.
4 JUDGE LAWS: I assume you're getting to --
5 THE WITNESS: Yes.
6 JUDGE LAWS: He was asked when --
7 THE WITNESS: And --
8 JUDGE LAWS: Listen to the question, and if you're -- if
9 Counsel wants you to elaborate, he'll ask. But the question
10 was, did employees approach management; did you know about
11 that?
12 THE WITNESS: I did.
13 Q BY MR. WILSON: Okay. And when did you first learn that
14 employees had approached management?
15 A I got a phone call.
16 Q Okay. In January?
17 A No.
18 Q Okay. No, I'm talking about when was the very first -- so
19 you -- in your previous testimony, you were referencing
20 something that occurred in January of 2018 about employees, and
21 you mentioned a second petition. Can you elaborate on what
22 you're referring to?
23 A Yes. Thank you. In January, as I was saying, there was a
24 second petition filed.
25 Q By who?

1 A By the Teamers Local 630. Meetings were scheduled with
2 employees that were going to be eligible to vote. So the
3 information was shared with the employees about the second
4 petition.
5 Q Okay. Mr. Flores, and so what was your role as it relates
6 to these meetings you refer to with employees who are eligible
7 to vote? What role did you take in those meetings?
8 A As a consultant, it was to provide information pertaining
9 to the election or information that employees can be privy to
10 so they can make an informed decision of the -- during the
11 election.
12 Q Okay. And so the question was, was that your first
13 knowledge of employees approaching management. I'm referring
14 to January 2018.
15 A No.
16 MS. SANCHEZ: Objection. Vague --
17 THE WITNESS: No.
18 MS. SANCHEZ: -- as to employees approaching management.
19 JUDGE LAWS: I assume we're still referencing the first
20 sentence of General Counsel 20, so I'll allow it.
21 MR. WILSON: Yeah.
22 THE WITNESS: No.
23 MR. WILSON: Okay. So where are we starting from --
24 Q BY MR. WILSON: So you mentioned some meetings. So we
25 started off the questioning, asking you about if you had

1 knowledge of the persons of General Counsel's 20. As I
2 understand your testimony, you were trying to explain when you
3 first became aware of that knowledge; is that correct?
4 A Yes, and it was during a second round of meetings. It
5 wasn't the first meeting, but I'm explaining -- I'm trying --
6 I'm leading to that. I just wanted to explain how the process
7 led to that.
8 JUDGE LAWS: And I'm going to instruct you just answer the
9 questions that are asked.
10 THE WITNESS: Okay. So during --
11 JUDGE LAWS: And if you're asked to elaborate on anything,
12 do, but I --
13 THE WITNESS: Okay.
14 JUDGE LAWS: -- I need you to understand how this works.
15 THE WITNESS: Okay.
16 JUDGE LAWS: You're asked a question, and you're to
17 provide a response to that question and no other --
18 THE WITNESS: Okay.
19 JUDGE LAWS: -- question.
20 THE WITNESS: So --
21 Q BY MR. WILSON: Okay. So just so we're clear, so --
22 A Sorry.
23 JUDGE LAWS: It's okay.
24 Q BY MR. WILSON: So -- and I'm sorry it's not clear. Okay.
25 So is the first knowledge you had about the first sentence

1 of General Counsel 20, did that -- did you come up on that
2 knowledge in January of 2018?
3 MS. SANCHEZ: Objection. Leading. He could ask, when did
4 you?
5 JUDGE LAWS: When, yeah. When did you first learn?
6 THE WITNESS: It was --
7 MR. WILSON: Well, he already said that. That's why I was
8 trying to clarify.
9 THE WITNESS: It was --
10 JUDGE LAWS: Well, he didn't. He started --
11 THE WITNESS: It was --
12 JUDGE LAWS: Hold on. He --
13 THE WITNESS: Sorry.
14 JUDGE LAWS: He kind of narrated a back story. And
15 really, the question is, when did you first become aware that
16 employees had approached management asking how they can
17 revoke --
18 THE WITNESS: During the --
19 JUDGE LAWS: -- asking how they can revoke authorization
20 cards? When?
21 THE WITNESS: It was during the meeting.
22 JUDGE LAWS: But when?
23 THE WITNESS: This was -- I believe it was January of
24 2018.
25 JUDGE LAWS: Okay.

1 THE WITNESS: And --
2 JUDGE LAWS: That's it.
3 MR. WILSON: That's fine. Okay.
4 THE WITNESS: And --
5 JUDGE LAWS: And I'm going to ask you to stop, and now I'm
6 going to -- because you answered my question.
7 THE WITNESS: Okay.
8 JUDGE LAWS: I'm going to turn things back to over to
9 Counsel.
10 MR. WILSON: Okay.
11 JUDGE LAWS: But please just try to listen to what is
12 being asked --
13 THE WITNESS: Okay.
14 JUDGE LAWS: -- and answer that for us.
15 Q BY MR. WILSON: Okay. So what information did you become
16 aware of then in January of 2018 about the topic referenced in
17 the first sentence of General Counsel 20?
18 A Employees raised the question how can I get rid of this
19 union? How can I retrieve my union authorization card that I
20 signed because I am tired of this?
21 Q Okay. And did employees tell you that directly?
22 A Yes.
23 Q And that was in January 2018.
24 A Correct.
25 Q Okay. And did you respond to them?

1 A I did.
2 Q What did you say?
3 A My response was, well, there is -- there is a process that
4 exists. You obviously have rights. And I did mention to the
5 employees that they can google that question of information
6 that they can find. And I gave them an example of an agency,
7 the Right to Work Foundation.
8 Q Okay.
9 A Okay. They can gather information on how they can
10 retrieve those cards or revoke them.
11 Q And to your knowledge, if you know, did the employees act
12 in response to that information that you gave to them?
13 MS. SANCHEZ: Objection. Calls for speculation.
14 JUDGE LAWS: I'll instruct answer if you know.
15 THE WITNESS: Yes. They googled it. They told me that
16 they googled it. They were able to make contact with a
17 particular counselor that provided them with information.
18 Q BY MR. WILSON: Okay. And did -- to your knowledge, did
19 they do anything else in response to receiving that
20 information?
21 A According to several --
22 MS. SANCHEZ: Objection. Calls for speculation.
23 JUDGE LAWS: And I do -- again, with anything, just answer
24 if you know.
25 THE WITNESS: Yeah.

1 JUDGE LAWS: Go ahead.
2 THE WITNESS: According to employees, they followed
3 through with the instructions that they were able to obtain
4 from this counselor.
5 Q BY MR. WILSON: And you say "followed through." To your
6 knowledge, what do you mean by "followed through"?
7 A What I was informed with is that they were -- they put a
8 list together. They put a particular petition list together.
9 MS. PEREDA: Objection as to foundation.
10 JUDGE LAWS: I assume Counsel will get there.
11 Q BY MR. WILSON: All right. So when you -- when they told
12 you about this petition, what exactly did they describe?
13 A Well, it was in regards to the information that was
14 instructed to them by this counselor, whoever it was that they
15 made contact with at this foundation, at this --
16 Q And so do you know -- did they tell you what the purpose
17 of this petition was?
18 MS. SANCHEZ: Objection. Calls for speculation. Hearsay.
19 JUDGE LAWS: I guess did they tell you?
20 THE WITNESS: Yes.
21 JUDGE LAWS: It's a yes or no question.
22 THE WITNESS: Yes.
23 JUDGE LAWS: Overruled.
24 Q BY MR. WILSON: And what was -- and did you learn what the
25 purpose of the petition was from the employees?

1 A Yes. The understanding was that by providing the Union
2 and/or even the labor board with the list that they would --
3 that they would adhere to it, that they would have, you know,
4 the opportunity to have those cards revoked.
5 Q Okay. And that's what this list was you're referring to.
6 A Correct.
7 Q Okay. And what was in mid January 2018 then?
8 A Yes.
9 Q Or in January 2018. Okay. So how long did you remain on
10 assignment with the company after these meetings you discussed
11 in January?
12 A Well, there was a lapse. After the election --
13 Q Okay. So let's start -- was there a -- you mentioned a
14 second election. When was that held?
15 A Early February.
16 Q Okay. And did your assignment end after that election?
17 A It did.
18 Q Okay.
19 A It did.
20 Q Okay. And then did your assignment start again at a later
21 date?
22 A Yes.
23 Q Okay. And when -- okay. And when was that date that you
24 returned to the company then?
25 A Approximately a few weeks, maybe a month later.

1 Q Okay. So would that be in March of 2018?
2 A Yes.
3 Q Okay. And who assigned you to return to the company?
4 A Well, I was, I guess, dispatched by my firm --
5 Q Okay.
6 A -- letting me know that the client would like to have me
7 spend some more time at the facility and working with them to
8 assist them.
9 Q Now, between the end of the election and the time your
10 firm dispatched you back, did you have any conversations with
11 Wismettac employees?
12 A Yes.
13 Q Okay. And do you recall who you spoke to?
14 A Yes. Walter.
15 Q Do you -- do you mean -- what is Walter's last name?
16 A Walter Vargas.
17 Q Okay. And can you tell me about the conversation with Mr.
18 Vargas?
19 A Well, he called. Actually, I was a little surprised to
20 hear from him, but basically told me that he is getting reports
21 from fellow employees that there's a scheduled strike that they
22 all need to participate in, and that there is a -- there's a
23 meeting. I believe he mentioned that it was at the Union hall.
24 That was to be held so they can discuss this particular strike.
25 Q Okay. Do you -- as best as you can recall the date of Mr.

1 Vargas' telephone call to you?
2 A Probably a few weeks after the election.
3 Q Okay. Okay. And so how did you respond to Mr. Vargas?
4 A I suggested that he speak to his management.
5 Q Did Mr. Vargas raise any concerns about the strike?
6 MS. PEREDA: Objection. Relevance.
7 JUDGE LAWS: Overruled
8 MS. PEREDA: Calls for speculation.
9 Q BY MR. WILSON: I'm just asking him if he raised any
10 concerns about --
11 A Yes. Yes, he did.
12 Q What did he say?
13 A He was very concerned. Made it very clear to me that he
14 wanted no part of that. He was -- seemed afraid. He felt that
15 if he -- he was being -- he actually told me that he was told
16 that they must attend and they must participate, or there would
17 be some form of retaliation. His --
18 Q And who did he say told him that?
19 A He didn't specifically say, some of his coworkers at work
20 on his shift.
21 Q Okay. But who was it that was going to discipline or
22 retaliate against him? Did he say that?
23 A The union.
24 Q Okay. The Teamsters Union.
25 A And/or his fellow employees that were supporting the

1 Union.
2 Q Okay. And so when he told you this, then what did you
3 tell him to do?
4 A I instructed him right away to let management know.
5 Q Okay.
6 A To make them aware of the situation.
7 Q Okay. Now, to your knowledge, did the conversation with
8 Mr. Vargas a few weeks after the second election relate to you
9 being sent back to the company by your firm?
10 A Yes.
11 Q Okay. And what was it you were supposed to do when you
12 were dispatched back?
13 A I advised them of their rights. You know, they --
14 obviously, you know, they needed to be informed of what their
15 rights were.
16 Q Okay. And so when you went back to the company sometime
17 in March, is that -- as I understand your testimony, that's the
18 first time you saw General Counsel Exhibit 20; can you look at
19 that?
20 A That is correct.
21 Q Okay. To your knowledge, was that document posted or
22 distributed at Wismettac?
23 A I did not distribute it. I do believe that it was posted.
24 Q Okay. So can you -- let's turn your attention to Exhibit
25 21.

1 Now, so as part of your assignment when you went back to
2 the company, was that to meet with employees about General
3 Counsel Exhibit 21?
4 A Yes.
5 Q Okay. And can you explain to me how you went about that
6 process?
7 A There were some scheduled meetings with various groups
8 over a couple -- three days. And, you know, there were -- they
9 were separated, English versus Spanish, and they were advised
10 based on information --
11 Q Okay. So --
12 A -- that had been raised.
13 Q Okay. So let's back up a little bit. So do you recall
14 when the first meeting was held, approximately?
15 A Probably in March.
16 Q Okay. And do you recall who else -- who from management
17 was at that meeting besides yourself?
18 A Well, initially in the first meeting, Frank.
19 Q Frank Matheu?
20 A Yes.
21 Q And who else?
22 A And trying to remember her name. New HR representative.
23 Q Okay.
24 A I forget her name.
25 Q Okay.

1 A But she was being introduced to the -- to the group.
2 Q Okay. And how many of the meetings did Frank attend?
3 A There were only one. There was only one, the first one.
4 Q Okay. And the new HR lady, how many of the meetings did
5 she attend?
6 A She was -- she was present at several of them.
7 Q Okay.
8 A For introduction only.
9 Q And how many days did these meetings last?
10 A To my recollection, maybe two or three days.
11 Q Okay. Did you conduct all of the meetings?
12 A I did.
13 Q Okay. Did you say basically the same thing in each
14 meeting?
15 A I did.
16 Q Okay. Can you tell me what you said?
17 A Based on information, reports that have either come to my
18 knowledge or through management, employees have expressed their
19 desire to want to either revoke authorization cards and/or
20 retrieve them --
21 Q Okay.
22 A -- indicating that they were no longer interested in
23 pursuing the Union any further.
24 Q So did you advise employees about your rights -- their
25 rights in retrieving those cards?

1 A I did.
2 Q Okay. What did you tell them?
3 A They have just as much right to support it and the same
4 right they have to not support it. And --
5 Q Okay. So can you look at General Counsel Exhibit 21?
6 A Yes.
7 Q Okay. So how did General Counsel 21 figure in to your
8 presentation at the meeting?
9 A Well, I read it to them. I read it to them, and I
10 explained that this was in no way, shape, or form something
11 that they were obligated to do. It was simply a choice and a
12 right that they have. And based on certain individuals raising
13 the questions and the desires, management felt it was very
14 important to make this available to them.
15 Q Okay. So you said "make available." So how was General
16 Counsel 21 made available?
17 A By -- at the end of the meeting, there was a stack at the
18 end of the table which they were advised, if they chose to want
19 to take one, it was completely up to them.
20 Q Okay.
21 A They were under no obligation. And later -- and they were
22 advised also that there were all -- they were also made
23 available in lunchrooms, just -- never was it ever distributed
24 to them directly.
25 Q Okay. And you're the one that -- you're the only person

1 who gave -- were you the only person who gave the presentation
2 at these meetings regarding this revocation issue?
3 A Yes.
4 Q Was there any roster or check-off sheet, to your
5 knowledge, as to who took these letters that were made
6 available to them at the meetings?
7 A Not at all.
8 MR. WILSON: Okay. All right. I have no further
9 questions.
10 JUDGE LAWS: Okay. Do we have -- I assume, Union Counsel
11 wants to see any affidavits, as has been her practice.
12 MS. SANCHEZ: I do. Thank you.
13 JUDGE LAWS: All right. Let's go off the record, and we
14 can figure out how much time we want to take with that. Off
15 the record.
16 (Off the record at 9:36 a.m.)
17 JUDGE LAWS: And whenever General Counsel is ready, you
18 can proceed with cross.
19 MS. PEREDA: Thank you, Your Honor.
20 **CROSS-EXAMINATION**
21 Q BY MS. PEREDA: Good morning, Mr. Gustavo. My name is
22 Elvira Pereda, and I'm going to be ask -- I'm the attorney for
23 the government, and I'm going to just ask you some questions
24 about your testimony.
25 Mr. Gustavo, currently -- is it okay if I call you by your

1 first name?
2 A Of course.
3 Q Currently, are you retained by Wismettac as a consultant?
4 A No.
5 Q Is the company paying you for being here today?
6 A Well, we haven't discussed it.
7 Q Okay. Let me ask you, when did your assignment with this
8 company first start?
9 A August of 2017.
10 Q And after the first election, which took place on
11 September 19, 2017, did you stop providing services for this
12 company?
13 A No.
14 Q Has your -- have your services for this company been
15 continuous, meaning there has been no break in your consulting
16 services to this company?
17 MR. WILSON: Objection. Vague as to time.
18 JUDGE LAWS: Well, he discussed on direct, one break, so
19 we don't need to reiterate that.
20 Q BY MS. PEREDA: So there -- you mentioned that there was a
21 break after the second election. Between the first -- between
22 August and the second election, which was in February of 2018,
23 was there a break in your consulting services with this
24 company?
25 A Not really. There were maybe a few days here and there,

1 but not really. Maybe a few days in between, here and there.
2 Q Mr. Gustavo, you're fluent in Spanish, correct?
3 A Yes.
4 Q You testified earlier that employee Walter Vargas called
5 you. Do all of the employees at Wismettac have your contact --
6 your cell phone number or your phone number?
7 A No, ma'am.
8 Q The meetings that were conducted with employees that took
9 place sometime around March of 2018, those meetings happened
10 during work hours, correct?
11 A Correct.
12 Q And you mentioned that they -- the meetings, they went for
13 about two to three days. About how many meetings did you have
14 each day?
15 A Don't remember exactly, but it did vary based on the
16 workload. One day may have consisted of three or four
17 meetings, three or four groups, and -- versus maybe a couple
18 based on the workload. So made it, you know, much easier to
19 spread it out over a few days.
20 Q To your knowledge, did all of the eligible voters attend
21 one of these meetings?
22 A Yes.
23 Q At these meetings with employees in March where you
24 discussed General Counsel Exhibit 21, the revocation of the
25 authorization -- the Union authorization cards, during those

1 meetings, did you also tell employees that if they mailed in
2 their application cards, that they should get it via certified
3 mail?
4 A I did say that that's an option. That would be up to
5 them. I didn't tell them to do so.
6 Q So what did you say about that? Can you tell us?
7 A Based on, you know, what, you know, the actual letter or
8 the document indicated, you know, just you can mail it to them.
9 You can hand deliver it. You can take it to the -- you know,
10 have it, as you mentioned, maybe have it certified. It gives
11 you some assurance that it arrived and somebody has received
12 it.
13 Q Mr. Gustavo, regarding the services that you provided for
14 Wismettac, you were contracted specifically to help the company
15 to fight the Union campaign, correct?
16 A To provide information. That's how I would describe it.
17 Q But more specifically to get employees to get employees to
18 vote no against the Union, correct?
19 A No, I wouldn't describe it that way.
20 Q Mr. Gustavo, during the course of the services that you
21 provided for this -- for Wismettac, which began in August of
22 last year, you also met individually with employees to talk
23 about employee complaints, correct?
24 A During the time that I was there, at times, yes. They
25 would -- upon their request.

1 Q Isn't it true that you went -- that you went to Jose
2 Rosas' house in October of last year to talk about some
3 employee complaints?
4 MR. WILSON: Your Honor, I'm going to object as beyond the
5 scope of direct.
6 JUDGE LAWS: It is beyond the scope. I do think it's
7 relevant, so I'm going to, in my discretion, allow some
8 questioning about those meetings because they are in evidence,
9 and I think it's relevant. I don't want to belabor it or spend
10 too much on it because it is beyond the scope, but I think some
11 follow-up is appropriate.
12 MS. PEREDA: Thank you, Your Honor. I'm sorry, I don't
13 know if the witness answered this question, so I'll repeat it.
14 Q BY MS. PEREDA: Mr. Gustavo, isn't it true that sometime
15 in last year, in September, October, you went over to Mr. Jose
16 Rosas' house?
17 A I did.
18 Q Mr. Jose Rosas, he was -- he was anti-union, correct,
19 meaning he did not support the Union?
20 A He did not support it.
21 Q And when you went to Mr. Jose Rosas' house, you went to
22 meet with employee Walter Vargas, correct?
23 A He was present, yes.
24 Q In addition to you, Frank Matheu was also present for that
25 meeting, correct?

1 A Correct.
2 Q And the consultant Carlos Flores was also present at this
3 meeting, correct.
4 A Correct.
5 Q And I'm sorry, are you and Carlos Flores related?
6 A We are.
7 Q Are you guys brothers?
8 A We are.
9 Q Okay. At that meeting that happened in Jose Rosas' house,
10 he provided a statement to you; is that correct?
11 MR. WILSON: Objection, Your Honor. I think now we're
12 getting way beyond direct. I mean, if we're going to get into
13 all these documents that we're -- you know, I just, like I say,
14 I didn't ask him anything about this. If they want him for
15 this, they can subpoena him back. But he was asked generally
16 what he did, and now we're totally bogged down into documents
17 that I don't know that he can verify, and I think we've gone
18 beyond the scope too far.
19 MS. PEREDA: Your Honor, we just have a couple of
20 questions about a couple of documents that this witness may
21 have seen at these meetings that he already testified that he
22 was present at this particular meeting.
23 JUDGE LAWS: And again, I will allow it, but not to the
24 extent of the last witness. You can show it to them. If he
25 can quickly authenticate them, fine. If not, I don't want to

1 get bogged down like we did last time.
2 MS. PEREDA: Can I ask this -- can I have the court
3 reporter to hand in this witness Exhibit 58?
4 Q BY MS. PEREDA: Mr. Gustavo, do you have before you
5 General Counsel Exhibit 58?
6 A I do.
7 Q Before today, had you seen this statement?
8 A I don't remember. I don't remember seeing this. That's
9 not to say that I didn't. There's been various documents and
10 data that -- over that time frame that was -- I was a, you
11 know --
12 Q So just one follow-up. At that meeting at Mr. Rosas'
13 house, do you remember whether or not employee Walter Vargas
14 provided a statement to either you, Frank, or Carlos?
15 A Verbal. He did not have -- he did not hand over anything
16 in writing.
17 JUDGE LAWS: Okay. Then let's move on.
18 Q BY MS. PEREDA: Isn't it true that at this meeting with
19 Mr. Walter, he told you -- he complained to you about
20 specifically Pedro Hernandez and his involvement with the
21 Union?
22 A Yes, he did.
23 Q And he also complained about Mr. Ruben Munoz and his
24 involvement with the Union, correct?
25 A He did.

1 MS. PEREDA: Can I ask the court reporter to hand this
2 witness Exhibit 62?
3 Q BY MS. PEREDA: Do you have before you Exhibit 62,
4 Mr. Flores?
5 A I do.
6 Q Had you seen this statement before today?
7 A I don't remember seeing this.
8 Q At that meeting with Mr. Rosas and Mr. Walters (sic) that
9 you guys -- that either you or Mr. Frank Matheu advised
10 Mr. Rosas to provide a statement?
11 A No. Not in that context, no. We -- no. Everything was
12 verbal.
13 JUDGE LAWS: That's -- she -- you've answered, so go --
14 Q BY MS. PEREDA: During that meeting, Mr. Rosas also
15 complained about Mr. Ruben Munoz's union activities, correct?
16 A Yes.
17 MS. PEREDA: I have nothing further, Your Honor. Thank
18 you.
19 JUDGE LAWS: Any additional cross from the Union?
20 MS. SANCHEZ: Yes, Your Honor. Thank you, Your Honor.
21 **CROSS-EXAMINATION**
22 Q BY MS. SANCHEZ: Good morning.
23 A Good morning.
24 Q We've seen each other before. I'm not sure we've met. I
25 think you know my name is Renee Sanchez. I'm going to ask you

1 a couple of questions about your testimony.
2 A Very good.
3 Q Thank you. You said that you work for the firm LRSI.
4 That stands for Labor Relations Services, Inc., correct?
5 A Correct.
6 Q Okay. And you said it was a consulting firm, but
7 specifically I wanted to confirm your consulting firm, LRSI, is
8 a firm that specifically deals in union avoidance; isn't that
9 true?
10 A Primarily.
11 Q Okay. And for example, your website says things like
12 "union prevention" and has pictures of vote checkmarks with a
13 no on it, these kinds of things, right?
14 A Let me -- let me clarify. That is not my website.
15 Q I'm sorry. Yes. Thank you for the clarification. LRSI's
16 website has those pictures.
17 A I don't know.
18 Q Okay. But the -- okay. But you -- but you agree that
19 the -- that the service that LRSI, and you therefore, provide
20 is in union avoidance, right?
21 A Primarily.
22 Q Thank you. You talked a lot about telling folks what
23 their rights were. You're not an attorney, are you?
24 A I am not.
25 Q The meetings that were held in March 2018 that you

1 testified about, those meetings were mandatory, meaning that
2 the employers -- the employees had to be there, correct?
3 A I don't know that for sure. I can't say that they were
4 mandatory. And it's not a term that I normally would use.
5 Q Part of your job was to identify who was and who was not a
6 union supporter, correct?
7 A No, ma'am.
8 Q You're saying that that was not --
9 A That's not --
10 Q -- part of your job?
11 A That's not my job.
12 Q Was your job to identify who supported the Union?
13 A No.
14 Q At no point, you identified who supported the Union and
15 who did not support the Union?
16 MR. WILSON: Objection. Vague.
17 THE WITNESS: Well, I --
18 JUDGE LAWS: Overruled.
19 THE WITNESS: I didn't say that.
20 Q BY MS. SANCHEZ: Okay. So at some point --
21 A There were some people that --
22 JUDGE LAWS: Hold on. Wait till the question's finished.
23 Q BY MS. SANCHEZ: At some point you did identify who was
24 pro-union and who was anti-union; isn't that correct?
25 A There were folks that made it very clear by wearing union

1 buttons.
2 Q Was part of your job to make that determination? I'm not
3 asking you whether people wore buttons or not.
4 A No.
5 Q Okay. But your firm, LRSI, and therefore you as a
6 consultant, is dealing in union avoidance. So wouldn't you say
7 that you would be successful at your job if the Union didn't
8 get in?
9 MR. WILSON: Objection. Calls for speculation. There's
10 no foundation.
11 MS. SANCHEZ: It's a yes or no question.
12 JUDGE LAWS: Yes or no, if you know.
13 THE WITNESS: Repeat the question, please.
14 MS. SANCHEZ: Would it be possible to have it played back?
15 JUDGE LAWS: Why don't you just ask it?
16 MS. SANCHEZ: Sure.
17 JUDGE LAWS: It was a long, convoluted question. I think
18 it can be asked more directly.
19 MS. SANCHEZ: Okay. Thank you, Your Honor.
20 Q BY MS. SANCHEZ: Isn't it part of your job to -- well,
21 you've already testified that it's part of your job to deal in
22 union avoidance. So I guess my question was you would be
23 successful at your job, therefore, if the Union was kept out;
24 isn't that true?
25 MR. WILSON: Objection. Lack of foundation. Speculation.

1 MS. SANCHEZ: Well, no. This person is an employee of a
2 consulting firm who --
3 JUDGE LAWS: You can stop. I'll -- overruled.
4 MS. SANCHEZ: Thank you, Your Honor.
5 JUDGE LAWS: Go ahead and answer.
6 THE WITNESS: Well, I believe the success of --
7 Q BY MS. SANCHEZ: It was a yes or no question. You would
8 be successful at your job if you were able to avoid the Union.
9 Have --
10 A Not necessarily. If I may elaborate?
11 Q Did -- did --
12 JUDGE LAWS: Not -- only answer the questions that
13 Counsel's asked of you.
14 THE WITNESS: Okay.
15 MS. SANCHEZ: Thank you, Your Honor.
16 Q BY MS. SANCHEZ: Isn't it true that Wismettac hired you to
17 keep the Union out? Yes or no?
18 A No.
19 Q That's not why they hired you?
20 A No.
21 Q Okay. Your firm deals in union avoidance, so why -- so
22 then -- I don't understand why -- strike that, Your Honor. I
23 have no further questions for this witness.
24 JUDGE LAWS: All right. Any redirect?
25 MR. WILSON: Just one or two questions.

1 **REDIRECT EXAMINATION**

2 Q BY MR. WILSON: So Counsel for the General Counsel asked
3 you about a meeting with Walter Vargas where the topic of Ruben
4 Munoz came up; do you recall that question?
5 A I do.
6 Q Okay. And when you had this meeting with Mr. Vargas and
7 the name of Ruben Munoz come up -- came up -- what all did
8 Mr. Vargas tell you about Mr. Munoz.
9 A Wow. Basically that Ruben as a lead was abusive within
10 his authority. Described him as a bully and created a
11 surrounding of intimidation that made folks like Walter and
12 others very uncomfortable and feared for losing their job.
13 MR. WILSON: Okay. I have no further questions.
14 JUDGE LAWS: All right. Any recross?
15 MS. PEREDA: Just one question.
16 **RECROSS-EXAMINATION**
17 Q BY MS. PEREDA: In your testimony, Mr. Flores, you said
18 that some people made it very clear they were Union supporters.
19 In your opinion, who made it really very clear that they were
20 union supporters? And I just want you -- I just want to focus
21 your attention in September and October of last year.
22 A Folks that would tell me directly.
23 Q Who would that be? Do you remember anyone -- any names
24 specifically?
25 A I can't remember their names at this time, but there were

1 various employees that made that clear to me by telling me so.
2 MS. PEREDA: I've got nothing further, Your Honor.
3 JUDGE LAWS: Okay. Any recross from the --
4 MS. SANCHEZ: No, thank you, Your Honor.
5 JUDGE LAWS: Thank you very much for providing your
6 testimony.
7 THE WITNESS: You're welcome.
8 JUDGE LAWS: Please don't discuss what you've testified
9 about here with any other witnesses or any potential witnesses.
10 THE WITNESS: Okay.
11 JUDGE LAWS: Okay. Let's go off the record.
12 (Off the record at 10:11 a.m.)
13 JUDGE LAWS: That was the last witness scheduled for
14 today. I am issuing subpoenas upon the parties' request. The
15 General Counsel has requested three, and the Union has
16 requested five. The Union's pertain to the R portion of the
17 case.
18 Our plan is to reconvene on Monday, October 29th starting
19 at noon, to allow Counsel to travel. And it's my understanding
20 the first witness to go will be Jinna Baik. She no longer
21 works for the Company and has been subpoenaed.
22 We'll then proceed with any rebuttal testimony and any
23 witnesses the Respondent wants to call attendant to the amended
24 allegation.
25 With that said, I think it's probably safe to say we can

1 start with the R case first thing Tuesday morning.
2 MR. WILSON: That's fine.
3 JUDGE LAWS: I think, given the half day and a few
4 witnesses scheduled for the afternoon, that's going to take us
5 through the afternoon.
6 Counsel for the General Counsel has informed me that the
7 movers -- this isn't a matter of record, but the Region 21 is
8 moving -- are coming on Saturday, November 3rd, so we should be
9 able to be in trial through Friday, November 2nd. If that
10 changes, just let me know, because that'll mean we have to make
11 arrangements, if for some reason the move gets moved forward,
12 which I doubt it will. Things never tend to move more quickly
13 than they should, right, when it comes to moving? So we'll
14 plan to go through Friday, November 2nd. And if we need to
15 schedule additional days, we'll do so.
16 And with that, we will reconvene on October 29th at noon.
17 MR. WILSON: Okay. Thank you.
18 MS. PEREDA: Thank you, Your Honor.
19 MR. RIMBACH: Thank you, Your Honor.
20 MS. SANCHEZ: Thank you, Your Honor.
21 JUDGE LAWS: Off the record.
22 **(Whereupon, the hearing in the above-entitled matter was**
23 **recessed at 10:18 a.m. until Monday, October 29, 2018 at 12:00**
24 **p.m.)**
25

1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Friday, October 12, 2018, 9:08 a.m., was
11 held according to the record, and that this is the original,
12 complete, and true and accurate transcript that has been
13 compared to the reporting or recording, accomplished at the
14 hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
18
19
20
21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

_____

_____

Place: Los Angeles, California

Dates: October 29, 2018

Pages: 1068 through 1183

Volume: 9

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of: WISMETTAC ASIAN FOODS, INC., Employer, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union, and ROLANDO LOPEZ, An Individual, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Monday, October 29, 2018, 12:41 p.m.**

1 **APPEARANCES**

2 **On behalf of the General Counsel:**

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1 **EXHIBITS**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 **General Counsel:**		
5 GC-57	1074	1075
6 GC-58	1075	1075
7 GC-62	1075	1076
8 GC-63	1107	1111
9 GC-64	1111	1117
10 **Employer:**		
11 E-16	1079	1084
12 E-17	1123	1123
13 E-18	1123	1124
14 E-19	1130	1136
15 E-20	1136	(Withdrawn)
16 E-21	1138	1139
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22 E-27	1147	1148
23 E-28	1148	1149
24 E-29	1149	1150
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1 **EXHIBITS (Continued)**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 E-31	1154	1156
5 E-32	1157	1159
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13 E-40	1177	1179
14 E-41	1180	(Withdrawn)

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1 **PROCEEDINGS**

2 JUDGE LAWS: We're on the record.

3 We are back after a couple-week break in the trial.

4 We discussed a number of things to going on the record,

5 but before turning to those, there is additional counsel

6 present for the Union.

7 So if you could please identify yourself?

8 MR. GARCIA: Absolutely. Roberto Garcia, from Hayes,

9 Ortega, Sanchez, on behalf of Teamsters Local 630.

10 JUDGE LAWS: Thank you.

11 Among the things we discussed were documents produced

12 pursuant to a subpoena the Union had issued. And counsel for

13 the Union, having not received some of the documents until very

14 recently, had asked for a day to review them before having to

15 cross-examine the Employer witnesses. The Employer has no

16 objection to that.

17 So we are going to continue with testimony today, which is

18 Monday. Tuesday, we'll reserve for the Union to review the

19 documents that have been provided pursuant to the subpoena, and

20 then we will recommence on Wednesday morning. We can discuss

21 precise timing of that off the record.

22 The General Counsel is working to get the interpreter here

23 for Wednesday, because there are witnesses who will be

24 testifying through an interpreter that day.

25 And the parties have all agreed that Wednesday may be a

1 longer day than usual, longer than probably the other days, but
2 everybody has agreed to that, just so that we can keep things
3 on track.
4 The other thing we briefly discussed before going on the
5 record were some stipulations that the Employer and the General
6 Counsel were working on, so I'm going to turn this over to the
7 parties to address.
8 MR. RIMBACH: Thank you, Your Honor.
9 Off the record, the parties agreed that GC Exhibit 57, the
10 stipulated-to as a true and correct copy of a witness consent
11 form that was signed by employee Walter Vargas, dated October,
12 12th, 2007, this exhibit, GC-57, was previously offered into
13 evidence but not admitted.
14 JUDGE LAWS: And are the parties willing to stipulate to
15 its accuracy and that it is relevant and admissible?
16 MR. WILSON: It's 2017. Mr. Rimbach said 2007, I think.
17 JUDGE LAWS: Oh.
18 MR. RIMBACH: Oh. It says 2007, but it should be 2017.
19 I'm sorry. The document itself says 2007 for some reason.
20 JUDGE LAWS: I think we can all agree it probably is 2017.
21 I can't imagine they'd be admitting anything from 2007 in this
22 trial.
23 MS. SANCHEZ: The Union agrees to stipulate.
24 JUDGE LAWS: Okay.
25 MR. WILSON: And we'll stipulate.

1 JUDGE LAWS: All right. With that, General Counsel 57 is
2 hereby admitted.
3 **(General Counsel Exhibit Number 57 Received into Evidence)**
4 MR. RIMBACH: The parties also agreed to admit into
5 evidence what was previously offered into evidence as GC
6 Exhibit 58. GC-58 is a true and correct copy of a witness
7 statement from employee Walter Vargas in Spanish that he
8 submitted to the Respondent.
9 And page 2 of that exhibit is a true and correct English
10 translation of that one-page Spanish handwritten copy. The
11 translator verified off the record and confirmed that it is a
12 true and correct English translation that the Respondent agreed
13 to off the record.
14 JUDGE LAWS: Okay. All right. I will then -- absent
15 hearing any objection from any of the parties -- admit General
16 Counsel Exhibit 58.
17 MR. RIMBACH: No objection.
18 JUDGE LAWS: Okay.
19 MS. SANCHEZ: No objection.
20 **(General Counsel Exhibit Number 58 Received into Evidence)**
21 MR. RIMBACH: And finally, GC Exhibit 62. GC Exhibit 62
22 was marked, but I don't believe it was offered into evidence.
23 However, at this time, counsel for the General Counsel
24 would like to offer GC Exhibit 62 into evidence as a true and
25 correct copy of a witness statement created by employee Jose

1 Rosas, dated October 18th, 2017, that Mr. Rosas submitted to
2 the Respondent.
3 JUDGE LAWS: I just want to make sure there's no --
4 I thought Mr. Wilson might be leaving early. He's
5 adjusting the temperature, which has been an ongoing battle
6 these last three weeks.
7 Absent any objection, I will admit General Counsel Exhibit
8 62.
9 MR. WILSON: No objection.
10 JUDGE LAWS: Okay.
11 MS. SANCHEZ: No objection.
12 **(General Counsel Exhibit Number 62 Received into Evidence)**
13 MR. RIMBACH: Thank you, Your Honor.
14 JUDGE LAWS: All right. And why don't we go off the
15 record and get the witness in the room when ready?
16 (Off the record at 12:46 p.m.)
17 JUDGE LAWS: All right. Let's go back on the record.
18 And I just wanted to say again, I've reminded counsel when
19 I say a time to be back, I expect to start at that time. It
20 was supposed to be 1:00. It's 1:07. In the future, I'm going
21 to -- and this is a warning -- in the future, I'm going to go
22 ahead, unless I hear from the parties that there is some reason
23 they can't get back in time.
24 Okay. Let's proceed. Is the Employer ready with their
25 next witness?

1 MR. WILSON: Yes, Your Honor. I'll call Ms. Laura Garza.
2 JUDGE LAWS: And can you please raise your right hand?
3 Whereupon,
4 **LAURA GARZA**
5 having been duly sworn, was called as a witness herein and was
6 examined and testified as follows:
7 JUDGE LAWS: Please have a seat.
8 And when you're ready, if you could state and spell your
9 name for the court reporter?
10 THE WITNESS: Laura Garza. L-A-U-R-A, G-A-R-Z-A.
11 JUDGE LAWS: Thanks, Ms. Garza.
12 A couple of brief instructions before the attorneys ask
13 you questions.
14 Number one, if you're asked a question and you're not
15 sure, you don't know for sure the answer, just say I don't know
16 or I'm not sure. Only guess if one of the lawyers or myself
17 says take your best guess.
18 THE WITNESS: Okay.
19 JUDGE LAWS: If you don't understand a question, just say
20 I don't understand the question and it'll be re-asked for you.
21 And then finally, the gentleman to your left is our court
22 reporter. He has to take down everything that we say when
23 we're on the record.
24 And for that reason, it's important to try as best you can
25 not to start your answer until you're absolutely sure the

1 question you're being asked is finished. Thanks.

2 **DIRECT EXAMINATION**

3 Q BY MR. WILSON: Good afternoon, Ms. Garza.

4 Where are you currently employed?

5 A Wismettac Asian Foods.

6 Q Okay. In Santa Fe Springs, California?

7 A Yes.

8 Q Okay. And how long have you been there?

9 A Since March 12th.

10 Q Okay. And what department do you work in?

11 A Human Resource.

12 Q Okay. And who do you report to?

13 A Hikari Konishi.

14 Q Okay. Is she also known as Connie?

15 A Yes.

16 Q Okay. And do you have any particular function in the HR

17 Department, things that you normally handle?

18 A Employee relations.

19 Q Okay. And what does employee relations involve?

20 A Any kind of disciplinary action. Mostly disciplinary

21 action.

22 Q So it involves employee complaints?

23 A Complaints, uh-huh.

24 Q Okay. So I want to show you what we'll mark as Employer

25 Exhibit 16. So the witness can have your copy of that?

1 THE COURT REPORTER: What number is this?
2 MR. WILSON: 16.
3 **(Employer Exhibit Number 16 Marked for Identification)**
4 Q BY MR. WILSON: And Employer Exhibit 16 involves a former
5 employee, John Kirby; is that correct?
6 A Yes.
7 Q Okay. Do you want to take some time to read it?
8 A Yes.
9 Q Okay. That's fine. It's two-sided. I apologize for
10 that.
11 A Yeah, that's what I was looking at.
12 Q Okay. Now, do you recall the situation involving
13 Mr. Kirby?
14 A Yes.
15 MR. RIMBACH: Objection. This is irrelevant.
16 This -- the document states that it was issued August 1st,
17 2018, which is months after the complaint was issued in this
18 case, as well as any 83 discriminatees were disciplined.
19 MR. WILSON: Your Honor, can I respond to that?
20 JUDGE LAWS: You can.
21 MR. WILSON: The second amended complaint was issued on
22 August -- July 19th. The incident involving this occurred on
23 July 23rd is hardly outside -- far outside the conduct that
24 we've litigated here.
25 It's simply coming in as evidence of an employer taking

1 disciplinary action against an employee for making racial
2 slurs, which were the same evidence that involved Mr. Alberto
3 Rodriguez. That's why we think it's relevant.
4 JUDGE LAWS: Okay. And I am just going to note the
5 Board's recent decision; footnote 10 in Con-way Freight. I
6 don't have the citation for that decision, but it was within
7 the last couple months.
8 The footnote says -- in talking about post-termination
9 discipline of other employees -- "They remain relevant to the
10 issue of the Respondent's animus" -- cites to SCA Tissue North
11 America. It would be NLRB 731 F.3d 938. It's a Seventh
12 Circuit decision from 2004.
13 And there's a concurrence by Chairman Ring saying that the
14 events occurring after termination are sometimes relevant. The
15 person is asserting the relevance needs to show why.
16 So with that lengthy explanation, the objection is
17 overruled.
18 MR. WILSON: Okay.
19 Q BY MR. WILSON: Okay. So can I direct your attention
20 To -- back to Exhibit 16 on the page -- it will be the third
21 page, if you can look through it -- a statement from a Raven
22 Warren that's Bates stamped 02165. Can you take a second and
23 read that?
24 A Okay.
25 Q Okay. Now, is it your recollection that Ms. Warren filed

1 a complaint against Mr. Kirby?
2 A Yes.
3 Q Okay. And what was the gist of her complaint?
4 A That Mr. Kirby had used racial slurs, had derogatory
5 toward women and she felt sexually harassed.
6 Q Okay. Now, can you flip -- and --
7 MR. RIMBACH: Objection. Lack of foundation.
8 JUDGE LAWS: I'll jump in with some of that.
9 Did she tell you that, or are you only going by what you
10 just read?
11 THE WITNESS: She told me that.
12 JUDGE LAWS: Okay. And do you remember when?
13 THE WITNESS: That same day, which was -- when she wrote
14 it, the 23rd.
15 JUDGE LAWS: Thank you.
16 MR. WILSON: That's what I was about the ask her.
17 MR. WILSON: That's fine. Okay.
18 JUDGE LAWS: Oh. Well, I did your work for you.
19 MR. WILSON: Okay. Thank you.
20 Q BY MR. WILSON: So you -- can you independently recall her
21 making these statements?
22 A Yes.
23 Q Okay. Now, can you flip over to the last page, which is
24 Bates stamp Number 02166, and take a second and read that?
25 A Okay.

1 Q Okay. And who is Kayla Wheeler?
2 A She's another warehouse worker.
3 Q Okay. And did you interview her regarding the statement
4 she made in her July 23rd, 2018, statement to the company?
5 A Yes.
6 Q Okay. And do you recall what she told you?
7 A Well, she recalls it -- well, she came to me and --
8 because Raven had told -- said about that incident that
9 happened, but it was about her.
10 So then she -- then she says I, you know, I have a
11 complaint because, you know, he also -- I heard him say stuff
12 about women.
13 Q Okay. And do you recall her independently telling you
14 what's in the statement?
15 A Yes.
16 Q Okay. Now, after you took these two statements, what did
17 you do?
18 A I collected the statements and I recommended to my boss,
19 the HR manager, for termination.
20 Q Okay. And what was her response?
21 A She said yes, we're going to terminate.
22 Q Okay. And then can you turn to what's the second side of
23 the first page? It looks like Bates stamp 02164, which appears
24 to be a letter to Mr. Kirby?
25 A Okay.

1 Q Did you write this correspondence?
2 A Yes.
3 Q Okay. And Mr. Kirby was then terminated, correct?
4 A I'm sorry?
5 Q Mr. Kirby was then terminated, correct?
6 A Yeah. Well, he was placed on suspension and then
7 terminated.
8 Q Okay. Now, prior to the termination of Mr. Kirby, did you
9 interview him to get his facts or his side of the story?
10 MR. RIMBACH: Objection. Leading.
11 JUDGE LAWS: Overruled.
12 THE WITNESS: No.
13 Q BY MR. WILSON: And why not?
14 A We had enough evidence to go ahead and terminate him.
15 Q Okay.
16 MR. WILSON: Okay. I have no further questions.
17 JUDGE LAWS: And --
18 MR. WILSON: And I would move for admission of Employer
19 Exhibit 16.
20 JUDGE LAWS: Okay.
21 MR. RIMBACH: And we object to the extent that any of the
22 statements in these documents are hearsay.
23 JUDGE LAWS: All right. And to the extent they're being
24 offered for the truth of the matter asserted, I'll only
25 consider them for that purpose if they are corroborated by

1 other evidence or otherwise clear indicia of reliability.
2 MR. WILSON: One follow-up question, Your Honor? I'm
3 sorry.
4 JUDGE LAWS: Okay. Go ahead.
5 MR. WILSON: Okay.
6 Q BY MR. WILSON: So back to the termination letter, was
7 Mr. Kirby terminated for the reasons you stated in the
8 termination letter?
9 A Yes.
10 MR. WILSON: Okay.
11 JUDGE LAWS: Okay. Any objection from the Union to
12 Exhibit 16?
13 MS. SANCHEZ: Yeah. The Union will offer the same
14 objections as the GC.
15 JUDGE LAWS: Okay.
16 MS. SANCHEZ: Thank you, Your Honor.
17 JUDGE LAWS: And the same ruling will apply. We'll go
18 ahead and admit Employer Exhibit 16.
19 **(Employer Exhibit Number 16 Received into Evidence)**
20 JUDGE LAWS: All right. Any cross from General Counsel?
21 MR. RIMBACH: Could I just have one minute, Your Honor?
22 JUDGE LAWS: Sure. Take your time.
23 MR. RIMBACH: Thank you.
24 (Counsel confer)
25 MR. RIMBACH: We are ready to proceed, Your Honor.

1 JUDGE LAWS: Okay. Whenever you're ready, go ahead.

2 **CROSS-EXAMINATION**

3 Q BY MR. RIMBACH: Good afternoon, Ms. Garza.

4 A Hi.

5 Q My name is Thomas Rimbach. I am one of the attorneys for

6 the General Counsel of the NLRB.

7 You just testified about in a termination involving John

8 Kirby, correct?

9 A Correct.

10 Q And you testified that you met with Raven Warren?

11 A Yes.

12 Q When did you meet with her?

13 A On the 23rd, the day it happened.

14 Q Okay.

15 A The -- I'm sorry -- the next day it -- it had happened the

16 day before -- the night before.

17 Q Okay. So what day did you meet with her?

18 A On the 23rd.

19 Q Did you instruct her to prepare a witness statement?

20 A No. She came with it.

21 Q Okay. This statement is dated July 26th though, three

22 days later after the incident.

23 A Uh-huh.

24 Q So she didn't come to you when you interviewed her?

25 A I --

1 Q When you met with her; is that right?
2 A I'm sorry. Say it again?
3 Q Okay. This statement is dated, at the bottom, July 26th,
4 2018.
5 A Uh-huh.
6 Q But you said that she came to you with this statement?
7 A Raven did.
8 Q Raven did, correct.
9 A Yeah.
10 Q So you said the incident occurred July 23rd, 2018, and
11 that's when you met with her?
12 A No. When she wrote this letter, which is the 23rd.
13 Q Okay. So your -- so she -- your testimony is that she
14 wrote this letter on July 23rd?
15 A No, the --
16 JUDGE LAWS: I think he's asking -- he's asking you about
17 the date on the bottom.
18 THE WITNESS: Oh, okay. I got my dates mixed up. It's
19 7/26. So yeah, it was the 26th.
20 Q BY MR. RIMBACH: And so she didn't come to you with this
21 statement when you met with her; is that right?
22 A She had it already prepared. She went to the supervisor
23 first before she came to me. The supervisor said you know
24 what? Fill out this, you know, witness statement incident
25 report. And she brought it to me.

1 Q Okay. And she brought it to you, you said the day of the
2 incident though?
3 A No. Oh. The day she wrote it.
4 Q Okay. So you didn't meet with her the day of the
5 incident?
6 A No. The day she wrote it.
7 Q Several days later after the incident?
8 A Yes.
9 Q Okay. What did your investigation consist of?
10 A Interviewing the witnesses, and also the -- going to where
11 he works -- where they work in the area and asking, you know,
12 different people what -- you know, different employees, if
13 they've had any problems with him, but not telling them what
14 was it about. Just, you know, if, you know, they had any
15 problems with him.
16 Q Okay. How many employees did you speak to in total?
17 A I want to say like five.
18 Q What did the other employees tell you?
19 A That he had a potty mouth, that he would cuss a lot. That
20 he would get frustrated when was it really busy, so he'd tell
21 everybody like, you know, doing it, you know, like that he was
22 really mean with them and start cussing at them.
23 And I asked them why they didn't come forward, and they
24 said that they didn't want to -- they were temps and they
25 didn't want to get terminated.

1 Q Isn't it true that other employees use that kind of
2 language?
3 A Not --
4 MR. WILSON: Objection, Your Honor. Irrelevant.
5 Mr. Kirby is not a discriminatee. The only relevance of
6 this is the reasons he was terminated for. I don't see how you
7 think an inquire as to the entire exploration -- like I say,
8 Mr. Kirby is not a complainant.
9 JUDGE LAWS: I'm going to -- I will allow it. Overruled.
10 THE WITNESS: I'm sorry. Can you --
11 Q BY MR. RIMBACH: You can answer.
12 So isn't it true that other employees at the warehouse use
13 foul language?
14 A Not that I have heard.
15 Q So you --
16 A When I walked out there.
17 Q You've never heard foul language in the warehouse?
18 A I've heard some cuss words, but not the "N" word or, you
19 know, derogatory statements toward women that shouldn't be in
20 the warehouse. That kind of stuff, we don't hear.
21 Q But you personally haven't heard?
22 A I haven't heard. And nobody has come to complain, except
23 for these ladies.
24 Q Okay. Why didn't the other three employees -- so you said
25 you spoke to five employees?

1 A Uh-huh.
2 Q But there's only two witness statements. So why didn't
3 the other three employees provide a witness statement?
4 MR. WILSON: Objection. Speculation.
5 JUDGE LAWS: Answer if you know.
6 THE WITNESS: They were just in my notes. I didn't --
7 they didn't --
8 Q BY MR. RIMBACH: Did you bring --
9 A Because they already had it -- they already had this
10 done -- these. When I went to investigate, I just used my
11 notes.
12 Q Do you have a copy of your notes?
13 A No, I don't.
14 Q You didn't bring them today?
15 A No.
16 Q Did you review them before you came here?
17 A I took a look at them, yes.
18 Q Okay.
19 MR. RIMBACH: We would like a copy of her notes, Your
20 Honor.
21 JUDGE LAWS: Yes. Since it is --
22 MR. WILSON: Yeah, we'll supply them.
23 JUDGE LAWS: Okay.
24 Q BY MR. RIMBACH: And you said you -- did you personally
25 meet with Kayla Wheeler?

1 A Yes.
2 Q When did you meet with her?
3 A The 26th.
4 Q So you did not meet with her the day of the incident?
5 A No.
6 Q Did you instruct her to prepare this witness statement?
7 A No.
8 Q She prepared it before you met with her?
9 A Yes.
10 Q Who gave this witness statement form to her?
11 A Her supervisor.
12 Q Who is her supervisor?
13 A Christian McCormick.
14 Q The previous witness statement on the third page from
15 Raven Warren, who provided that witness statement form to her?
16 A I believe it was also Christian McCormick, because he came
17 up with her.
18 Q Christian McCormick came to you with each of these
19 witnesses?
20 A With -- yeah. Uh-huh.
21 Q Okay. Did you speak with Raven Warren and -- sorry. I'll
22 re-ask that question.
23 When you spoke with Raven Warren, did you meet with her by
24 herself?
25 A Yes.

1 Q But you said she came up to you with Christian McCormick?
2 A Yes. Uh-huh.
3 Q So Christian --
4 A The supervisor brought them up to me.
5 Q Right. But Christian McCormick wasn't present when you
6 met with her?
7 A No.
8 Q Did you speak with Christian McCormick?
9 A Yes.
10 Q What did he say?
11 A He said that they had a complaint dealing with sexual
12 harassment, and that, you know, he's bringing it to me.
13 Q And with Kayla Wheeler, did she also come to you with
14 Christian McCormick?
15 A No. She came later. It wasn't --
16 Q She was by herself?
17 A She was by herself.
18 Q So this was a separate meeting?
19 A Yes. The same day.
20 Q How long after you met with Raven Warren did you meet with
21 Kayla Wheeler?
22 A About an hour or so. It was lunchtime.
23 Q In terminating Mr. Kirby, did you consider all of the
24 employee complaints, the women and the temp employees?
25 A Yes.

1 Q You said you recommended the termination to an HR manager?
2 A Yes.
3 Q Who is that?
4 A Hikari Konishi.
5 Q Okay. Was there anyone else involved in the
6 investigation?
7 A No. Just myself.
8 Q Was there anyone else involved in the decision to
9 terminate her besides you and Ms. Hikari?
10 A Ms. Hikari has to -- does all the paperwork and then takes
11 it over to the VP of Human Resource.
12 Q Who is the VP of human resources?
13 A I can't think -- Sasa-san -- Sasa. The director.
14 JUDGE LAWS: Just answer to the best of your ability.
15 THE WITNESS: Okay.
16 JUDGE LAWS: Don't ask counsel.
17 Q BY MR. RIMBACH: So the VP of human resources, you don't
18 know whether the VP of human resources was involved in that
19 decision?
20 A He was involved in the decision. She takes that paperwork
21 to him.
22 Q And how is the VP involved?
23 A He reviews every -- what we're going to -- why we're
24 terminating the person.
25 Q You don't have any personal knowledge of any of the

1 statements -- any of this incident, do you?
2 A I don't understand the question.
3 Q You weren't --
4 JUDGE LAWS: Did you witness anything that happened that's
5 reported in these statements?
6 THE WITNESS: No, I did not.
7 JUDGE LAWS: Okay.
8 MR. RIMBACH: No further questions, Your Honor.
9 JUDGE LAWS: Any additional cross from the Union?
10 MS. SANCHEZ: Yes, Your Honor. If I -- just may I have
11 one second?
12 (Counsel confer)
13 MS. SANCHEZ: Thank you, Your Honor.
14 **CROSS-EXAMINATION**
15 Q BY MS. SANCHEZ: Ms. Garza, my name is Renee Sanchez. I'm
16 going to ask you a couple of clarifying questions. I'm counsel
17 for the Union.
18 You said your hire date was March 12th, but you didn't
19 provide a year. What year were you hired?
20 A Oh, I'm sorry. This year, 2018.
21 Q March 12th, 2018.
22 A Uh-huh.
23 Q Okay. Thank you. So you don't have the power to make the
24 decision to terminate then based on your previous testimony;
25 isn't that true?

1 A That's true.
2 Q Okay. Thank you. And you said that there were five
3 witnesses. There are two statements. Can you provide the
4 names of the other three witnesses, please?
5 A I don't have those on hand.
6 Q You don't know the names of those witnesses?
7 A No.
8 Q And John Kirby -- I don't see it listed here -- his
9 position was supervisor; isn't that correct?
10 A Lead.
11 MS. SANCHEZ: I have no further questions for this
12 witness.
13 JUDGE LAWS: Okay. Any redirect?
14 **REDIRECT EXAMINATION**
15 Q BY MR. WILSON: Ms. Garza, what is the procedure for an
16 employee on the warehouse floor who has a complaint such as the
17 type involving Mr. Kirby?
18 A He -- they're supposed to go to their supervisor first,
19 and then the supervisor decides whether or not they come to HR.
20 Q And to your knowledge does a supervisor have these forms,
21 for instance, as noted with Raven Warren?
22 We're at the top -- it says, "Witness Statement."
23 JUDGE LAWS: Are these HR forms, or are these forms that
24 the supervisors have?
25 THE WITNESS: They're HR forms, but the supervisors have

1 them.

2 MR. WILSON: Okay. I have no further questions.

3 JUDGE LAWS: Anything else from General Counsel?

4 MR. RIMBACH: No, Your Honor.

5 JUDGE LAWS: Okay.

6 MS. SANCHEZ: No, thank you, Your Honor.

7 JUDGE LAWS: Well, thank you for providing your testimony.

8 Please don't discuss what you testified about here with any

9 other witnesses or any potential witnesses.

10 THE WITNESS: Okay.

11 JUDGE LAWS: All right. Off the record.

12 (Off the record at 1:32 p.m.)

13 JUDGE LAWS: Can you please raise your right hand?

14 Whereupon,

15 **ATSUSHI FUJIMOTO**

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

17 examined and testified as follows:

18 JUDGE LAWS: Please have a seat.

19 And you testified previously. I won't belabor you with my

20 instructions, but most importantly just try to remember the

21 court reporter can't take down two voices at once.

22 THE WITNESS: Okay, understood.

23 JUDGE LAWS: Thank you.

24 MR. WILSON: Can you hand the witness the Employer

25 Exhibits 14 and 15?

1 **DIRECT EXAMINATION**

2 Q BY MR. WILSON: Can you take a look at those,
3 Mr. Fujimoto?
4 A Okay.
5 JUDGE LAWS: And before you ask him questions, I don't
6 think we've put on the record what I had stated with regard to
7 these exhibits.
8 When we were in trial a couple weeks ago, counsel for the
9 General Counsel and Union had wanted the underlying documents
10 that were used to create Employer Exhibit 14, and the Employer
11 said they would look into it and provide any underlying
12 documents. So this is follow-up on that.
13 Q BY MR. WILSON: Okay, so you looked at Employer Exhibit
14 14, correct?
15 A Yes.
16 Q And can you tell us, just so we're clear again, what this
17 is?
18 A This was an Excel spreadsheet that listed the temp workers
19 between a certain period and their positions and their start
20 date, their end date, and if we converted them, when we
21 converted those individuals.
22 Q Okay. And can you look at Exhibit 15, which is a
23 four-page series of emails, and take a second and read through
24 that?
25 A Okay.

1 Q Now, the judge just mentioned to you that you're to offer
2 testimony about underlying documents that were used in creating
3 Exhibit 14. Is Exhibit 15 the underlying documents that were
4 used in creating Exhibit 14?
5 A Yes. This was my email request to logistics management in
6 Los Angeles, asking them to fill in the information.
7 Q Do you have any other underlying documents other than
8 Exhibit 15?
9 A No.
10 Q Okay.
11 MR. WILSON: I move that they be admitted -- both Exhibit
12 14 and 15 be admitted.
13 JUDGE LAWS: Okay. Any objection from General Counsel?
14 MR. RIMBACH: General Counsel continues to object, based
15 on our previous request that all emails sent back and forth,
16 including attachments, be provided to all the parties. And we
17 still have not received any of the Excel spreadsheets sent back
18 and forth that were attached to some of these prior emails,
19 including a spreadsheet that has red cells that are
20 specifically identified in the September 27th email that is on
21 the 3rd page.
22 MR. WILSON: Your Honor, if I could respond, he sent them
23 a blank Excel sheet and asked them to fill it in, and they sent
24 it back. I'm not sure what else there is.
25 JUDGE LAWS: I think you had wanted the blank Excel sheet,

1 right?

2 MR. RIMBACH: Yes, Your Honor.

3 JUDGE LAWS: Okay.

4 MR. RIMBACH: And --

5 JUDGE LAWS: Yes?

6 MR. RIMBACH: And the spreadsheets that both Mr. Vasquez

7 and/or Christian McCormick emailed back to the witness.

8 JUDGE LAWS: Okay.

9 MR. WILSON: It's all one document.

10 JUDGE LAWS: I think we need to explore that a little bit,

11 because that's going to differ whether it's a working document

12 that -- as we all probably know from dealing with Google docs

13 and things like that -- it isn't always separate things coming

14 back. It's people filling them in, and the document can

15 capture that. So I don't know which that was, so I'll jump in.

16 Well, first of all, do you have the document that you

17 initially sent to the supervisors?

18 THE WITNESS: Yes.

19 JUDGE LAWS: Okay.

20 THE WITNESS: I mean, not with me, but I do have it.

21 JUDGE LAWS: Okay. And I guess I'm wondering why that --

22 that was clearly asked for at the first hearing, so we -- or

23 the first portion of the hearing -- so that's something that

24 should have been provided. And I'm assuming it's something

25 that can easily be provided.

1 MR. WILSON: Yes, Your Honor.
2 JUDGE LAWS: Okay. So let's do that before anything else.
3 And then can you give a description of the type of
4 document it was and the form in which it was sent out and the
5 form in which the responses were received? And I'm really
6 looking with an eye toward, was this a working document, or did
7 you compile the data from various emails that you received from
8 the various supervisors?
9 THE WITNESS: Based on Exhibit 14, last name, first name,
10 job --
11 JUDGE LAWS: No, that's not what I'm asking.
12 THE WITNESS: Oh.
13 JUDGE LAWS: I'm asking, did you compile this based on
14 separate, emailed, filled-in spreadsheets you received from the
15 various supervisors?
16 Who compiled this document? That's a more simple way to
17 put it.
18 THE WITNESS: I did.
19 JUDGE LAWS: Okay. What did you use to compile this
20 document?
21 THE WITNESS: Our ADP system. So --
22 JUDGE LAWS: And can you describe that?
23 THE WITNESS: It's a HR system that has all the
24 information about our employees and also temp employees.
25 JUDGE LAWS: Okay. Then what, if anything, did the emails

1 have to do with it?
2 THE WITNESS: Well, because I don't know the reasons why
3 we ended the temp assignments.
4 JUDGE LAWS: Okay, and in what form did you get that
5 information?
6 THE WITNESS: Through email from the managers Anthony
7 Vasquez and Christian McCormick --
8 JUDGE LAWS: Okay.
9 THE WITNESS: -- on October 2nd.
10 JUDGE LAWS: And where are those emails?
11 THE WITNESS: In Exhibit 15.
12 JUDGE LAWS: All of them?
13 THE WITNESS: Yes.
14 So I did a follow-up on September 28th on the 2nd page,
15 and then Mr. McCormick replied on October 2nd --
16 JUDGE LAWS: Okay.
17 THE WITNESS: -- saying that I went through the list and
18 added comments in the red section -- best of our ability.
19 JUDGE LAWS: Okay, where is that document that reflects
20 that?
21 What that --
22 THE WITNESS: Oh, in -- in my computer.
23 JUDGE LAWS: What that particular person sent you?
24 THE WITNESS: It's in the email, but it's in my computer.
25 JUDGE LAWS: Okay, and that's clearly what they were

1 getting at. So I'm wondering why we don't have these
2 documents.
3 MR. WILSON: But it's in the email here. He says what he
4 wants, and then they filled it in and sent it back.
5 MS. SANCHEZ: Your Honor --
6 JUDGE LAWS: Well, let's go off the record. Because it's
7 unclear to me -- and I don't think it's a meaningful discussion
8 to have on the record -- what counsel actually received; did
9 you receive the attached documents with these emails? So let's
10 figure that out and go from there.
11 Off the record.
12 (Off the record at 1:46 p.m.)
13 JUDGE LAWS: So the underlying documentation was provided.
14 I had hoped that it would have been provided in the break
15 between when we met last and now, but it has now. And the
16 Employer has represented -- with regard to the underlying data
17 relied on, if any, by Vasquez and McCormick -- that there was
18 none.
19 So is the Employer willing, at this point, to
20 affirmatively state everything that was relied upon now has
21 been provided?
22 MR. WILSON: Yes.
23 JUDGE LAWS: Okay.
24 Okay, please proceed.
25 MR. RIMBACH: Oh, sorry. Are you finished with your

1 direct?

2 MR. WILSON: Yes.

3 MR. RIMBACH: Okay. We would just like to note our

4 objection on the record then, with respect to the information

5 contained and reason for ending temp assignment, to the extent

6 that it constitutes hearsay.

7 JUDGE LAWS: All right. And it was done based on what the

8 managers recalled, so I guess -- I'm going to consider it as to

9 Mr. Vasquez's and McCormick's recollection as to why these

10 employees were terminated. I'm certainly open to hearing

11 evidence or argument that there were other reasons, but this is

12 being offered as the reasons they recalled --

13 MR. WILSON: Right.

14 JUDGE LAWS: -- and reported to Mr. Hashimo (sic).

15 MR. WILSON: Correct.

16 JUDGE LAWS: Fujimoto, excuse me.

17 Okay. All right, so any additional objection from the

18 Union counsel?

19 MS. SANCHEZ: Thank you, Your Honor. The Union also

20 offers a hearsay objection with respect to the reason why the

21 temp assignments were ended. There were no underlying

22 documents supporting what the exhibit says.

23 We also continue our best evidence objection with regard

24 to the underlying documents. Now today, we did receive the

25 emails that were referenced in the previous testimony that we

1 had asked for that had gone back and forth, but this document
2 also contains additional information that the underlying
3 documents have not been provided.
4 For example, there is a box about a background check;
5 there's a box about a conditional offer; are they sent back and
6 forth? We don't have any of the underlying documents.
7 This exhibit was prepared for this hearing and shouldn't
8 be admitted based on the hearsay objections that the GC and the
9 Union have provided, as well as a best evidence objection, Your
10 Honor.
11 JUDGE LAWS: Okay, any response from the Employer?
12 I've addressed the hearsay, so I don't need you to respond
13 to that. I'm considering it as to what Mr. Fujimoto was
14 provided by the two managers, Vasquez and McCormick.
15 MR. WILSON: Your Honor --
16 JUDGE LAWS: Are you offering it -- is there any -- do you
17 want me to attach any weight to the information about
18 background checks or the other information that we really
19 didn't discuss?
20 MR. WILSON: No, Your Honor. This was created honestly as
21 a shortcut, we thought, to assist the parties. When you
22 consider all of the evidence that the General Counsel's
23 offered --
24 JUDGE LAWS: Uh-huh.
25 MR. WILSON: If you pick and chose through that, you would

1 eventually end up with something pretty much what's on this
2 summary. And so just to shortcut that, Mr. Fujimoto simply
3 asked the managers, why did you end the temp assignments?
4 It'll represent that temp assignments are not the same as
5 fulltime employees. It's very informal, and so that's why they
6 simply filled in the sheet to the best of their recollection.
7 If it's -- obviously, we could bring down Mr. McCormick
8 and Mr. Vasquez, put this document in front of them, and ask
9 and go through this, but I really think it's unnecessary. Like
10 I say, it was simply a summary to shortcut providing of much
11 more voluminous amount of documents and much more witnesses,
12 meaning more witnesses.
13 And I think there's an inherent reliability evidence code
14 section -- I think it's 703 -- where I think, in terms of that,
15 that exception to the hearsay rule should come in.
16 JUDGE LAWS: All right. Well, I've already said how I'll
17 consider any hearsay objection. Again, I have already
18 provisionally admitted the documents. I understand counsel's
19 argument. I'm certainly not going to be attaching any weight
20 to anything about background checks or anything that really --
21 Mr. Fujimoto didn't testify about or otherwise explain on the
22 record.
23 MR. WILSON: Okay.
24 JUDGE LAWS: Okay, any cross?
25 MR. RIMBACH: Yes, Your Honor. Thank you.

1 **CROSS-EXAMINATION**

2 Q BY MR. RIMBACH: Mr. Fujimoto, could you please take a
3 look at Employer Exhibit 15 in front of you?
4 If you can please turn to the 2nd page.
5 At the top, I just want to reference where Christian
6 McCormick sent an email to you stating, "Isidro might be a
7 resource. You can add some additional information if
8 required."
9 You never asked Isidro Garcia to offer input into the
10 spreadsheet, did you?
11 A Negative.
12 Q If you could please turn to Employer Exhibit 14, the
13 spreadsheet.
14 The reason for ending temp assignments -- those reasons
15 listed there -- did you speak with Anthony Vasquez about this
16 spreadsheet at all in person?
17 A No.
18 Q So you only communicated with him by email --
19 A Yes.
20 Q -- about the spreadsheet?
21 A Yes.
22 Q And the same question with respect to Christian
23 McCormick -- did you meet with him in person to speak with
24 him -- in person or by phone -- about the spreadsheet?
25 A No, it was all email.

1 Q And you didn't speak by phone with Anthony Vasquez,
2 either?
3 A No.
4 Q Okay. So in these emails, where Christian McCormick says
5 that he added comments to the red section "to the best of our
6 ability," you personally don't know whether they relied on any
7 documents or not in order to enter in this information on the
8 spreadsheet. Correct?
9 A No.
10 Q You don't know?
11 A No.
12 Q Okay. So there could be documents that they relied upon?
13 A I don't know.
14 Q Okay. So you don't know whether it's from their memory or
15 through any personnel files that they reviewed or anything
16 else? You have no idea?
17 A Based on their memory, according to the email.
18 Q Where does it say based on their memory?
19 A Well, it says, "Gerber and I went through the list and
20 added comments in the red section -- best of our ability."
21 Q So the "best of our ability," not their memory, correct?
22 A My understanding of that is by memory.
23 MR. RIMBACH: Move to strike as speculation, Your Honor.
24 JUDGE LAWS: I will consider it as speculation.
25 (Counsel confer)

1 **(General Counsel Exhibit Number 63 Marked for Identification)**
2 Q BY MR. RIMBACH: What's marked as GC Exhibit 63 is a color
3 printout of the attachment to your September 27th as well as
4 September 28th emails, I believe. Is that correct?
5 A Yes.
6 Q Could you please take a look at where it says Robert
7 Griffin?
8 A Okay.
9 Q All right. This is the spreadsheet that you emailed to
10 Christian McCormick and Gerber Flores, correct --
11 A Yes.
12 Q -- this spreadsheet?
13 So you already filled out some of these cells for the
14 reason for ending temp assignment, correct?
15 A Yes.
16 Q So you are the one who inserted attendance issues?
17 A No. It just came downloaded.
18 Q Where did it come downloaded from -- that information?
19 A From the ADP system.
20 Q So for multiple employees, your HR system already had
21 their reason for ending temp assignment, correct?
22 A Yes.
23 Q But for many of these other employees, there was no reason
24 listed, correct?
25 A Yes.

1 Q So you did not input any of the information in the column
2 that says "Reason for ending temp assignment" yourself,
3 correct?
4 A I didn't. Yeah, I didn't.
5 Q Okay. Sorry. You did not, okay.
6 JUDGE LAWS: And I'm going to jump in here. Just because
7 I'm going through the previous testimony, and I'm not sure
8 whether it's a matter of record kind of how the information you
9 pulled from the system -- how that works.
10 So can you just describe basically, in simple terms, the
11 system you use to gather the information, other than the reason
12 for ending temp assignment, on 14?
13 THE WITNESS: Okay.
14 JUDGE LAWS: Employer 14.
15 THE WITNESS: So whenever our branch hires a temp worker,
16 they send over a form -- it's like emergency contact form --
17 that has their employee -- the temp worker's name, their
18 emergency contact, and also has the position, their start date,
19 and which agency that they belong to.
20 So once we get that form, we'll put it in our system,
21 because we track their timecard. So we give each temp worker a
22 badge so that we could allocate or keep track of their time.
23 And that's pretty much it is.
24 JUDGE LAWS: And everything other than -- in all but a
25 couple instances -- the reason for ending temp assignment came

1 from that system?
2 THE WITNESS: Yes.
3 JUDGE LAWS: Okay.
4 THE WITNESS: Yes. First name, last name. We issue a
5 temporary ID.
6 JUDGE LAWS: Uh-huh.
7 THE WITNESS: The -- the job title, the department,
8 because we have various departments. Not listed in here is,
9 like, the supervisor's name and, like, time zones and so
10 forth.
11 JUDGE LAWS: Okay. Okay, go ahead.
12 Q BY MR. RIMBACH: Why are some of the reasons for ending
13 temp assignment included, and why are others not for certain
14 employees?
15 A Because of when the manager reports when they ended the
16 person's assignment. Sometimes it's reported to us; sometimes
17 it's not.
18 Q So when a manager does not report a reason for ending temp
19 assignment, it's not included here?
20 A No.
21 Q Are they supposed to report the reason why the temp
22 assignment ended?
23 A They should, but they just don't.
24 Q So is that a policy that they should?
25 A There is no policy on that.

1 Q So how do you know that they should?
2 A Well, because it's best practice to have reasons why we
3 end a temp assignment.
4 The temps are always handled by the direct manager at that
5 location with the agency, so HR does not get involved with
6 that.
7 Q If you look at Lucy Littlefield on this page -- the font's
8 small, so --
9 A Yes.
10 Q Sorry about that.
11 It says, "terminated from Horizon due to lack of
12 performance."
13 A Uh-huh.
14 Q Do you see that?
15 A Yes.
16 Q Who inputted that information?
17 A Inputted would most likely be our HR system administrator.
18 Q Who is that?
19 A At that time, I want to say it was AJ Jimenez.
20 Q And where did AJ Jimenez get that information from?
21 A Most likely from the manager.
22 Q Who is the manager that --
23 A I don't know.
24 Q -- would have gave her that information?
25 A I don't know.

1 Q So you don't know why that manager gave HR that
2 information?
3 A Huh-uh. No.
4 MR. RIMBACH: Your Honor, at this time I would like to
5 offer GC Exhibit 63 into evidence.
6 JUDGE LAWS: Okay, any objection?
7 MR. WILSON: No objection.
8 JUDGE LAWS: All right, General Counsel 63 is admitted.
9 **(General Counsel Exhibit Number 63 Received into Evidence)**
10 **(General Counsel Exhibit Number 64 Marked for Identification)**
11 Q BY MR. RIMBACH: GC-64 is a color copy of the Excel
12 spreadsheet that was turned into a PDF file, turned over to us
13 by the Respondent as the Excel spreadsheet attached to the
14 email dated October 3rd, 2018 that's part of Employer Exhibit
15 15. Is that correct?
16 A Yes.
17 Q So you made changes from the document you received in this
18 October 3rd, 2018 email after you received it, correct?
19 A Yes.
20 Q Could you please look at Joseph Gonzalez in GC Exhibit 64?
21 JUDGE LAWS: He's in green.
22 THE WITNESS: Okay.
23 Q BY MR. RIMBACH: First of all, why are certain rows green?
24 A The green ones are the ones that were con -- converted or
25 in the conversion process.

1 Q Okay. So this indicates that he was terminated for poor
2 performance and attendance, correct?
3 A Yes.
4 Q Okay. And that's information that you got from Christian
5 McCormick or Anthony Vasquez, correct?
6 A Yes.
7 Q Okay. Could you please look at Employer Exhibit 14?
8 A Uh-huh.
9 Q Why is that information not there for Joseph Gonzalez?
10 A I don't know.
11 Q Did you remove that from the Excel spreadsheet that's part
12 of -- that's Employer Exhibit 14?
13 A I don't know.
14 Q So you don't know whether that information -- poor
15 performance and attendance for Joseph Gonzalez -- is correct or
16 not?
17 A No. Because he was converted to a Wismettac employee on
18 March 19th, 2018.
19 Q Yet Anthony Vasquez or Christian McCormick said that they
20 were terminated because of their poor performance and
21 attendance, correct?
22 A According to this, yes.
23 Q Okay. Can you please take a look at Guinn, G-U-I-N-N?
24 That's part of GC Exhibit 64.
25 So according to this spreadsheet, Mr. Guinn -- William

1 Christopher Guinn -- he self-terminated because he found
2 another job, correct?
3 A Yes.
4 Q Can you please take a look at Employer Exhibit 14 now?
5 A Uh-huh.
6 Q Why is that information missing from Mr. Guinn's row on
7 Employer Exhibit 14?
8 A I don't know.
9 Q Are you the only one who made changes to this spreadsheet
10 between the time you received GC Exhibit 64 to the time that
11 you created Employer Exhibit 14?
12 A Yes.
13 Q No one else handled it or made any revisions or edits?
14 A No.
15 Q So this would be incorrect then -- what's on GC Exhibit 64
16 with respect to Mr. Guinn finding another job and
17 self-terminating, correct?
18 A Yes.
19 Q Okay. Could you please turn to the 2nd page?
20 A Of which one?
21 Q Of -- sorry -- Employer Exhibit -- oh, sorry. Actually,
22 GC-64. You can stay on the 1st page.
23 A Oh.
24 Q Sorry about that.
25 Could you please look at the row that says "Littlefield"?

1 It's for employee Lucy Littlefield.
2 A Okay.
3 Q The reason stated for her ending her temp assignment is
4 "terminated from Horizon due to lack of performance."
5 A Yes.
6 Q Can you please look at the other spreadsheet now, Employer
7 Exhibit 14, the second page. I apologize for having you flip
8 back and forth.
9 A Wait. GC?
10 Q GC Exhibit 14, the other spreadsheet.
11 A Okay.
12 Q If you look at Lucy Littlefield, it says terminated due to
13 lack of performance.
14 A Yes.
15 Q Did you change the wording -- are you the person who
16 changed the wording from terminated from Horizon due to lack of
17 performance to just terminated due to lack of performance?
18 A I don't know.
19 JUDGE LAWS: It also says she's a Randstad employee --
20 THE WITNESS: Yeah.
21 JUDGE LAWS: -- so I don't know --
22 MR. RIMBACH: So --
23 JUDGE LAWS: -- why that discrepancy --
24 THE WITNESS: Yeah.
25 JUDGE LAWS: -- either I guess.

1 Q BY MR. RIMBACH: So -- let's see. So that would also be
2 incorrect what is listed in GC-64 that she was terminated from
3 Horizon, as far as you know?
4 A Yeah, as far as I know.
5 Q And you would have been the person who made that change
6 from the one that -- the reason that's listed in GC-64 to the
7 reason that's listed in Exhibit --
8 A Yeah.
9 Q -- Employer Exhibit 14, correct?
10 A Yes.
11 Q Can you please now look at a little bit down, Marcus Mack,
12 on GC Exhibit 64?
13 A Yes.
14 Q The reason here states termed due to contract with
15 Randstad. That means he was terminated due to the contract
16 with Randstad ending, correct?
17 A Yes.
18 Q And that reason was also provided to you by Christian
19 McCormick or Anthony Vasquez, correct?
20 A Yes.
21 Q Can you please look at Employer Exhibit 14, page 2, the
22 line for Marcus Mack?
23 A Uh-huh.
24 Q There's nothing listed there, correct?
25 A Yes.

1 Q Why did you delete that information?
2 A Because he was converted to our employee as of February
3 25th, 2018.
4 Q Is he a current employee?
5 A Right now?
6 Q Yes.
7 A No.
8 Q So the information is incorrect that he was terminated due
9 to contract with Randstad?
10 A I don't know.
11 Q If you could please look at Ricardo Reyes now on GC
12 Exhibit 64?
13 A Yes.
14 Q So this line -- the reason for ending temp assignment is
15 did not return from lunch?
16 A Yes.
17 Q Now, if you could please look at Employer Exhibit 14? The
18 reason listed -- there's something added. It says
19 self-termination, did not return from lunch. Did you add
20 self-termination?
21 A Yes, I did.
22 Q Why did you add that?
23 A Just to make everything line up. Everything else was
24 self-termination, stop showing up to work. So just to match
25 that the self-termination, did not return from lunch.

1 Q So do you consider that employee to have just quit?
2 A Yes.
3 Q Is that what self-termination means?
4 A Yes. I mean, we have a job for him. If he didn't come to
5 work that's not -- abandoning the job. So he terminated
6 himself.
7 Q So this generally -- the information in this spreadsheet
8 that's listed in GC-64 -- there's multiple instances -- it's
9 not a completely correct document, correct?
10 A I don't know.
11 Q You don't know whether it's correct or not?
12 A Yes.
13 Q And specifically referring to reason for ending temp
14 assignment, many of those reasons are incorrect?
15 A I don't know.
16 MR. RIMBACH: Your Honor, I would like to offer GC Exhibit
17 64 into evidence.
18 JUDGE LAWS: Any objection?
19 MR. WILSON: No objection.
20 JUDGE LAWS: All right. General Counsel 64 is admitted.
21 **(General Counsel Exhibit Number 64 Received into Evidence)**
22 MR. RIMBACH: No further questions, Your Honor.
23 JUDGE LAWS: All right. Any additional cross from the
24 Union?
25 MS. SANCHEZ: Yes, I do, Your Honor.

1 **CROSS-EXAMINATION**

2 Q BY MS. SANCHEZ: Good afternoon, Mr. Fujimoto.

3 A Good afternoon.

4 Q You testified earlier about a badge. You give the temp

5 employees a badge. That badge is also what they use for their

6 time card --

7 A Yes.

8 Q -- but that's to access the time clock?

9 A Yes.

10 Q Thank you. So just to be clear, you were asked a moment

11 ago about Marcus Mack. On GC-64 it says termed due to contract

12 with Randstad. But if I understand your testimony, he wasn't

13 termed due to the contract with Randstad. He was converted to

14 a full-time --

15 A Uh-huh

16 Q -- Wismettac employee, correct?

17 A Yes.

18 Q And you, yourself, you don't have any role in determining

19 the end of temp assignments; do you?

20 A No.

21 MS. SANCHEZ: Okay. No further questions, Your Honor.

22 JUDGE LAWS: Okay. Any redirect?

23 MR. WILSON: Just one question.

24 **REDIRECT EXAMINATION**

25 Q BY MR. WILSON: Mr. Fujimoto, Union counsel just asked you

1 if you have any role in the termination of temp assignments.
2 Let me expand that. What role does HR have in the termination
3 of temp assignments generally; not just yourself?
4 A Well, in terms of, like, if a -- if we, as a company,
5 decide not to utilize the agency or vice versa, the agency
6 decides not to go with us, then we have to notify each location
7 about that decision.
8 Q I'm talking about for a particular employee. What is the
9 process in the assignment?
10 A Oh, normally it's the manager deciding that they want to
11 end the assignment for that temp worker.
12 Q Do they need permission of HR?
13 A No.
14 Q Do they consult with HR generally?
15 A Sometimes they do.
16 Q How often? Is that the norm or?
17 A Yeah, if it's a -- if it's a -- a case that always occurs.
18 Like if its performance or attendance, then they can make the
19 decision themself (sic), but if it's something else, like
20 violence or theft or, you know, something that's derogatory
21 towards another employee, then it's HR involvement.
22 Q Okay. And are personnel files kept for temporary
23 employees?
24 A No.
25 Q Okay.

1 A Well -- correct. The only thing that we collect is the
2 emergency contact form, just in case something were to happen,
3 we know what to do --
4 Q Okay.
5 A -- who to contact.
6 MR. WILSON: Okay. I have no further questions.
7 JUDGE LAWS: Any recross? And I'm limiting any recross --
8 MR. RIMBACH: Right.
9 JUDGE LAWS: -- from either party to the scope of the few
10 questions that were just asked.
11 MR. RIMBACH: No further questions, Your Honor.
12 MS. SANCHEZ: No, thank you, Your Honor.
13 JUDGE LAWS: All right. Well, thank you.
14 Why don't we go off the record and regroup for the next
15 phase? Off the record.
16 (Off the record at 3:23 p.m.)
17 JUDGE LAWS: All right. Let's go back on the record.
18 THE WITNESS: Should I stand up or --
19 JUDGE LAWS: Oh, no.
20 THE WITNESS: Oh, okay.
21 JUDGE LAWS: Yeah. I will remind you, though, since I did
22 just swear you this afternoon, the oath that I administered
23 applies throughout your testimony including now this new phase
24 that we are heading into.
25 And so just so it's clear on the record now, this next

1 line of questioning will go toward the Employer's R case.
2 MR. WILSON: Yes, Your Honor.
3 JUDGE LAWS: Okay. Thanks.
4 Whereupon,
5 **ATSUSHI FUJIMOTO**
6 having been previously sworn, was called as a witness herein
7 and was examined and testified as follows:
8 **DIRECT EXAMINATION**
9 Q BY MR. WILSON: So, Mr. Fujimoto, I'm going to show you
10 some documents. And I want to pass them out to all the parties
11 here --
12 JUDGE LAWS: Oh, okay, sure.
13 MR. WILSON: I thought there were more --
14 JUDGE LAWS: Yeah, we can go ahead and pen and ink them as
15 we go. That's fine.
16 (Counsel confer)
17 JUDGE LAWS: Sorry about that. Okay.
18 MR. WILSON: So let me ask the Union and represent what
19 this document is. This is an excerpt from the consolidated
20 order or the order consolidating the cases which is about total
21 60 pages in length.
22 So what I've done is simply take out those pages from that
23 report. It's the first three pages actually. The reference
24 which employs our issue is challenged employees.
25 And after they've had time to look at it, ask if they'll

1 stipulate that this is a true and correct copy of what I'm
2 saying it is.
3 MS. SANCHEZ: I'll certainly take a look at it, Your
4 Honor, but this document, I believe, is in the moving documents
5 already.
6 JUDGE LAWS: It is. Its General Counsel Exhibit 1(a)-J,
7 but for ease of reference, rather than having to look through a
8 several-hundred-page exhibit to get to really what's going to
9 be the crux of what we're looking at for the next few days, I
10 will allow some duplication. Because, frankly, I've been sort
11 of annoyed -- when trying to find these particular pages when
12 I've been going through the document.
13 And that's nobody's fault. It's the nature of the beast,
14 but this is a smaller beast.
15 MR. WILSON: That's why we took it out like that. So --
16 (Counsel confer)
17 MR. WILSON: We would ask that be admitted into evidence
18 as a separate exhibit.
19 JUDGE LAWS: It's cumulative, but, given the length of the
20 document that it is a part of, I will allow that. And I have
21 looked it over. It appears to be the same. If any party wants
22 to point out any differences, please do, but --
23 MS. SANCHEZ: I'm looking it over.
24 JUDGE LAWS: -- my initial comparison doesn't glean any.
25 MR. RIMBACH: Okay. So --

1 (Counsel confer)

2 JUDGE LAWS: Okay. And with the acknowledgement that it

3 is cumulative, is there any objection to Employer Exhibit 17?

4 **(Employer Exhibit Number 17 Marked for Identification)**

5 MR. RIMBACH: No, Your Honor.

6 MS. SANCHEZ: Your Honor, I've had the opportunity to scan

7 it. It does not appear to be altered in any way, but I would

8 take a deeper look at it later. So long as there's no change

9 there's no objection.

10 JUDGE LAWS: I will admit Employer Exhibit 17.

11 **(Employer Exhibit Number 17 Received into Evidence)**

12 MR. WILSON: Okay.

13 **(Employer Exhibit Number 18 Marked for Identification)**

14 MR. WILSON: So now I'm going to show you a document that

15 has been marked as Employer Exhibit 18.

16 JUDGE LAWS: Thank you.

17 MR. WILSON: And, once again, I would ask that the Union

18 take a look at that and see if we can get a stipulation that's

19 the final voter list -- or we believe the only voter list that

20 was submitted for the second election on February 5th, 2018.

21 JUDGE LAWS: Yeah, why don't you take your time and take a

22 look? I assume this is going to be a few minutes?

23 MS. SANCHEZ: Yes, it should be --

24 MR. RIMBACH: All right. Let's go off the record while

25 they do that.

1 (Off the record at 3:40 p.m.)

2 JUDGE LAWS: All right. Let's go back on the record. The

3 Union has had time to review what's been marked for

4 identification as Employer Exhibit 18.

5 MS. SANCHEZ: Thank you, Your Honor. We've looked at the

6 document. It appears to be an accurate document of what was

7 provided to the Union as the 6th amended employer voter list.

8 We will not stipulate that there was only one list provided

9 prior to the second election.

10 JUDGE LAWS: All right.

11 MR. WILSON: We are not saying that. We're just saying

12 that's the last list that's been provided.

13 JUDGE LAWS: Okay.

14 MS. SANCHEZ: I'm sorry. I misunderstood. I thought

15 there was a --

16 JUDGE LAWS: All right.

17 MS. SANCHEZ: -- request for the --

18 JUDGE LAWS: Let's move on.

19 MR. WILSON: Okay.

20 MS. SANCHEZ: -- stipulation. Thank you.

21 **(Employer Exhibit Number 18 Received into Evidence)**

22 Q BY MR. WILSON: All right, Mr. Fujimoto, back with you

23 then. So you have in front of you Employer Exhibit -- what is

24 it -- 17 and 18, correct?

25 (No verbal response)

1 Q BY MR. WILSON: Okay. Now, you had testified here quite a
2 bit about your job duties at the company. And, as part of
3 those job duties, are you familiar with the different job
4 duties performed by employees at the company?
5 A Yes.
6 Q Okay. And how is that? How do you come about that?
7 A Well, whenever a manager wants to post a job online, I
8 work with that manager to understand the job that they're
9 posting. In terms of, like, corporate, I get involved in
10 screening some of the candidates as well. Sometimes we go
11 through agencies and agencies will ask me questions about the
12 position that they're looking for, so I need to understand that
13 job.
14 Q Okay. And do you spend time out on the floor?
15 A Yes.
16 Q Okay. And what would -- and by the floor I mean the first
17 floor of the building and also the warehouse.
18 A I walk throughout the building, you know, every day while
19 I work there. I talk to my employees. As a recruiter, I'm the
20 one who brings them into the company. So, you know, make small
21 talk with them, see how they're doing, see what their job
22 entails to make sure that, you know, what we hired them for is
23 what they've been doing.
24 Q Okay. And so you actually would observe them performing
25 their work?

1 MS. SANCHEZ: Objection. Leading.
2 MR. WILSON: Okay.
3 Q BY MR. WILSON: Do you --
4 JUDGE LAWS: He's just summarizing.
5 MR. WILSON: Okay.
6 JUDGE LAWS: Go on.
7 Q BY MR. WILSON: Do you observe them performing their work?
8 A Yes, I do.
9 Q Okay. And how long have you been there at Wismettac?
10 A Eleven, 12 years.
11 Q Okay. And were you always in recruiting or did you handle
12 other HR functions prior to that?
13 A I've done recruiting, I've done employee relations,
14 compensation, immigration matters. That's it pretty much.
15 Q Employee relations involves employee complaint?
16 A Employee complaints, talking with employees, talking with
17 the managers about issues that have arised (sic) and give them
18 advice on how to handle those matters.
19 Q Okay, that's fine. Now, prior to coming here to testify
20 in the R case part of the hearing, did you review any document?
21 A The employee files.
22 Q You mean the personnel files?
23 A Personnel files, yes.
24 Q Did you review job descriptions?
25 A Yes, I did.

1 Q Okay. Did you review the voter list?
2 A Yes, I did.
3 Q And that's Exhibit 18?
4 A Yes.
5 Q Okay. Now, when you reviewed the voter list, did it
6 appear to you that there were errors on that list?
7 MS. SANCHEZ: Objection. Leading.
8 JUDGE LAWS: Overruled.
9 THE WITNESS: I --
10 JUDGE LAWS: Did it appear accurate or were there errors?
11 THE WITNESS: There were errors.
12 Q BY MR. WILSON: Okay. And what sort of errors did you
13 observe?
14 A Some of the job titles listed didn't match what they're
15 actually doing.
16 Q Okay. What they were actually doing at the date of the
17 election?
18 A Yes.
19 Q Okay. Now, just to make it clear throughout your
20 testimony, when I talk about the date of the election I'm
21 talking about the election on February 5th, 2018.
22 (Counsel confer)
23 Q BY MR. WILSON: Okay. And, to your knowledge, there was a
24 previous election; is that correct?
25 A Yes.

1 Q Okay. And that was when, if you recall?
2 A End of 2017. I don't know the exact date.
3 Q Okay. Now, looking at Employer Exhibit 18, the voter
4 list --
5 MS. SANCHEZ: Sorry. Just for the record, I think he said
6 the second election was February 5th, but I believe it was
7 February 6th.
8 MR. WILSON: Okay.
9 JUDGE LAWS: It's a matter of record.
10 MR. RIMBACH: Okay.
11 MR. WILSON: That's what she said --
12 Q BY MR. WILSON: Okay, February 6th. Okay. Yeah. So
13 that's Exhibit 18. Can you look at the bottom right-hand
14 corner?
15 A Yes.
16 Q Okay. And what date is on there?
17 A January 31st, 2018.
18 Q Okay. Now, did you have any input into the preparation of
19 Employer Exhibit 18?
20 A No.
21 Q Okay. Did anyone consult you about the classifications
22 listed on Employer Exhibit 18?
23 A No.
24 Q Okay. So when is the first time you looked at Employer
25 Exhibit 18, if you recall?

1 A I don't know when it was, but it was provided me something
2 like this. I just don't know the date of it.
3 Q Okay. To review your testimony?
4 A Yes.
5 Q Okay. Now, can you go to Exhibit 17?
6 A Yes, sir.
7 MR. WILSON: Just a second, Your Honor. We just need one
8 other document.
9 JUDGE LAWS: Okay.
10 (Counsel confer)
11 Q BY MR. WILSON: Okay. Can you look on the first page of
12 Employer Exhibit 17 at the bottom --
13 A Okay.
14 Q -- where it says included, and read that language?
15 A All for --
16 JUDGE LAWS: Not out loud.
17 Q BY MR. WILSON: Not out loud. Just --
18 A Oh, okay.
19 Q -- read it to yourself and I'll ask you about it.
20 A Okay.
21 Q And when you go over to page 2 of that, it says excluded,
22 and then there's another paragraph that says others permitted
23 to vote; can you read that?
24 A Okay. Okay.
25 Q Okay. Now, as part of your testimony -- as part of the

1 preparation for your testimony here today, did you review the
2 job classifications that are listed in the paragraph that says
3 included at the bottom of page 1 of Exhibit 17?
4 A Yes.
5 Q Okay. And then as part of your testimony here today, did
6 you also review the job classifications in the paragraph on
7 page 2 of Exhibit 17 that says others permitted to vote?
8 A Yes.
9 Q Okay. And are you confident to testify about the job
10 descriptions and job duties in those two paragraphs?
11 A Yes.
12 Q Okay. So I want to show you a number of these job
13 descriptions.
14 **(Employer Exhibit Number 19 Marked for Identification)**
15 Q BY MR. WILSON: Okay. I'm going to show you a document
16 that's been marked as Exhibit 19.
17 (Counsel confer)
18 Q BY MR. WILSON: Okay. And that job is entitled central
19 purchase clerk. Are you familiar with that position?
20 A Yes.
21 Q Okay. Now, where in the facilities -- or where in the
22 facility do employees who are classified as central purchase
23 clerks sit?
24 A First floor.
25 Q Okay. First floor in the office or first floor in the

1 warehouse?
2 A First floor in the office.
3 Q Okay. And do those employees interact with warehouse
4 workers?
5 A Yes, they do.
6 Q Okay. And do those employees also handle inventory
7 control?
8 A Yes, they do.
9 Q Okay. So let's go through the actual -- so can you just
10 take a look at that, and then kind of explain to me what this
11 job does?
12 A Okay. So central purchase clerk actually works for the
13 headquarters for global procurement operations. And --
14 Q So before we go any further, that term is going to be used
15 a lot. What does global procurement operation refer to?
16 A So we don't do any manufacturing at our company. All we
17 do is we'll procure a variety of different food items from
18 different manufacturers. So instead of creating it, we procure
19 those food items to be sold in North America.
20 Q Okay. And if the term GPO is used, does that mean global
21 procurement operation?
22 A Yes. The acronym for global procurement operation is GPO.
23 Q Okay. So can you go where it says essential job
24 functions, the second bullet point, and explain what that job
25 duty involves?

1 A So our central purchase clerk will look at all the
2 inventory for all of our branch offices. LA warehouse, we also
3 have an increment of corporate warehouse in there as well. So
4 everything is centralized in the LA facility and we ship it out
5 to different branch locations.
6 So our central purchase clerk will make sure -- they'll
7 look at the different branch levels, Elliott branch, San
8 Francisco branch, to ensure that we purchase the proper
9 inventory for the staff branches.
10 Q Okay. And can you go down two more bullet points where it
11 says confirm the purchase quantity? Can you explain what that
12 means?
13 A Yes. So whenever --
14 MS. SANCHEZ: I'm going to provide an objection, Your
15 Honor, that the document speaks for itself, and if the witness
16 wants to testify about this particular job description, that's
17 fine, but I don't think we need to look at the bullet points
18 and have that be interpreted.
19 MR. WILSON: Your Honor, that is absolutely incorrect.
20 JUDGE LAWS: Yeah.
21 MR. WILSON: They need to explain these job descriptions.
22 JUDGE LAWS: Yeah.
23 MR. WILSON: You can't simply look at a sentence --
24 JUDGE LAWS: Hold on. Counsel is not asking the witness
25 to just reiterate what's there. He's asking to elaborate upon

1 it. I will allow it.
2 MS. SANCHEZ: Okay.
3 JUDGE LAWS: Go ahead.
4 Q BY MR. WILSON: Okay. So can you explain where it says
5 confirm the purchase the purchase quantity request what that
6 involves -- what duties that involves?
7 A So each branch will request a product that how much they
8 want to purchase in volume. So the center purchase clerk will
9 work with the said inventory personnels to make sure that they
10 purchased the right inventory amount.
11 Q Okay. And the next bullet point, adjusting quantity for
12 each branch office, what does that --
13 A Yeah. As corporate, we have more buying power depending
14 on which volume we have. So, again, if the bran- -- even
15 though the branch might request, you know, three pallets,
16 corporate may make a decision to purchase four pallets,
17 instead.
18 Q Okay. And then one last bullet point, the one below
19 adjust inventory -- or adjust shipping quantity where it says
20 adjust inventory. Can explain that? It's the sixth one down.
21 A Okay. Isn't that what I went over or?
22 Q Okay. Okay.
23 A I thought I explained that adjust inventory --
24 Q Okay.
25 A -- based on that.

1 Q No. I'm sorry. You're right. The one above that,
2 adjust -- number 5.
3 A Yeah, so, again, there are times where, depending on the
4 manufacturers, they don't have enough inventory. So if one
5 branch is (sic) take all the inventory, it affects all of sales
6 for different branches, so they have to adjust that when they
7 ship it out to each branch location.
8 Q Okay. And why -- you said that the central purchase
9 clerks interact with employees in the warehouse?
10 A Because when inventory comes, they want to double check to
11 make sure the inventory's there. You know when they move items
12 to the different branches they want to verify that and they go
13 out to the floor of the warehouse.
14 Q Okay. Now can you look at the second page of central
15 purchase clerk -- the very last sentence?
16 A Yes.
17 Q Okay. Now what does that say regarding spending time in
18 the warehouse?
19 A That the central purchase clerk will go out to the
20 warehouse floor to check on the inventory levels for that
21 branch.
22 Q Okay.
23 A Or at the branch.
24 MR. WILSON: Okay. I would move for admission of Employer
25 Exhibit -- what is this -- 19?

1 JUDGE LAWS: 19. And I -- I just want to ask you a
2 question for voir dire or objections -- the very last sentence,
3 should that read "a few" or is just "few" without a before it
4 correct?
5 THE WITNESS: May spent a few hours -- if there was a
6 grammatical error or?
7 MS. SANCHEZ: I'm sorry. Your Honor --
8 JUDGE LAWS: Yes. Should -- should that be read?
9 THE WITNESS: A few hours in the warehouse?
10 JUDGE LAWS: Or are they saying they don't spend very many
11 hours in the warehouse? It's -- the -- the way it's written
12 it -- it would tend to me they spend -- they spend few hours
13 there. Not a few.
14 THE WITNESS: Well they -- if they -- it depends on the
15 container really --
16 JUDGE LAWS: Yeah.
17 THE WITNESS: -- you know, sometimes we get --
18 JUDGE LAWS: I -- and I don't want you to even go there.
19 I -- I just want you to say do you know if this is -- as it's
20 written grammatically is that accurate?
21 THE WITNESS: Yes.
22 JUDGE LAWS: Okay.
23 MR. WILSON: Okay.
24 JUDGE LAWS: So you offered it, so I'm turning things over
25 for --

1 MR. WILSON: Okay.
2 JUDGE LAWS: -- first voir dire or objection.
3 MS. SANCHEZ: I don't have any objection, Your Honor.
4 JUDGE LAWS: Okay. I'll admit Employer Exhibit 19.
5 **(Employer Exhibit Number 19 Received into Evidence)**
6 Q BY MR. WILSON: Okay. Next I want to show you what would
7 be marked as Employer Exhibit 20.
8 **(Employer Exhibit Number 20 Marked for Identification)**
9 Q BY MR. WILSON: So can you take a look at Employer Exhibit
10 20?
11 A Okay.
12 Q Okay. And this job description is inventory controller.
13 Are you familiar with that job description?
14 A Yes.
15 Q At the time of the election -- and I'm referring once
16 again to the February 6 election -- was there an inventory
17 controller at the company?
18 A No.
19 Q Okay. Are there other employees however who handle
20 inventory that don't have that title in their name?
21 A Yes.
22 Q Okay.
23 MR. WILSON: Okay. So I would move for admission of
24 Employer Exhibit 20.
25 JUDGE LAWS: Okay. Any --

1 MS. SANCHEZ: Objection, Your Honor. This job position is
2 not a classification in the other's permitted to vote category
3 nor is it a classification in the included category. It's
4 irrelevant and --
5 JUDGE LAWS: -- yeah. Guess I'm wondering the relevance
6 given the -- the test --
7 MR. WILSON: Your Honor --
8 JUDGE LAWS: -- hold on. Given the testimony that nobody
9 held this position at the time of the election. If there was
10 no employee encompassing this why do I need the job description
11 for it?
12 MR. WILSON: You really don't, but I do want to address
13 the issue that it wasn't -- well, that's fine.
14 JUDGE LAWS: Okay.
15 MR. WILSON: We will withdraw it.
16 **(Employer Exhibit Number 20 Withdrawn)**
17 JUDGE LAWS: Okay.
18 MR. WILSON: So that the next one's filed.
19 Q BY MR. WILSON: So I want to show you what will be marked
20 as Employer --
21 JUDGE LAWS: 21.
22 **(Employer Exhibit Number 21 Marked for Identification)**
23 Q BY MR. WILSON: -- Exhibit 21. And can you take a look at
24 Employer Exhibit 21?
25 A Yes.

1 Q Okay. And what does -- just can you give us an overview
2 of what this job involves?
3 A This is actually a similar position or same position as
4 central purchase clerk that I explained in Exhibit 19. It's
5 just that this one states global procurement operation for
6 clarity.
7 Q Okay. So in terms of -- okay. Well, let me ask this.
8 Where do they sit in the facility?
9 A First floor office.
10 Q Okay. And do they act with warehouse -- interact with
11 warehouse employees?
12 A Yes, they do.
13 Q And how would they -- why is it they would interact with
14 warehouse employees?
15 A In terms of inventory levels that we receive they want to
16 make sure that the inventory that came is actually what's on
17 hand.
18 JUDGE LAWS: And I don't think we -- we need -- unless
19 there's something you want to point out much in the way of
20 description because it looks like the bullet points are exactly
21 the same. So, it looks like this --
22 MR. WILSON: Yeah. No -- no -- no that's fine.
23 JUDGE LAWS: -- this is another way just to describe --
24 MR. WILSON: Yeah.
25 JUDGE LAWS: -- Employer Exhibit 21? Or excuse me, 19?

1 MR. WILSON: 19, correct. Yeah. That's fine. No, that's
2 fine.
3 JUDGE LAWS: Okay. Any -- any objection to 21?
4 MS. SANCHEZ: I have a -- just a clarifying question.
5 Well, he said that they -- these folks work in the first floor
6 office. That -- is that the main office?
7 THE WITNESS: It's -- I mean, it's one facility. I
8 mean --
9 MS. SANCHEZ: The front office?
10 THE WITNESS: -- the front office, yes.
11 MS. SANCHEZ: Okay. Thank you. No objection, Your Honor.
12 JUDGE LAWS: Okay. Employer Exhibit 21 is admitted.
13 **(Employer Exhibit Number 21 Received into Evidence)**
14 Q BY MR. WILSON: So, Mr. Fujimoto back to Employer 21 you
15 mentioned that there was interaction between that job
16 classification and the warehouse employees. And that the
17 employees in Exhibit 21 sat on the first -- sit on the first
18 floor of the office. How would they get to the warehouse to
19 interact with the warehouse employees?
20 A They have to walk physically to the warehouse facility or
21 the warehouse area.
22 Q How far is that?
23 A If I had to guess -- 150 to maybe 300 feet depending on
24 where you sit.
25 Q Okay. Is there a direct access to that from the first

1 floor?
2 A Yes. There's actually two ways you could go. You could
3 go the back entrance way or through the break room and through
4 the hallway bypassing the office warehouse -- warehouse office.
5 Q Okay.
6 So I want to show you what's going to be marked as Exhibit
7 22.
8 **(Employer Exhibit Number 22 Marked for Identification)**
9 Q BY MR. WILSON: Can you explain what Exhibit 22 is?
10 A This is a job description for our GPO distribution clerk.
11 And distribution clerk are the ones who physically look at the
12 containers that we receive, checks the manifest, double checks
13 to make sure that the inventory they received isn't actually
14 damaged, and if it's damaged then they have to re-contact the
15 manufacturers to get -- I guess a -- replacement for those
16 shipments or items.
17 Q Okay. And where do they sit in the facility?
18 A They sit in the warehouse in the receiving area in the
19 back.
20 Q Okay. And do they interact with employees in the
21 warehouse?
22 A Everyday. Yes, they do.
23 Q Okay. And what sort of interaction would they have?
24 A Well because they're the ones who take it out of the
25 container and then get it they have to allocate which product

1 goes to LA branch or which product goes to the other branches.
2 So they have to kind of separate it with them --
3 Q Okay.
4 A -- and then they'll say, hey, take this pallet over to
5 this area or take that pallet over to the other area -- the
6 staging area.
7 Q Are they involved with inventory control?
8 A Yes.
9 Q And how is that?
10 A Because based on the containers and based on the numbers
11 that we sent to the other branches they will determine which
12 one goes to LA office and which one goes to the other office as
13 well.
14 Q And can you take a look at -- on Exhibit 22 as to the
15 essential job functions?
16 A Okay.
17 Q And just take a minute and read those.
18 A Okay.
19 Q Okay. Are those accurate, to your knowledge, in terms of
20 the duties that the employees in Exhibit 22 perform?
21 A Yes.
22 Q Okay.
23 MR. WILSON: Move for the admission of Employer Exhibit
24 22.
25 MS. SANCHEZ: Your Honor, the Union objects to this

1 document in the same way that it objected to the Employer
2 Exhibit 20. GPO distribution -- sorry --
3 MR. WILSON: Clerk.
4 MS. SANCHEZ: -- Exhibit 22. GPO distribution clerk is
5 not in the included category nor is it in the subject to
6 challenge category. They're only four categories that are in
7 the subject to challenge. So we will provide the same
8 objection for each document that the Employer wishes to move
9 into evidence that is not in that category with regard to the
10 job descriptions.
11 JUDGE LAWS: All right. I -- I'm going to admit it. You
12 know, certainly you can make your arguments as to how that
13 pertains to the analysis I need to do, so I will admit Employer
14 Exhibit 22.
15 **(Employer Exhibit Number 22 Received into Evidence)**
16 Q BY MR. WILSON: Okay. Now I'm going to show you a
17 document that will be marked as Employer Exhibit 23.
18 **(Employer Exhibit Number 23 Marked for Identification)**
19 Q BY MR. WILSON: Okay. Can you review Employer Exhibit 23?
20 A Yes.
21 Q And can you just kind of give us an overview as to what
22 Exhibit 23 is?
23 A This is similar to the distribution clerk, but as a
24 coordinator, you're more the experience person for this
25 department or this team. And what they'll do is again check

1 with the containers. They will actually work with our
2 third-party storage companies because when inventory is low for
3 all branches they will contact that third-party storage
4 container to ship our -- products so we replenish it.
5 Q Okay. And where do these employees sit?
6 A In the back warehouse of the receiving area.
7 Q Okay. And do they interact with warehouse employees?
8 A Yes, they do.
9 Q And why is it they interact with warehouse employees?
10 A You know, to unload the containers to move the products
11 throughout the warehouse.
12 Q Okay. And are they involved with inventory control?
13 A Yes, they are.
14 Q Okay. In what way?
15 A Getting the containers into the facility, make sure we
16 inventory each of the products, and putting it in the system.
17 Q Okay. Okay I want to show you what --
18 MR. WILSON: -- oh. I would move to admit Employer
19 Exhibit 23, Your Honor.
20 JUDGE LAWS: Okay. Any objection?
21 MS. SANCHEZ: No, Your Honor.
22 JUDGE LAWS: Okay. Employer Exhibit 23 is admitted.
23 **(Employer Exhibit Number 23 Received into Evidence)**
24 Q BY MR. WILSON: Thank you. Let me show you what's been
25 marked as --

1 JUDGE LAWS: Thanks.

2 **(Employer Exhibit Number 24 Marked for Identification)**

3 Q BY MR. WILSON: Employer Exhibit 24. So can you explain

4 what a logistics office clerk is?

5 A Logistic office clerks -- clerks are pretty much the

6 administrative support for the warehouse office for LA branch.

7 Q Okay. And where do they sit?

8 A They sit in the warehouse office.

9 Q Okay. And do they interact with employees in the

10 warehouse?

11 A Yes. They interact with them on a daily basis. In terms

12 of warehouse -- when assembly sheets get printed, they want to

13 make sure that it's been completed, so they'll give it to the

14 logistic office clerks. When drivers come back -- whether it's

15 credit memos, adjustment paperworks (sic), or RMAs -- I think

16 it's return merchandise a sheets -- I forget the actual

17 acronym. They will collect that and gather that information

18 from the drivers.

19 MR. WILSON: Okay. I would move to admit Employer Exhibit

20 24.

21 JUDGE LAWS: Okay. Any objection?

22 MS. SANCHEZ: No. Your Honor.

23 JUDGE LAWS: All right. Employer 24 is admitted.

24 **(Employer Exhibit Number 24 Received into Evidence)**

25 Q BY MR. WILSON: I want to show you what's going to be

1 marked as Employer Exhibit 25.

2 **(Employer Exhibit Number 25 Marked for Identification)**

3 Q BY MR. WILSON: And can you take a look at Employer

4 Exhibit 25?

5 A Yes.

6 Q Now that is listed as warehouse clerk. Can you tell me if

7 there are similarities between warehouse clerk Exhibit 25 and

8 logistics office clerk Exhibit 24?

9 A Yes. It's actually the same position. Warehouse clerk is

10 what we used to name the office clerks in the warehouse, but we

11 changed it to logistics office clerks.

12 Q Okay. So if you were to read the language of Employer

13 Exhibit 24 and Employer Exhibit 25, would that language be

14 identical?

15 A Yes.

16 Q Okay.

17 MR. WILSON: Okay. I'd move for admission of Employer

18 Exhibit 25?

19 JUDGE LAWS: Okay. Any objection?

20 MS. SANCHEZ: And if I could voir dire, Your Honor?

21 JUDGE LAWS: Sure.

22 **VOIR DIRE**

23 Q BY MS. SANCHEZ: You mentioned that there was a change,

24 but is -- I'm wondering if it's listed on the -- this

25 document -- change you just referred to?

1 A It's just the -- it's just the title itself.
2 Q When did that change?
3 A I don't know off the top of my head.
4 Q Was it within the last few months?
5 A No. It was more than -- I would say two years.
6 Q So for more than two years both job descriptions have been
7 used?
8 A Yes.
9 MS. SANCHEZ: No objection, Your Honor.
10 JUDGE LAWS: Okay. Employer Exhibit 25 is admitted.
11 **(Employer Exhibit Number 25 Received into Evidence)**
12 **DIRECT EXAMINATION (RESUMED)**
13 Q BY MR. WILSON: So I want to show you what's been
14 marked -- will be marked as Employer Exhibit 26.
15 **(Employer Exhibit Number 26 Marked for Identification)**
16 Q BY MR. WILSON: And can you take a look at Employer
17 Exhibit 26?
18 A Yes.
19 Q Can you explain what that job classification involves?
20 A This would be our most senior warehouse worker on the
21 warehouse floor. They will be usually assigned to either a
22 section in the warehouse -- whether it's receiving, stocking,
23 checking, or freezers.
24 Q Are they supervisory employees?
25 A No.

1 Q Okay. There in the first part where it says job's
2 purpose, there's reference to a section team leader. That's
3 the last sentence on the first paragraph on the top.
4 A Yes.
5 Q Okay. And how -- how did they act as team leaders?
6 A So they are that most senior person or experienced person
7 for one section -- whether it's receiving or freezing. And if
8 someone had a question about where a product was or if they
9 needed to train them they would go to this person to make sure
10 that they understand, you know, where the product is how -- how
11 we assemble or how we store the products.
12 MR. WILSON: Okay, Your Honor, I would move for admission
13 of Employer Exhibit 26.
14 JUDGE LAWS: Okay. Any objection?
15 MS. SANCHEZ: No, Your Honor.
16 JUDGE LAWS: Employer Exhibit 26 is admitted.
17 **(Employer Exhibit Number 26 Received into Evidence)**
18 **(Employer Exhibit Number 27 Marked for Identification)**
19 Q BY MR. WILSON: So I'm showing you a copy of what's been
20 marked as Employer Exhibit 27. And can you explain what this
21 document is?
22 A This is our warehouse worker job description.
23 Q And so what employees in the warehouse would this apply
24 to -- to the best of your knowledge?
25 A Pretty much every staff level worker out on the warehouse

1 floor.
2 Q Okay.
3 MR. WILSON: Your Honor, I would move for admission of
4 Employer Exhibit 27.
5 JUDGE LAWS: Okay. Any objection?
6 MS. SANCHEZ: No objection, Your Honor.
7 JUDGE LAWS: Employer's Exhibit 27 is admitted.
8 **(Employer Exhibit Number 27 Received into Evidence)**
9 **(Employer Exhibit Number 28 Marked for Identification)**
10 Q BY MR. WILSON: So I want to show you a copy of what's
11 been marked as Employer Exhibit 28.
12 JUDGE LAWS: By the way, help yourself to that water if
13 you don't --
14 THE WITNESS: Oh. Thank you very much, Your Honor.
15 Q BY MR. WILSON: And can you explain what Employer Exhibit
16 28 is?
17 A This is our job document for our CDL driver which includes
18 our A Class and B Class drivers.
19 Q Okay. And what do these drivers do basically?
20 A They will actually load the products into the vehicle, do
21 preventative -- post -- post and pre-check to make sure that
22 we're in compliance with DOT regulations. Go out and
23 physically make the deliveries to our customers, you know,
24 and -- and return back and finish the job.
25 MR. WILSON: So, Your Honor, I would move for the

1 admission of the Employer Exhibit 28.

2 MS. SANCHEZ: No objection, Your Honor.

3 JUDGE LAWS: Exhibit 28 is admitted.

4 **(Employer Exhibit Number 28 Received into Evidence)**

5 **(Employer Exhibit Number 29 Marked for Identification)**

6 Q BY MR. WILSON: I want to show you what's been marked as

7 Employer Exhibit 29. And can you tell me what this job

8 description is?

9 A This is our non-CDL driver job description.

10 Q Okay. What do they do exactly?

11 A Similar to the CDL driver except they drive a -- different

12 type of vehicle and they just go out -- do their pre and

13 post-check inspections, deliver the products to the customers,

14 and return the vehicle back to the office.

15 Q Okay.

16 MR. WILSON: I would move for admission of Employer

17 Exhibit 29.

18 JUDGE LAWS: Okay. Any objection?

19 MS. SANCHEZ: May I voir dire?

20 JUDGE LAWS: Sure.

21 **VOIR DIRE**

22 Q BY MS. SANCHEZ: Mr. Fujimoto, when you say non-CDL

23 drivers is that position also referred to as a Class C driver?

24 A Yes.

25 Q Okay, thank you.

1 MS. SANCHEZ: No objection, Your Honor.
2 JUDGE LAWS: All right. Exhibit 29 is admitted.
3 **(Employer Exhibit Number 29 Received into Evidence)**
4 MR. WILSON: Just a minute, Your Honor.
5 JUDGE LAWS: Sure. Take your time.
6 **(Employer Exhibit Number 30 Marked for Identification)**
7 **DIRECT EXAMINATION (RESUMED)**
8 Q BY MR. WILSON: So, Mr. Fujimoto, I've shown you a copy of
9 an exhibit that's marked as Employer Exhibit 30. Can you take
10 a few minutes and review that?
11 A Yes.
12 Q Okay. Now what -- what are the duties of an assistance
13 buyer?
14 A Our Assistant buyer works with the buyers as well as the
15 branch locations to make sure that we are ordering the set
16 products to sell within the company.
17 Q Okay. Where does the assistant buyer -- where is that
18 person located in the company?
19 A Second floor of the office.
20 Q Okay.
21 MS. SANCHEZ: Your Honor, if I may ask, when we say
22 office -- there are multiple offices in the facility. There's
23 first and second floor as we've been --
24 JUDGE LAWS: Well, you can certainly ask on cross if it's
25 unclear.

1 MS. SANCHEZ: Sure. Okay.
2 MR. WILSON: Okay. So -- we -- we can clear this up.
3 JUDGE LAWS: Okay.
4 Q BY MR. WILSON: So on the first floor there is a
5 warehouse, correct?
6 A Yes.
7 Q Okay. And is the warehouse behind the first floor offices
8 that you testified to about previously?
9 A Yes.
10 Q Okay. And then is there also a second floor?
11 A Yes.
12 Q Okay.
13 Now, back to Exhibit 30. Is the assistant buyer involved
14 in inventory control?
15 A Yes, they are.
16 Q In what way?
17 A Well, they work with the branch to track the sales of set
18 product and based on that track of sales, they will continue
19 working with that manufacturer or the product to be
20 distributed, again, within our company.
21 Q Okay. And do they interact to any extent with warehouse
22 personnel?
23 A Yes, they do.
24 Q And how is that?
25 A When the -- similar to the central purchase clerk, they do

1 go out to the floor when a container is received to review the
2 products that comes in to the warehouse facility.
3 Q Okay. Is that their inventory control function?
4 A Yes.
5 MS. SANCHEZ: Your Honor, we're going to object to this
6 line of questioning with regard to assistant buyer. It's
7 irrelevant. Assistant buyer is not a category that's included.
8 It's also not a category in the challenged category.
9 JUDGE LAWS: Yeah. I guess I'm wondering where we're
10 going with this because I'm looking --
11 MR. WILSON: Well, Your Honor --
12 JUDGE LAWS: -- at the list and --
13 MR. WILSON: -- I can explain.
14 JUDGE LAWS: -- it doesn't -- I don't see an assistant
15 buyer.
16 MR. WILSON: You have to go to where it says included
17 full-time drivers, warehouse employees, inventory control
18 employees. We assert that these are inventory control
19 employees.
20 MS. SANCHEZ: This is assistant buyer, Your Honor --
21 MR. WILSON: Your Honor --
22 JUDGE LAWS: Well, no, I understand. I may be looking at
23 are they included in that category. I guess I'm just -- it
24 doesn't seem like anybody who had that job has a challenged
25 ballot.

1 MR. WILSON: Yes, there. There a number --
2 JUDGE LAWS: Okay.
3 MR. WILSON: We will provide evidence that there are a
4 number of employees. And as to the issue of what they're
5 called and what they do, I asked him earlier --
6 JUDGE LAWS: Yep.
7 MR. WILSON: -- are there employees who handle
8 inventory --
9 JUDGE LAWS: Yep.
10 MR. WILSON: -- who are not called an inventory controller
11 and he responded affirmatively.
12 MS. SANCHEZ: Your Honor, the Union is just going to
13 reassert its objection. I mean counsel is playing with words.
14 This is an assistant buyer. It's not included in this list and
15 it shouldn't -- this testimony should be disregarded and we
16 should move on.
17 JUDGE LAWS: And I will allow it. I mean you can make
18 your argument that inventory control employees mean something
19 very specific. They can make their argument that it means
20 something broader.
21 MR. WILSON: Okay. So I would --
22 JUDGE LAWS: So I will, over the objection, admit Employer
23 Exhibit 30.
24 **(Employer Exhibit Number 30 Received into Evidence)**
25 Q BY MR. WILSON: Okay. So I want to show you what's been

1 marked for -- will be marked as Employer Exhibit 31.

2 **(Employer Exhibit Number 31 Marked for Identification)**

3 Q BY MR. WILSON: Can you take a look at Employer Exhibit

4 31?

5 A Okay.

6 Q And what does an export office clerk do?

7 A Our export office clerk works for our international export

8 division and they're responsible in working with our customers

9 in South America and Mexico.

10 Q Okay. And where does --

11 MS. SANCHEZ: Your Honor, the Union is going to provide

12 the same objection --

13 JUDGE LAWS: It hasn't been offered yet.

14 MR. WILSON: Your Honor, I think we should just hash this

15 out. I mean our position is if they handle inventory, they're

16 inventory control employees --

17 JUDGE LAWS: Yep --

18 MR. WILSON: -- and we can argue that in a brief. But

19 that doesn't make the documents inadmissible.

20 JUDGE LAWS: All right. And maybe the way we should deal

21 with that is anything that isn't, by name, listed as included,

22 excluded, or others permitted to vote in Employer Exhibit 17,

23 the Union is going to have a standing objection to -- I'm going

24 to allow the Employer to make their argument that as to some of

25 these terms such as inventory control employees, you know, they

1 can argue that -- and I am -- I need to consider extrinsic
2 evidence as to what those mean if I determine that there is
3 ambiguity which I'm not doing at this stage. But I'm leaving
4 that door open, so. If we can handle that as a standing
5 objection that might be the easiest way.
6 MS. SANCHEZ: Thank you, Your Honor.
7 Q BY MR. WILSON: So excuse me, Mr. Fujimoto. Let's start
8 over again. Can you explain the duties of an export office
9 clerk?
10 A So export office clerk works for our international export
11 division and they are responsible getting our inventory to our
12 customers in South America or Mexico.
13 Q Okay. And where do they sit in the facility?
14 A They sit in the first floor office.
15 Q Okay. Do they interact with employees in the warehouse?
16 A Yes, they do.
17 Q And why would they interact with warehouse employees?
18 A Because this division exports to South America or Mexico.
19 There are different regulation in terms of labeling so making
20 sure that the warehouse workers understand, you know, how it's
21 labeled, what we need to do. And due to the number of
22 containers that we ship even the export office clerk helps out
23 in labeling those items.
24 Q Okay. Does that involve an inventory control function?
25 A Yes.

1 Q And how is that?
2 A Because without doing that we can't move that inventory.
3 MR. WILSON: So I would move for the admission of Employer
4 Exhibit 31.
5 JUDGE LAWS: Okay. And then other than the objection,
6 which I'm now taking as a standing objection, are there any
7 additional objections or voir dire from the Union?
8 MS. SANCHEZ: No, Your Honor.
9 JUDGE LAWS: Okay. I will admit then, over the standing
10 objection, Employer Exhibit 31.
11 **(Employer Exhibit Number 31 Received into Evidence)**
12 MR. WILSON: Your Honor, it's ten to 5. I was going to
13 ask how much longer you wish to go.
14 JUDGE LAWS: I'm -- what --
15 MR. WILSON: There's quite a bit more to --
16 JUDGE LAWS: Why don't we check in and see where everybody
17 is because I'm a little concerned now that we're taking
18 tomorrow off, but we may be tighter on time than I had hoped to
19 be, so. Let's go off the record and have a discussion.
20 (Off the record at 4:45 p.m.)
21 JUDGE LAWS: Counsel for the Employer wanted to break for
22 the evening. I want to push a little more just because time
23 seems to be somewhat becoming more of the essence than I
24 thought it would be at this phase of the game. So we're going
25 to continue till -- another 40 minutes -- till 5:30 and then

1 continue, if we need to, with Mr. Fujimoto's testimony tomorrow
2 morning, and then break for the day once it's concluded.
3 MR. WILSON: Your Honor, I have another suggestion that
4 makes, obviously, logically more sense. There's like ten more
5 job descriptions to come in and then after that we would get
6 into the individual employees. I think if we finish the job
7 descriptions tonight, that's entirely a logical breaking point.
8 JUDGE LAWS: Okay --
9 MR. WILSON: And that would take till about 5:30.
10 JUDGE LAWS: I think that probably makes sense. Let's
11 just see where it goes. And, you know, it may be able to be
12 sped along, you know, given the standing objection that I am
13 observing to anything that isn't specifically labeled in
14 Employer Exhibit 17. Each of those should just take a couple
15 of questions as to how you're going to argue they relate to one
16 of the --
17 MR. WILSON: Right.
18 JUDGE LAWS: -- categories.
19 MR. WILSON: Right. Okay.
20 **(Employer Exhibit Number 32 Marked for Identification)**
21 Q BY MR. WILSON: Sir, can you take a look at what's been
22 marked as Employer Exhibit 32, Mr. Fujimoto.
23 A Yes.
24 Q Okay. And can you explain what this job does?
25 A This is similar to the GPO distribution clerk but we call

1 the shipping/receiving clerk. Again, they receive the
2 containers, they double-check to see if any damaged items or
3 inventory items don't -- there's a discrepancy between that,
4 you know. They'll allocate which item, inventory goes to LA
5 branch, which one goes to the other different locations.
6 Q Okay. And where does this -- where do these individuals
7 sit in the facility?
8 A They sit in the warehouse receiving area in the back.
9 Q Do they interact with people in the warehouse?
10 A Yes, they do, on a daily basis.
11 Q And who would they interact with?
12 A They would interact with the warehouse workers to make
13 sure that they move the product from one -- out of the
14 container into (sic) the floor.
15 Q Okay. Do they have an inventory control function?
16 A Yes, they do.
17 Q And what is that?
18 A Well, again, they allocate the inventory for the different
19 branch offices which includes LA office.
20 Q And can you take a minute and look at the essential job
21 functions on Exhibit 32?
22 A Yes.
23 Q You don't have to read them out loud, just --
24 A Okay.
25 Q Okay. To your knowledge, is that an accurate description

1 of the work performed by the shipping and receiving clerk in
2 Employer Exhibit 32?
3 A Yes.
4 Q Okay.
5 MR. WILSON: I would move for admission of Employer 32.
6 JUDGE LAWS: Okay. Subject to the standing objection, I
7 will admit it but I do want to ask if there are any additional
8 objections.
9 MS. SANCHEZ: No, Your Honor.
10 JUDGE LAWS: Okay. Employer Exhibit 32 is admitted.
11 **(Employer Exhibit Number 32 Received into Evidence)**
12 **(Employer Exhibit Number 33 Marked for Identification)**
13 Q BY MR. WILSON: So Mr. Fujimoto, I want to direct your
14 attention to Employer Exhibit 33 and ask if you to take a look
15 at that.
16 A Okay.
17 Q And can you just, in a nutshell, tell us what this job
18 does?
19 A This is our GPO coordinator. They are the most
20 experienced person for central purchase clerk. And pretty
21 much, they have similar function but at a higher volume. They
22 work with, you know, the manufacturers, the vendors, that we
23 buy from as well as the branch to make sure that we're
24 purchasing the right quantity for each locations within our
25 company.

1 Q So it your testimony that their job is similar to a
2 central purchase clerk?
3 A Yes, but at a more experienced level.
4 Q Okay. And where do they sit in the facility?
5 A They sit in the first floor office.
6 Q Okay. And do they interact with warehouse employees?
7 A Yes, they do.
8 Q And how is that?
9 A Again, when containers come or when we're about to ship it
10 to the different branch offices they need to make sure that the
11 right inventory is being sent over to the branch locations.
12 Q Okay.
13 MR. WILSON: Okay. I would move for admission of Employer
14 Exhibit 33.
15 JUDGE LAWS: All right. In addition to the standing
16 objection, does the Union have any additional objections?
17 MS. SANCHEZ: No.
18 JUDGE LAWS: Okay. Employer Exhibit 33 is admitted.
19 **(Employer Exhibit Number 33 Received into Evidence)**
20 **(Employer Exhibit Number 34 Marked for Identification)**
21 Q BY MR. WILSON: So I want to direct your attention to
22 Exhibit 34. Could you take a minute and read this.
23 A Yes.
24 Q Okay. And can you tell me what this job position
25 involves?

1 A So this our institutional customer division which the
2 acronym that we use as ICD as a sales assistant. Now, ICD what
3 they do is they sell to our mainstream business which is our
4 national chain -- restaurants as well as grocery stores.
5 Q Now where do these individuals sit in the facility?
6 A They sit in the first floor office.
7 Q Okay. Do they interact with people in the warehouse?
8 A Yes, they do.
9 Q And how do they interact with people in the warehouse?
10 A Well, because the fact that they sell to the, you know,
11 national chain restaurants and grocery stores, they have to
12 make sure that the inventory that we sell to them -- because we
13 sell containers or we sell, you know, more pallets to those
14 customers versus our small mom-and-pop grocery stores and
15 restaurants. So they need to check with the inventory to make
16 sure that what we have on hand matches what is in the system.
17 Q Now you can look at the section on Employer Exhibit 34
18 that says "essential job function"?
19 A Yes.
20 Q Okay. Are those accurate based on your knowledge as to
21 what a sales assistant does?
22 A Yes.
23 Q Okay.
24 MR. WILSON: I would move for admission of Employer 34.
25 JUDGE LAWS: In addition to the standing objection, does

1 the Union have any additional objections?
2 MS. SANCHEZ: No, Your Honor. Thank you.
3 JUDGE LAWS: Okay. Employer Exhibit 34 is admitted.
4 **(Employer Exhibit Number 34 Received into Evidence)**
5 **(Employer Exhibit Number 35 Marked for Identification)**
6 Q BY MR. WILSON: Okay. So can you take a look at Employer
7 Exhibit 34 -- or 35, excuse me.
8 A Yes.
9 Q Okay. And what does Employer Exhibit 35 involve?
10 A This is our export sales assistant that works for the
11 international export division and this division will export our
12 food items or inventory to South America and Mexico.
13 Q Okay. Where do these individuals sit in the facility?
14 A The first floor office.
15 Q Okay. And do they interact with warehouse employees?
16 A Yes, they do.
17 Q And why is that?
18 A Well, even though they're sales assistant they work with
19 the customers. Because of their orders, they need to be
20 labeled a certain way to ship those items to, you know, Mexico
21 or South America.
22 Q So are they involved in labeling?
23 A They help out in labeling.
24 MS. SANCHEZ: Objection. Leading.
25 JUDGE LAWS: Overruled. Go ahead.

1 THE WITNESS: They do help out in labeling.
2 Q BY MR. WILSON: Okay. And do they have an inventory
3 control function?
4 A Yes.
5 Q And how is that?
6 A Well, because if they don't like label it correctly or we
7 don't the label, we can't send those inventories to our
8 customers.
9 Q Okay. And can you look at the essential job function
10 section on Exhibit 35?
11 A Yes.
12 Q Take a second and read through those.
13 Okay. To your knowledge, are the essential job functions
14 on Exhibit 35 an accurate description of what the export sales
15 assistants do?
16 A Yes.
17 Q Okay.
18 MR. WILSON: I would move for admission of Employer
19 Exhibit 35.
20 JUDGE LAWS: In addition to the standing objection, are
21 there any objections?
22 MS. SANCHEZ: I need a moment to look at this, Your Honor.
23 JUDGE LAWS: Okay. Take your time.
24 MS. SANCHEZ: May I voir dire, please?
25 JUDGE LAWS: Sure.

1 **VOIR DIRE**

2 Q BY MS. SANCHEZ: Mr. Fujimoto, under essential job
3 functions, the first bullet, it says "appropriate translation
4 of all technical documentation." Translation, does that mean
5 language translation?
6 A Yes.
7 Q So this job, the employee who is in this job must have
8 language skills, correct?
9 A Yes.
10 Q And for this one, for export sales assistant, is the
11 language skills -- they're only Spanish and English?
12 A Yes.
13 Q And then the third bullet point from the bottom on the
14 first page, it says "input list of items." Input, does that
15 mean inputting into a computer?
16 A Yes.
17 Q And then the last bullet point on the same page below
18 where I just pointed you to, it says "responsible for daily
19 registration activities." Is that registration of something
20 into a computer, as well?
21 A It could be a variety of different things. Because it's
22 export documentation, whether it's custom documents, whether
23 it's bill of lading, you know, putting it into our database, it
24 just --
25 Q So that refers --

1 A Yes.
2 Q Thank you. So that refers to registering various
3 documents into the database.
4 A Yes.
5 Q Okay.
6 MS. SANCHEZ: Other than the standing objection, no
7 further objections, Your Honor.
8 JUDGE LAWS: Okay. Exhibit 35 for the Employer is
9 admitted.
10 **(Employer Exhibit Number 35 Received into Evidence)**
11 MR. WILSON: Your Honor, could we have about two minutes?
12 I just want to go through and be sure I got all the rest in
13 here.
14 JUDGE LAWS: Sure.
15 MR. WILSON: Okay. So 35 was admitted. We're on 36.
16 JUDGE LAWS: Correct.
17 MR. WILSON: Okay.
18 **(Employer Exhibit Number 36 Marked for Identification)**
19 **DIRECT EXAMINATION (RESUMED)**
20 Q BY MR. WILSON: Now, Mr. Fujimoto, can you look at what's
21 been marked as Employer Exhibit 36?
22 A Yes.
23 Q And can you tell me what this job -- the job this person
24 performs?
25 A This is an export clerk for our -- well, now it's PAD but

1 it used to be known as the GPO.
2 Q When did it change from PAD to GPO?
3 A I don't know off the top of my head. It was this year
4 though.
5 JUDGE LAWS: I think it was the other way around the
6 change was made.
7 THE WITNESS: Oh, no, no. GPO was the former one.
8 JUDGE LAWS: Yes.
9 THE WITNESS: Yeah, and --
10 MR. WILSON: Okay, I'm sorry.
11 THE WITNESS: Oh.
12 Q BY MR. WILSON: Okay. So let's just start over. I'm
13 sorry. So is it PAD or GPO?
14 A Right now, it's PAD.
15 Q Okay. And do you recall when it changed from GPO to PAD?
16 A It was this year but I don't know the exact month and
17 date. I don't know off the top of my head.
18 Q Okay. Do you know if it was prior to the election on
19 February 6th?
20 A I don't know,
21 Q Okay. So where does this person or persons sit in the
22 warehouse?
23 A The first floor office.
24 Q Okay. And do they interact with anyone in the warehouse?
25 A Yes they do.

1 Q Okay. Who do they interact with?
2 A So the export clerk, what they do is they will export our
3 food items to our affiliate offices, like Australia, Singapore,
4 London, Amsterdam. Again, it's our inventory that's on hand
5 which is being exported back over to our affiliate offices, so
6 they need to work with the warehouse to make sure we have the
7 inventory to be exported to said affiliate office.
8 Q And who would they work with, in the warehouse?
9 A The warehouse workers.
10 Q Okay. Any particular group of warehouse workers?
11 A The PAD or the GPO warehouse workers.
12 Q Okay. And do they have an inventory control function?
13 A Yes, because they're the ones who will allocate the
14 inventory to our affiliate office.
15 MR. WILSON: So I would move for the admission of Employer
16 36.
17 JUDGE LAWS: All right, I just want to ask one question
18 before I turn it over for additional objections or voir dire.
19 What is the date prepared signify?
20 THE WITNESS: That's when it was made. But, yeah, I
21 don't --
22 JUDGE LAWS: How does that relate to when the position
23 actually came into being. By that I mean, somebody was working
24 in it.
25 THE WITNESS: Hmm?

1 JUDGE LAWS: How does that date, January 1st, 2018, relate
2 to when an individual actually held that position?
3 THE WITNESS: Oh no, that's probably the date that we
4 prepared the job.
5 JUDGE LAWS: Yes.
6 THE WITNESS: But when the position -- or when an employee
7 was in that position, it depends on their hire date or when
8 they were transferred into that position.
9 JUDGE LAWS: Okay.
10 All right, any additional objection or voir dire?
11 MS. SANCHEZ: I'd like to voir dire.
12 JUDGE LAWS: Okay.
13 **VOIR DIRE**
14 Q BY MS. SANCHEZ: So following up on that question. So you
15 don't know when an employee entered into this position, right?
16 Is that correct?
17 A Well looking at the employee file, if they were hired as
18 export clerk, then yes.
19 Q I'm asking you right now, today, you don't know the date
20 that an employee was initially hired into this position, do
21 you?
22 MR. WILSON: Objection. Argumentative. Unless we're
23 talking about specific employees who the challenges are at
24 issue with.
25 MS. SANCHEZ: Well Your Honor, I guess I'm trying to

1 understand the relevance of this document. So I'd like to
2 provide an additional objection, which is a relevance
3 objection. This witness just testified that he doesn't know if
4 there was somebody in this position prior to the election, so
5 I -- I'll stop talking.
6 JUDGE LAWS: And you know, again, I don't know whether the
7 Employer is going to argue that somebody was in this position
8 as of the date of the election and should have been allowed to
9 vote. I'll admit it, but if indeed the Employer does not prove
10 that there was an actual person in this position, I will
11 basically ignore it.
12 MR. WILSON: Your Honor, we aren't putting these in for
13 the fun of it.
14 JUDGE LAWS: No.
15 MR. WILSON: There's people -- and I'm trying, I'm not
16 trying to be facetious --
17 JUDGE LAWS: No, I understand. I'm just saying, without
18 that additional evidence this is meaningless to me. I'm going
19 to admit it assuming that there is going to be additional
20 evidence that there was indeed somebody occupying this
21 position.
22 **(Employer Exhibit Number 36 Received into Evidence)**
23 MR. WILSON: Of course. That's why we're doing it.
24 JUDGE LAWS: Okay.
25 MR. WILSON: So that was Exhibit 36.

1 **(Employer Exhibit Number 37 Marked for Identification)**

2 **DIRECT EXAMINATION (RESUMED)**

3 Q BY MR. WILSON: I'm going to show you what has been marked
4 as Employer Exhibit 37.
5 Q Can you take a look at Employer Exhibit 37?
6 A Yes.
7 Q Okay, can you tell me what this job description does?
8 A This is our GPO import clerk. They're responsible in
9 making sure that the containers clear customs at the ports of
10 Long Beach and Los Angeles.
11 Q Okay. Now where does this person sit in the facility?
12 A They sit in the first floor office.
13 Q Okay. And do they interact with employees in the
14 warehouse?
15 A Yes they do.
16 Q In what way would they interact with warehouse employees?
17 A Well again, because of the fact that it's dealing with
18 custom clearance, they want to make sure that the container
19 that arrived, did arrive into the warehouse facility.
20 Q Okay. And do they have an inventory control function?
21 A Yes. Because if -- without the proper documents and the
22 clearing customs, we wouldn't get that inventory into our
23 operations or our company.
24 Q Okay. I'll move for admission of Employer Exhibit 37.
25 JUDGE LAWS: Okay. Any objection in addition to the

1 standing objection?

2 MS. SANCHEZ: I'd like the opportunity to review the

3 document, Your Honor.

4 JUDGE LAWS: Sure. Take your time.

5 (Counsel confer)

6 MS. SANCHEZ: I'd like to voir dire, Your Honor.

7 JUDGE LAWS: Go ahead.

8 **VOIR DIRE**

9 Q BY MS. SANCHEZ: Mr. Fujimoto --

10 A Uh-huh.

11 Q -- under essential job functions, I'm looking at the

12 fourth bullet point, this document says, "classify all

13 entries." "Entries," does that refer to entries into a

14 computer?

15 A It's entries you -- most likely on the documentations for

16 the customs.

17 Q Onto documentations --

18 A Yeah.

19 Q -- for customs.

20 A Because if there's a wrong quantity, or a wrong, you know,

21 labeling, we won't be able -- or, customs won't clear that so

22 we could receive the products or the container.

23 Q Okay. And then two bullet points below that, "handle all

24 post-entry amendments." Does that also refer to documentations

25 related to customs?

1 A Yes.
2 Q Okay.
3 MS. SANCHEZ: No further questions, Your Honor. Same
4 standing objection.
5 JUDGE LAWS: Okay. I'll admit Employer Exhibit 37.
6 **(Employer Exhibit Number 37 Received into Evidence)**
7 **(Employer Exhibit Number 38 Marked for Identification)**
8 **DIRECT EXAMINATION (RESUMED)**
9 Q BY MR. WILSON: Okay. So Mr. Fujimoto, I'm showing you
10 what's been marked as Employer Exhibit 38.
11 Q Can you take a look at that?
12 A Yes.
13 Q Okay. So what is this -- job's report to as purchasing
14 clerk. What is a purchasing clerk?
15 A A purchasing clerk works for LA branch office, and they're
16 responsible for the purchasing for LA office.
17 Q Okay. Now we had previous testimony about other job
18 classifications using the term "purchasing clerk." Are there
19 similarities?
20 A Yes they are.
21 Q And what are those similarities?
22 A Well in terms of purchasing, that's similar. But at the
23 scale, purchasing clerk for -- in this exhibit, is just for LA
24 office. Purchasing clerk for -- central purchasing clerk will
25 be for the entire branch office.

1 Q Okay. Are the duties similar?
2 A Yes, in terms of purchasing.
3 Q Okay. And where does this person sit?
4 A First floor office.
5 Q Does this job classification interact with warehouse
6 employees?
7 A Yes they do.
8 Q In what way?
9 A Again, when the product or the container comes in, they
10 need to make sure that the inventory that came in is put into
11 system and that we have actual accountability of the inventory
12 on hand.
13 Q And can you look at the essential job functions?
14 A Yes.
15 Q Does that accurately summarize the job duties of this
16 person?
17 A Yes.
18 Q Okay.
19 MR. WILSON: I would move for admission of Employer 38.
20 JUDGE LAWS: In addition to the standing objection, any
21 additional objection?
22 MS. SANCHEZ: I would like to just take a moment to review
23 the document.
24 JUDGE LAWS: Sure.
25 MS. SANCHEZ: Thank you Your Honor. I'd like to voir

1 dire, Your Honor.

2 JUDGE LAWS: Okay.

3 **VOIR DIRE**

4 Q BY MS. SANCHEZ: Mr. Fujimoto, on the second page of this
5 document, or the back side, the end of the first -- the
6 paragraph there on top. After the semicolon, it says "Ability
7 to read and write Japanese and decipher the information into
8 English." Is the word "decipher" interchangeable with
9 interpret, or translate?

10 A Translate and interpret.

11 Q Translate and interpret, okay. Thank you.

12 MS. SANCHEZ: Same standing objection, Your Honor.

13 JUDGE LAWS: Okay. I will admit Employer Exhibit 38.

14 **(Employer Exhibit Number 38 Received into Evidence)**

15 MR. WILSON: Okay.

16 **(Employer Exhibit Number 39 Marked for Identification)**

17 **DIRECT EXAMINATION (RESUMED)**

18 Q BY MR. WILSON: So can you take a -- I've given you an
19 exhibit that's been marked as Employer Exhibit 39. Can you
20 take a look at that document?

21 A Yes.

22 Q Okay. So can you explain what this job position is?

23 A Our food safety coordinator works for the LA office, and
24 works for the warehouse facility to make sure all food safety
25 matters are in compliance with the government regulations.

1 Q Does this person interact with warehouse employees?
2 A Yes. They sit actually in the warehouse office.
3 Q Okay. Which warehouse employees would they interact with?
4 A With the warehouse workers as well as the drivers.
5 Q Okay. And do they have an inventory control function?
6 A Yes. Because if a item gets recalled or for some reason
7 we cannot sell it anymore, they have to take it off of the
8 inventory and we cannot sell it from our company.
9 Q Okay.
10 MR. WILSON: I'll move for admission of Employer Exhibit
11 39.
12 JUDGE LAWS: Okay. Any additional objection?
13 MS. SANCHEZ: Same. I'd like to just take a moment to
14 review --
15 JUDGE LAWS: Sure.
16 MS. SANCHEZ: -- thank you, Your Honor.
17 JUDGE LAWS: Take the time you need.
18 MS. SANCHEZ: I'd like to voir dire, Your Honor.
19 JUDGE LAWS: Go ahead.
20 **VOIR DIRE**
21 Q BY MS. SANCHEZ: Mr. Fujimoto --
22 A Uh-huh.
23 Q -- on the third bullet point on the first page, under
24 "essential job functions," the word "upload" is used here.
25 Similar question to what I've asked you before: "upload" means

1 upload into a spreadsheet or a computer system; is that
2 correct?
3 A Into our designated shared folder that's shared by all
4 food safety throughout the branch office.
5 JUDGE LAWS: And by "shared folder," that's an electronic
6 folder?
7 THE WITNESS: It's a shared folder within our intranet, I
8 guess, our --
9 JUDGE LAWS: Is it physical? Or is it --
10 THE WITNESS: It's --
11 JUDGE LAWS: Electronic.
12 THE WITNESS: Electronical (sic).
13 JUDGE LAWS: Thank you.
14 THE WITNESS: Yes.
15 MS. SANCHEZ: Same standing objection, Your Honor.
16 JUDGE LAWS: Okay. And I will admit Employer Exhibit 39.
17 **(Employer Exhibit Number 39 Received into Evidence)**
18 **DIRECT EXAMINATION (RESUMED)**
19 Q BY MR. WILSON: Before we go to the next job description,
20 Mr. Fujimoto, are the inventory files maintained by the
21 company -- are they paper or are they electronic?
22 A Oh, that I don't know.
23 Q Okay. Do people that engage in inventory control -- is it
24 necessary that they use computers?
25 A Yes.

1 Q And why would it be necessary to use computers?
2 A Because they need to make sure that they input that
3 information into our Oracle ERP system.
4 Q What is ERP system?
5 A It's our online database that houses inventory, customer
6 information, accounting information as well.
7 Q Okay.
8 MR. WILSON: Okay, no further questions. Do we have a
9 minute?
10 JUDGE LAWS: Uh-huh.
11 MR. WILSON: Okay so we just got two more here.
12 JUDGE LAWS: And I think you're going to make your
13 prediction come true. It's probably just going to be 5:30.
14 MR. WILSON: Yeah, I was going to say, we're going to be
15 right on the --
16 **(Employer Exhibit Number 40 Marked for Identification)**
17 Q BY MR. WILSON: So can you take a look at what's been
18 marked as Employer Exhibit 40?
19 A Yes.
20 Q And can you tell me what this job title does?
21 A The administrative assistant in this role works for our
22 Institutional Customer Division, for the grocery side.
23 Q Okay. So what is Institutional Control Division?
24 A Institutional Customer Division. They sell our food items
25 to our grocery stores. In this case, it could be, you know,

1 Sav-Ons, Ralphs, Krogers, Costco, or any of the grocery
2 outlets.
3 Q And where does this person sit in the facility?
4 A They sit in the first floor office.
5 Q Okay. And do they interact with warehouse employees?
6 A Yes they do.
7 Q Why would they do that?
8 A Because the fact that they sell to grocery customers, they
9 sell containers of our products to the groceries, or to the
10 brokers. So again, we need to check with the inventory to
11 ensure that we have it on hand so we could put it in the
12 container and ship it to the customer's location.
13 Q And can you take a look at "essential job functions"?
14 A Yes.
15 Q Okay.
16 A Okay.
17 Q Okay. Is that a, to your knowledge, an accurate summation
18 of the essential job functions for this particular
19 administrative assistant?
20 A Other than the second bullet which says, "U.S. retail
21 service" -- that used to be the old department's name, now it's
22 Institutional Customer Division -- it's accurate.
23 Q Okay.
24 MR. WILSON: Okay, I would move for admission of Employer
25 Exhibit 40.

1 JUDGE LAWS: Okay.

2 MS. SANCHEZ: I'd like time to review the document, Your

3 Honor.

4 JUDGE LAWS: Okay.

5 MS. SANCHEZ: May I voir dire, Your Honor?

6 JUDGE LAWS: Go ahead.

7 **VOIR DIRE**

8 Q BY MS. SANCHEZ: Mr. Fujimoto, on the second page of this

9 document or the back side of this document, in the middle

10 paragraph, last line, it starts with "to use Oracle ERP

11 system." Do you see where I'm referring to?

12 A Yes.

13 Q What does ERP stand for?

14 A I don't know what the acronym stands for.

15 Q Okay. This is a computerized system?

16 A Yes.

17 MS. SANCHEZ: Same standing objection, Your Honor.

18 JUDGE LAWS: All right. And I will admit Employer Exhibit

19 40. It's 5:30, but let's get that last one in.

20 **(Employer Exhibit Number 40 Received into Evidence)**

21 MR. WILSON: Okay. So 41.

22 JUDGE LAWS: 41.

23 **(Employer Exhibit Number 41 Marked for Identification)**

24 **DIRECT EXAMINATION (RESUMED)**

25 Q BY MR. WILSON: So Mr. Fujimoto, last but not least here.

1 Can you take a look at Employer Exhibit 41?
2 A Yes.
3 Q And what does this person do?
4 A This is the sales assistant for our Institutional Customer
5 Division, which works for the national count restaurant chains.
6 And, you know, they work with the customers as well as do the
7 administrative functions to make sure that we send the products
8 over to the customer's location.
9 Q Okay. So there's a grocery and a restaurant --
10 A Restaurant.
11 Q ICD, you referred to those as?
12 A Yes.
13 Q Okay.
14 A So again, the restaurant side is the national chain
15 restaurants like Kabuki or Benihana, stuff like that.
16 Q Okay. And where does this person sit in the facility?
17 A First floor office.
18 Q Okay. The people in this job classification have any
19 interaction with warehouse employees?
20 A Yes they do.
21 Q And which warehouse employees would they interact with?
22 A They will work with the LA office as well as the -- the
23 GPO office, as well as the other branch office warehouse as
24 well.
25 Q Okay. In the LA facility?

1 A In the LA facility, yes.
2 Q Okay. And do they have an inventory control function?
3 A Yes. Because again, when these national chain restaurant,
4 when they purchase items, they don't purchase, you know, one
5 pallet. They purchase containers full of items for their
6 different facilities. So we need to check with the inventory
7 level at the location to make sure we have it on hand before we
8 sell it.
9 Q Okay.
10 MR. WILSON: Okay, I'll move for admission of Employer
11 Exhibit 41.
12 JUDGE LAWS: Okay. Do you want a minute?
13 MS. SANCHEZ: Yes, thank you. Your Honor, in addition to
14 the standing objection, we would also note that this is
15 cumulative. It seems to be the same document as Employer
16 Exhibit 34, including down to the Bates stamp number, so I'm
17 not sure it's necessary.
18 JUDGE LAWS: It does indeed.
19 MR. WILSON: Hm. Just a second, Your Honor.
20 JUDGE LAWS: Sure, take your time.
21 MR. WILSON: Hm. Well I guess we mistakenly put it in
22 twice. We could have made 5:30.
23 JUDGE LAWS: Yeah, we could have made 5:30. Are you --
24 MR. WILSON: We'll withdraw it then. Yeah, we'll
25 simply --

1 JUDGE LAWS: All right. Employer 41 is withdrawn.
2 **(Employer Exhibit Number 41 Withdrawn)**
3 MR. WILSON: I apologize Your Honor.
4 MS. SANCHEZ: Thank you Your Honor.
5 JUDGE LAWS: All right, it's 5:34. We were close. Let's
6 go off the record, and I want to talk about how best to move
7 forward. Off the record.
8 **(Whereupon, the hearing in the above-entitled matter was**
9 **recessed at 5:34 p.m. until Wednesday, October 31, 2018 at 8:00**
10 **a.m.)**
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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Monday, October 29, 2018, 12:41 p.m., was
11 held according to the record, and that this is the original,
12 complete, and true and accurate transcript that has been
13 compared to the reporting or recording, accomplished at the
14 hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
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19
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21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

Place: Los Angeles, California

Dates: October 31, 2018

Pages: 1184 through 1388

Volume: 10

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(602) 263-0885

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:	
WISMETTAC ASIAN FOODS, INC., Employer,	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union,	
and	
ROLANDO LOPEZ, An Individual,	
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Wednesday, October 31, 2018, 8:02 a.m.**

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	1225				1228
6	1228				1234
	1235				1237
7	1238				1257
	1258				1260
8	1261				1265
	1267				1269
9	1270				1276
	1277				1279
10	1280				1283
	1284				
11					
Christian McCormick	1368	1372			
12					
Frank Matheu	1374	1384			
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1 **EXHIBITS**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 **Employer:**		
5 E-42	1193	1195
6 E-43	1193	1197
7 E-44	1198	1198
8 E-45	1199	1202
9 E-46	1203	1205
10 E-47	1206	1206
11 E-48	1207	1207
12 E-49	1208	1209
13 E-50	1210	1211
14 E-51	1211	1212
15 E-52	1213	1214
16 E-53	1214	1215
17 E-54	1215	1216
18 E-55	1216	1219
19 E-56	1219	1221
20 E-57	1221	1222
21 E-58	1223	1226
22 E-59	1227	1228
23 E-60	1229	1230
24 E-61	1230	1231
25 E-62	1231	1233

1 **EXHIBITS (Continued)**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 E-63	1234	1235
5 E-64	1235	1238
6 E-65	1239	1242
7 E-66	1243	1244
8 E-67	1244	1247
9 E-68	1249	1251
10 E-69	1252	1254
11 E-70	1255	1256
12 E-71	1256	1258
13 E-72	1258	1261
14 E-73	1263	1267
15 E-74	1267	1270
16 E-75	1270	1273
17 E-76	1273	1274
18 E-77	1275	1276
19 E-78	1277	1278
20 E-79	1278	1280
21 E-80	1281	1282
22 E-81	1282	1284
23 **Union:**		
24 U-1	1312	(Not Admitted)
25 U-2	1292	1293

1 **EXHIBITS (Continued)**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 U-3	1293	1294
5 U-4	1294	1297
6 U-5	1298	1299
7 U-6	1299	1302
8 U-7	1302	1303
9 U-8	1303	1306
10 U-9	1306	1308
11 U-10	1308	1310
12 U-11	1310	1311
13 U-12	1312	1314
14 U-13	1314	1315
15 U-14	1315	1317
16 U-15	1317	1318
17 U-16	1318	1319
18 U-17	1320	1320
19 U-18	1321	1322
20 U-19	1323	1324
21 U-20	1324	1325
22 U-21	1326	1328
23 U-22	1328	1329
24 U-23	1329	1331
25 U-24	1333	1336

1 **EXHIBITS (Continued)**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 U-25	1337	1339
5 U-26	1339	1341
6 U-27	1341	1343
7 U-28	1343	1345
8 U-29	1345	1346
9 U-30	1346	1349
10 U-31	1349	1351
11 U-32	1351	1352
12 U-33	1352	1353
13 U-34	1354	1355
14 U-35	1355	1356
15 U-36	1357	1358
16 U-37	1359	1361
17 U-38	1361	1363
18 U-39	1363	1366

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1 **PROCEEDINGS**

2 JUDGE LAWS: I'm going to just --

3 THE WITNESS: Okay.

4 JUDGE LAWS: -- remind you.

5 All right, Mr. Fujimoto is back to continue with his

6 testimony.

7 I do want to remind you that the oath I administered to

8 you a couple times now is in effect throughout this trial.

9 THE WITNESS: Yes, Your Honor.

10 JUDGE LAWS: Thank you.

11 MR. WILSON: Can the court reporter show Mr. Fujimoto

12 Employer Exhibit 17?

13 Whereupon,

14 **ATSUSHI FUJIMOTO**

15 having been previously sworn, was called as a witness herein

16 and was examined and testified as follows:

17 **DIRECT EXAMINATION (CONTINUED)**

18 Q BY MR. WILSON: Mr. Fujimoto, you're looking at a document

19 that's been entered in evidence as Employer Exhibit 17, which

20 is a list of the challenged employees.

21 Can you go to page 2 of that document?

22 And where it says, "challenged reason by," can you look at

23 the first name there --

24 A Challenge --

25 Q -- and indicate who that is?

1 It's at the bottom of page 2.
2 A Joseph Napoli.
3 Q Okay, yes. Okay.
4 So what I'm going to do today is -- yesterday you
5 discussed -- or actually it was Monday --
6 A Monday.
7 Q -- discussed the specific job descriptions of the
8 challenged employees. Today, we're going to go through each
9 challenged voter and have you testify about that individual.
10 And I want to start with Mr. Napoli and hand you a
11 document, which is going to be marked as Employer's Exhibit 43.
12 JUDGE LAWS: Thank you.
13 COURT REPORTER: That's John Kirby's. Is it 43 or 42?
14 JUDGE LAWS: Yeah, I think 42's the next in order.
15 MR. WILSON: It's 42.
16 MR. RIMBACH: It's forty -- yeah.
17 JUDGE LAWS: But we can do this one as 43 and the next as
18 42.
19 COURT REPORTER: That's fine. That one --
20 UNIDENTIFIED SPEAKER: But 41 we withdrew, so I still kept
21 it as 41.
22 MR. WILSON: Oh, 41 was that --
23 JUDGE LAWS: Yeah.
24 MR. WILSON: -- job description that they withdrew.
25 JUDGE LAWS: But then there was --

1 MR. RIMBACH: This is now 42.
2 JUDGE LAWS: 42 is what we're missing.
3 UNIDENTIFIED SPEAKER: I might have skipped 42.
4 MR. WILSON: Can we start with 43?
5 JUDGE LAWS: Sure. Let's just say there --
6 MR. WILSON: Should we note on the record that --
7 JUDGE LAWS: There is no 42.
8 THE COURT REPORTER: Just checking.
9 UNIDENTIFIED SPEAKER: Thank you.
10 **(Employer Exhibit Number 43 Marked for Identification)**
11 Q BY MR. WILSON: So can you take a look at Exhibit 43,
12 Mr. Fujimoto?
13 A Okay.
14 UNIDENTIFIED SPEAKER: Wait, this is John Kirby. That's
15 why. You're on the wrong one.
16 MR. WILSON: Oh, Your Honor, I --
17 JUDGE LAWS: That's all right. Never mind.
18 So we are going to have a 42. Just set 43 aside, because
19 I assume it's coming. Let's just leave it up there so you
20 don't have to redistribute it.
21 MR. WILSON: Lest he chastise me, too. Let her manage
22 these files today so --
23 Q BY MR. WILSON: Okay, so I'm going to give you what's been
24 marked or will be -- is marked as Employer Exhibit 42.
25 **(Employer Exhibit Number 42 Marked for Identification)**

1 Q BY MR. WILSON: Okay, and can you take a look at Employer
2 Exhibit 42?
3 It's Bates stamp marked 03931 through --
4 JUDGE LAWS: I'd rather not have reference to the Bates
5 stamps --
6 MR. WILSON: Oh, okay. Okay.
7 JUDGE LAWS: -- just because I think it's confusing in
8 here, and --
9 MR. WILSON: Okay, that's fine.
10 JUDGE LAWS: Let's just refer to the page numbers that are
11 organic to the exhibit, not the Bates stamp.
12 Q BY MR. WILSON: So actually it's Exhibit 42, page numbers
13 1 through 7. Apologize for that.
14 So can you tell me what Exhibit 42 is?
15 A This is an invoice from one of our agencies that we use,
16 Adecco, for a Joseph Napoli.
17 Q Okay, and can you tell from looking at Exhibit 42 what job
18 duties Mr. Napoli was performing?
19 A The description here says "industrial," so they're
20 probably referring to warehouse. And I confirmed that, because
21 on the payment order on -- one, two, three, four -- five that
22 Mr. Vasquez signed off, it's charged to the warehouse
23 department.
24 Q Okay.
25 A On the top right.

1 Q So to your knowledge, was Mr. Napoli a warehouse employee
2 on the date of the election, February 6th, 2018?
3 A Yes, because through looking at the time sheet that Adecco
4 provided on page 4, he worked Friday the -- February 2nd, and,
5 on the very last page, it's a copy of our time card showing
6 that he worked on February 8th.
7 Q Okay, and that would have been after the election?
8 A Yes.
9 Q Do you know why he was left off the voter list?
10 A I have no idea.
11 Q Okay. But was he a warehouse employee on February 6th,
12 2018 as of the date of the election?
13 A A temporary warehouse worker, yes.
14 Q Okay, yes. Okay.
15 MR. WILSON: We would move for admission of Employer
16 Exhibit 42.
17 JUDGE LAWS: Okay, any objection?
18 MS. SANCHEZ: We object to the relevance of this document.
19 This person was not on the voter list, and we don't believe he
20 has anything to do with this case.
21 JUDGE LAWS: All right. Well, he is one of the challenge
22 ballots, so I will admit Employer Exhibit 42.
23 **(Employer Exhibit Number 42 Received into Evidence)**
24 Q BY MR. WILSON: Okay, so you have in front of you Employer
25 Exhibit 43. Correct?

1 A Yes.
2 Q Okay.
3 MR. WILSON: And can we hand the witness Employer Exhibit
4 26?
5 Can the court reporter hand the witness Employer Exhibit
6 26?
7 Q BY MR. WILSON: And before we go to Exhibit 43,
8 Mr. Fujimoto, can you take some time and read Employer Exhibit
9 26?
10 A Okay.
11 Q And now can you review Employer Exhibit 43, pages 1
12 through 4?
13 A Okay.
14 Q So, after looking at Employer Exhibit 43, can you give me
15 a brief history of Mr. Kirby's employment at the company
16 between January 1st, 2018 and February 6th, 2018?
17 A So Mr. Kirby was a warehouse worker, but on January 8th of
18 2018 his position changed to a lead warehouse worker for the
19 dry section.
20 Q Okay. And how do you know that?
21 A Because the manager request form on the 1st page of
22 Exhibit 43 annotates that the position change took effect on
23 January 8th of 2018.
24 Q Okay. And the manager request form you're talking about
25 is page 1 of Exhibit 43?

1 A Yes.
2 Q And so what position did Mr. Kirby assume on January 8th,
3 2018?
4 A Lead warehouse worker.
5 Q Okay. And is lead warehouse worker the same job that's
6 referenced in Employer Exhibit 26?
7 A Yes.
8 Q Okay.
9 MR. WILSON: I would move for admission of Employer
10 Exhibit 63 (sic).
11 JUDGE LAWS: Okay, any objection?
12 43.
13 MR. WILSON: 43. Excuse me.
14 MS. SANCHEZ: No, Your Honor.
15 JUDGE LAWS: Okay. Employer Exhibit 43 is admitted.
16 **(Employer Exhibit Number 43 Received into Evidence)**
17 Q BY MR. WILSON: So now I'm going to show you a document
18 that's been marked as Employer Exhibit 46 -- or 44, excuse me.
19 **(Employer Exhibit Number 44 Marked for Identification)**
20 Q Oh, Mr. Fujimoto, just back to Employer Exhibit 43, just
21 so there's -- which was John Kirby -- was Mr. Kirby employed as
22 a lead warehouse worker on February 26th, 2018?
23 A Yep.
24 JUDGE LAWS: February 6th.
25 Q BY MR. WILSON: Or February 6th, 2018?

1 A Yes.
2 Q Okay. Now on to Exhibit 44. And this refers to a
3 Mr. Jose Rosas.
4 And can you give us a brief description of Mr. Rosas's job
5 history between January 1st, 2018 and February 6th, 2018?
6 A Similar to Mr. Kirby, Mr. Rojas -- Rosas was a warehouse
7 worker, and on January 8th of 2018 his position changed to lead
8 warehouse worker for the freezer section.
9 Q Okay. Now, by lead warehouse worker, is that the job
10 description that's referred to in Employer Exhibit 26?
11 A Yes.
12 Q Okay. And what was he doing on the date of the election,
13 February 6th, 2018?
14 A Lead warehouse worker.
15 MR. WILSON: Move for the admission of Employer Exhibit
16 44.
17 MS. SANCHEZ: No objection, Your Honor.
18 JUDGE LAWS: Employer 44 is admitted.
19 **(Employer Exhibit Number 44 Received into Evidence)**
20 MR. WILSON: Can you hand the witness Employer Exhibit 23?
21 Q BY MR. WILSON: I'm going to show you a document that's
22 been marked as Employer Exhibit 46.
23 MS. SANCHEZ: Do you mean 45?
24 JUDGE LAWS: 45.
25 MR. RIMBACH: 45? 46 look at --

1 MS. PEREDA: We have two 45s.
2 MR. RIMBACH: Well, yeah, this one looks like 46.
3 MS. PEREDA: No, it's the same person.
4 MR. RIMBACH: Oh, is it?
5 MS. PEREDA: Yeah.
6 MR. RIMBACH: Oh, okay. Oh, we have two of them.
7 MR. WILSON: Yeah, here's yours. I'm sorry.
8 **(Employer Exhibit Number 45 Marked for Identification)**
9 Q BY MR. WILSON: So Exhibit 45. I'm sorry. I'm still one
10 ahead.
11 And, just briefly, can you go to Employer Exhibit 23?
12 A Okay.
13 Q Now, just can you reiterate briefly your testimony
14 regarding Employer Exhibit 23?
15 JUDGE LAWS: I don't need it. It's already a matter of
16 record. Let's --
17 MR. WILSON: Okay.
18 JUDGE LAWS: Let's not have cumulative evidence.
19 MR. WILSON: Okay, that's fine.
20 Q BY MR. WILSON: So can you go through Employer Exhibit 45,
21 pages 1 through 9?
22 A Okay.
23 MS. SANCHEZ: Your Honor? Excuse me. I'm sorry. Our
24 client is at the door, so we'd like to let him in.
25 JUDGE LAWS: Okay. You can go ahead.

1 MS. SANCHEZ: I apologize.
2 JUDGE LAWS: I don't want to interrupt testimony for it.
3 Let's --
4 MR. WILSON: Oh, okay.
5 Q BY MR. WILSON: So back to Employer Exhibit 45, who does
6 this pertain to?
7 A Mr. Wesley Chang.
8 Q Okay. And can you just give us a brief description of
9 Mr. Chang's employment history at the company?
10 A Yes. Mr. Chang started off as a shipping/receiving clerk
11 and then changed position to central purchase clerk on December
12 16th, 2013.
13 And then he resigned on May 29th of 2000- -- or actually
14 June 8th, 2018.
15 Q Okay. And was he employed on the date of the election on
16 February 6th, 2018?
17 A Yes.
18 Q And what duties was he performing on February 6th, 2018?
19 A He was the GPO distribution coordinator.
20 Q Okay. And GPO distribution coordinator is what's
21 described in Employer Exhibit 23?
22 A Yes.
23 Q Okay. And he was performing those job duties on February
24 6th, 2018?
25 A Yes.

1 Q Okay.

2 MR. WILSON: I move for the admission of Employer Exhibit

3 45.

4 JUDGE LAWS: Okay. Any objection?

5 MS. SANCHEZ: Your Honor, the Union will note -- we don't

6 have an objection; we have the personnel files for each of

7 these employees that we would also like to move into the

8 record.

9 We would like to cross-check what we have with what the

10 Employer is submitting if you would like us to. I don't know

11 if you want two sets.

12 JUDGE LAWS: I will tell you one thing. I'm not going to

13 be accepting into the record complete personnel files --

14 MS. SANCHEZ: They're --

15 JUDGE LAWS: -- of any employee.

16 MS. SANCHEZ: They're not.

17 JUDGE LAWS: Okay.

18 MS. SANCHEZ: No, I -- understood. They're not. We

19 discussed previously with regard to the subpoena issue that we

20 would not include things that were irrelevant.

21 JUDGE LAWS: Okay. We did.

22 MS. SANCHEZ: We believe that the documents that we

23 have -- we have not included irrelevant documents, but we want

24 to make sure that the ones we believe are relevant are in the

25 record as well.

1 We could do that and then --
2 JUDGE LAWS: We're not going to do that now.
3 MS. SANCHEZ: Okay.
4 JUDGE LAWS: We're going to proceed with Mr. Fujimoto's
5 testimony because we are on a clock to get his testimony
6 finished.
7 So if you want to -- after, when it's time for you to put
8 on your case -- sort through and make sure you have everything
9 you need, that's the time to do it.
10 MS. SANCHEZ: Okay. Thank you, Your Honor.
11 MR. WILSON: So Your Honor the way we did this --
12 JUDGE LAWS: Let's just move forward.
13 MR. WILSON: Okay. All right. That's fine. All right.
14 JUDGE LAWS: Any objection to Employer Exhibit 45?
15 MS. SANCHEZ: No, Your Honor.
16 JUDGE LAWS: Okay. Employer Exhibit 45's admitted.
17 **(Employer Exhibit Number 45 Received into Evidence)**
18 Q BY MR. WILSON: Okay. I want to show you what's been
19 marked as Employer Exhibit 46.
20 MR. WILSON: Can the court reporter show the witness
21 Employer Exhibit 30?
22 **(Employer Exhibit Number 46 Marked for Identification)**
23 Q BY MR. WILSON: So Mr. Fujimoto, first can you look at
24 Employer Exhibit 30?
25 A Yes.

1 Q Now, can I direct your attention to Employer Exhibit 46?
2 A Okay.
3 Q Okay, and can you tell me who this person is?
4 A This one is Thao Nguyen.
5 Q Okay. And can you give me a brief summary of her
6 employment history between the beginning of January 2018 and
7 February 6th, 2018?
8 A So she was working for -- as a GPO central purchase clerk,
9 and on February 5th of 2018 her position changed to assistant
10 buyer.
11 Q So was she employed on February 6th, 2018?
12 A Yes, she was.
13 Q And in what capacity?
14 A As an assistant buyer.
15 Q And on that date was she performing the duties of an
16 assistant buyer?
17 A Yes.
18 Q Okay.
19 MR. WILSON: Okay, I move for admission of Employer
20 Exhibit 46.
21 JUDGE LAWS: Okay, any objection?
22 MS. SANCHEZ: No, Your Honor. Well, I guess our only
23 objection is that there are additional documents in the
24 personnel file that are relevant to this case that we believe
25 should be included in the record.

1 JUDGE LAWS: And you have those and can include anything.
2 I'm not going to assume that he thinks the same things are
3 relevant that you do.
4 MS. SANCHEZ: Okay.
5 JUDGE LAWS: That's your job is to put what you think is
6 relevant into the record, so --
7 MS. SANCHEZ: That's fine, Your Honor. Thank you.
8 MR. WILSON: Well, I guess my only question, Your Honor --
9 if they're not going to produce those things now and show them
10 to the witness, does that mean the record stays open for us in
11 rebuttal to respond to --
12 JUDGE LAWS: No, they do it in cross. He's being
13 questioned on it now. They had all day yesterday to review the
14 documents. Cross-examination will be the time to do it.
15 MR. WILSON: No, but my question is the document -- these
16 exhibits have already been entered in evidence, so --
17 JUDGE LAWS: They have, and they can enter additional --
18 MR. WILSON: No, I was just trying to understand how we're
19 going to go about this.
20 JUDGE LAWS: Yep.
21 MR. WILSON: And you answered my question.
22 JUDGE LAWS: All right.
23 MS. SANCHEZ: And for what it's worth, Scott -- counsel
24 and I have already had a discussion, and I think that there's
25 going to be a stipulation. I don't think that they're in

1 dispute.

2 JUDGE LAWS: Okay.

3 MR. WILSON: Right, right.

4 They may not be in dispute, but they obviously have to be

5 entered through --

6 JUDGE LAWS: You enter what you think is relevant. She

7 enters what she thinks is relevant. Let's move on.

8 MR. WILSON: No, my question is we didn't indicate that we

9 would stipulate to the authenticity of what they want to put in

10 evidence. We're not stipulating that, after he testifies, they

11 can just put --

12 JUDGE LAWS: It's going to have to be through him or not

13 at all.

14 MR. WILSON: Okay, that's what I want to clarify.

15 JUDGE LAWS: Or through some other witness.

16 MR. WILSON: Okay. So Exhibit 46 --

17 JUDGE LAWS: 46 is admitted.

18 **(Employer Exhibit Number 46 Received into Evidence)**

19 MR. WILSON: Okay. All right.

20 Q BY MR. WILSON: I want to show you what's been marked as

21 Employer Exhibit 47.

22 **(Employer Exhibit Number 47 Marked for Identification)**

23 MR. WILSON: And could the court reporter show the witness

24 Employer Exhibit 19?

25 Q BY MR. WILSON: So first, Mr. Fujimoto, before I ask you

1 about Employer Exhibit 47, can you review Employer Exhibit 19?
2 A Yes.
3 Q And Employer Exhibit 19 is a central purchase clerk
4 classification, correct?
5 A Yes.
6 Q Okay. Now back to Exhibit 47.
7 So who is this person?
8 A This is Ms. Kayoko Nishikawa.
9 Q Okay. And it appears that on -- looking at page 2 of the
10 exhibit -- that on December 31st, 2013 she was offered a
11 position as a central purchase clerk.
12 Is that correct?
13 A Yes.
14 Q Okay. And to your knowledge what job was she performing
15 at the date of the election on February 6th, 2018?
16 A The central purchase clerk.
17 Q Okay.
18 MR. WILSON: So I move for the admission of Exhibit 47.
19 JUDGE LAWS: Okay, any objection?
20 MS. SANCHEZ: No, Your Honor.
21 JUDGE LAWS: Okay. Exhibit 47 is admitted.
22 **(Employer Exhibit Number 47 Received into Evidence)**
23 Q BY MR. WILSON: So I want to show you what's going to be
24 marked as Employer Exhibit 48.
25 **(Employer Exhibit Number 48 Marked for Identification)**

1 Q BY MR. WILSON: And can you take a look at Exhibit 48?
2 A Okay.
3 Q Okay, and what position -- looking at Exhibit 48 -- did
4 this person hold at the company?
5 A His final position was distribution coordinator.
6 Q Okay. And what position did he hold prior to that?
7 A GPO central purchase clerk.
8 Q And why do you believe -- looking at Exhibit 48 -- that,
9 prior to being a GPO distribution coordinator, he was a central
10 purchasing clerk?
11 JUDGE LAWS: They're numbered on the top.
12 THE WITNESS: Oh, okay.
13 On page 6, the off -- his offer letter shows that it's a
14 GPO central purchase clerk.
15 Q BY MR. WILSON: Okay. And was he employed at the company
16 on February 6th, 2018?
17 A Yes, he was.
18 Q What job was he performing on February 6th, 2018?
19 A GPO central purchase clerk.
20 MR. WILSON: Okay, I move for the admission of Employer
21 Exhibit Number 48.
22 JUDGE LAWS: Any objection?
23 MS. SANCHEZ: No objection.
24 JUDGE LAWS: All right. Employer Exhibit 48 is admitted.
25 **(Employer Exhibit Number 48 Received into Evidence)**

1 MR. WILSON: Just one second, Your Honor.
2 JUDGE LAWS: Sure.
3 (Counsel confer)
4 MR. WILSON: Just one second, Your Honor.
5 JUDGE LAWS: Sure.
6 Just continue whenever you're ready.
7 Q BY MR. WILSON: Okay. So, Mr. Fujimoto, I'll show you
8 what will be marked as Employer Exhibit 49.
9 **(Employer Exhibit Number 49 Marked for Identification)**
10 Q BY MR. WILSON: And do you still have Employer Exhibit 21
11 in front of you or with you there on the table?
12 A 21?
13 JUDGE LAWS: I don't think he's had 21.
14 THE WITNESS: Thank you.
15 Q BY MR. WILSON: Can you take a look at Employer Exhibit
16 21?
17 A Yes.
18 Q Okay, and what job description is that?
19 A GPO central purchase clerk.
20 Q Okay. And now can you go to Employer Exhibit 49?
21 A Okay.
22 Q And can you -- and this lady's name is -- her last name is
23 Gonzalez Guardado, it looks like.
24 Are you familiar with this employee?
25 A Yes.

1 Q Okay. And can you tell me what position she was
2 performing on February 6th, 2018, the date of the election?
3 A GPO central purchase clerk.
4 Q Okay. And is that the same job listed in Employer Exhibit
5 21?
6 A Yes.
7 Q Okay, thank you.
8 MR. WILSON: So I move for admission of Employer Exhibit
9 49.
10 JUDGE LAWS: Any objection?
11 MS. SANCHEZ: No objection.
12 JUDGE LAWS: Employer 49 is admitted.
13 **(Employer Exhibit Number 49 Received into Evidence)**
14 JUDGE LAWS: Do you want the witness to keep 21, since we
15 have --
16 MR. WILSON: Yes.
17 JUDGE LAWS: -- a lot of GPO central purchase clerks?
18 MR. WILSON: Yeah, he should keep all of them.
19 THE WITNESS: Yeah.
20 JUDGE LAWS: Okay.
21 MR. WILSON: Because a lot of them relate back, so --
22 JUDGE LAWS: Okay.
23 Q BY MR. WILSON: I want to show you what's going to be
24 marked as Employer Exhibit 50.
25 **(Employer Exhibit Number 50 Marked for Identification)**

1 Q BY MR. WILSON: And you still have Employer Exhibit 21,
2 correct?
3 A Yes, I do.
4 Q Okay. So I'm a little tough with the pronunciation of the
5 name of this employee.
6 Can you explain who this is?
7 A This is Ms. Kaori Juichiya, and she is a GPO central
8 purchase clerk.
9 Q And how do you know she is a GPO central purchase clerk?
10 A Because I've seen her downstairs doing -- working in that
11 position.
12 Q Okay. Now, can we go to page 3 of Exhibit 50?
13 A Okay.
14 Q Now based on this, it appears that she was offered that
15 job on April 5th, 2016.
16 Is that accurate?
17 A She was offered the job on April 5th, but her start date
18 is April 11th.
19 Q Okay. Of what year?
20 A Of 2016.
21 Q Okay. So was she employed on February 6th, 2018?
22 A Yes.
23 Q And what job was she performing?
24 A GPO central purchase clerk.
25 Q Which is the job description in Employer Exhibit 21,

1 correct?
2 A Yes.
3 Q Okay.
4 MR. WILSON: So we'd move for the admission of Employer
5 Exhibit 50.
6 MS. SANCHEZ: No objection, Your Honor.
7 JUDGE LAWS: Employer 50 is admitted.
8 **(Employer Exhibit Number 50 Received into Evidence)**
9 Q BY MR. WILSON: Okay. So now I'm going to show you a
10 document that's been marked as Employer Exhibit 51.
11 **(Employer Exhibit Number 51 Marked for Identification)**
12 Q BY MR. WILSON: And before looking at Employer Exhibit 51,
13 you still have your Employer Exhibit 21 with you, correct?
14 A Yes, I do.
15 Q Okay. So can you tell me about this employee, Kaipo Eda?
16 A Yes.
17 Q How do you -- I don't want to mispronounce her name.
18 A Mr. Kaipo Eda -- he was hired on April 2nd, 2018 as a
19 product allocation development -- PAD -- central purchase
20 clerk, which is referred to as GPO central purchase clerk. But
21 prior to that, based on the time card, he was temping in that
22 same position.
23 Q Okay. Now, as a GPO central purchase clerk?
24 A Yes.
25 Q Okay. Now, so what time card are you referring to?

1 A I am referring to page 6 and 7.
2 Q Okay, and what do those pages reflect?
3 A It's a time card showing Mr. Kaipo Eda was a temp between
4 the time card period of January 22nd, 2018 to February 4th,
5 2018.
6 Q And, to your knowledge, was he working in that job on
7 February 6th, 2018?
8 A Yes.
9 Q Okay. As a GPO central purchase clerk?
10 A Yes.
11 Q Okay.
12 MR. WILSON: And move for admission of Employer Exhibit
13 51.
14 JUDGE LAWS: Any objection?
15 MS. SANCHEZ: No objection.
16 JUDGE LAWS: Okay, Employer 51 is admitted.
17 **(Employer Exhibit Number 51 Received into Evidence)**
18 JUDGE LAWS: I do have a question for you, though.
19 There's a name that I haven't heard before in this trial on
20 this document.
21 Can you tell me who the supervisor is on page 6?
22 THE WITNESS: Ms. Hwami Oh is the GPO or PAD operations
23 manager.
24 JUDGE LAWS: Okay, thank you.
25 Q BY MR. WILSON: And Ms. Hwami Oh is a supervisor, correct?

1 A She is a manager, yeah.
2 Q Manager.
3 A Supervisor/manager.
4 Q Okay, thank you.
5 Okay. So moving ahead here, I'm going to show you what
6 will be marked as Employer Exhibit 62 (sic).
7 JUDGE LAWS: 52.
8 MR. WILSON: 52, I'm sorry.
9 **(Employer Exhibit Number 52 Marked for Identification)**
10 JUDGE LAWS: That's all right.
11 MR. WILSON: And at this point I'd ask the court reporter
12 to show the witness the Employer Exhibit 30.
13 THE WITNESS: I have that.
14 MR. WILSON: You have it there? Okay.
15 Q BY MR. WILSON: So this file -- and you have in front of
16 you Exhibit 30 -- this file refers to Rachel Lin?
17 A Yes.
18 Q Can you tell me briefly about Ms. Lin?
19 A Ms. Lin is an assistant buyer for the GPO division.
20 Q And was she employed on the date of February 6th, 2018?
21 A Yes.
22 Q In what position was she employed?
23 A Assistant buyer.
24 Q And assistant buyer as described in Employer Exhibit 3?
25 A Yes.

1 MS. SANCHEZ: Objection. Leading.
2 JUDGE LAWS: Overruled.
3 MR. WILSON: Okay. I move for the admission of Employer
4 Exhibit 52.
5 JUDGE LAWS: Okay.
6 MS. SANCHEZ: No objection.
7 JUDGE LAWS: All right. Employer Exhibit 52 is admitted.
8 **(Employer Exhibit Number 52 Received into Evidence)**
9 Q BY MR. WILSON: I'm going to show you what's been marked
10 as Employer Exhibit 53.
11 **(Employer Exhibit Number 53 Marked for Identification)**
12 Q BY MR. WILSON: So you still have in front of you Employer
13 Exhibit 21, correct?
14 A Yes, I do.
15 Q Okay. So Employer Exhibit 53 refers to employee
16 Stephany -- I don't want to ruin her last name -- Manjarrez.
17 Is that correct?
18 A Yes.
19 Q Okay. And was Ms. Manjarrez employed at the company on
20 February 6th, 2018?
21 A Yes, she was.
22 Q And what duties was she performing?
23 A She was the GPO central purchase clerk.
24 Q And can you look at Exhibit -- or excuse me, page 2 of
25 Exhibit 2?

1 A Yes.
2 Q Is that her offer letter to become a GPO central purchase
3 clerk?
4 A Yes.
5 Q Okay. And that's the same job that's described in
6 Employer Exhibit 21, correct?
7 A Yes, that is.
8 Q Okay.
9 MR. WILSON: We'd move for the admission of Employer
10 Exhibit 53.
11 MS. SANCHEZ: No objection, Your Honor.
12 JUDGE LAWS: Employer Exhibit 53 is admitted.
13 **(Employer Exhibit Number 53 Received into Evidence)**
14 Q BY MR. WILSON: Okay, I want to show you what's been
15 marked as Employer Exhibit 54.
16 **(Employer Exhibit Number 54 Marked for Identification)**
17 MS. SANCHEZ: Thank you.
18 Q BY MR. WILSON: And you still have in front of you
19 Employer Exhibit 30?
20 A Yes, I do.
21 Q Okay. Okay, so who is this employee referred to in
22 Exhibit 54?
23 A This is Ms. Miwa Sassone.
24 Q Okay. And what position does she hold?
25 A She holds a position as assistant buyer.

1 Q Okay. And is that the position described in Employer
2 Exhibit 30?
3 A Yes.
4 Q And was she employed on February 6th, 2018?
5 A Yes.
6 Q And was she performing the duties of an assistant buyer?
7 A Yes, she was.
8 Q Okay.
9 MR. WILSON: I would move for the admission of Employer
10 Exhibit 54.
11 MS. SANCHEZ: No objection, Your Honor.
12 JUDGE LAWS: All right. Employer 54 is admitted.
13 **(Employer Exhibit Number 54 Received into Evidence)**
14 Q BY MR. WILSON: Okay, next I want to show what will be
15 marked as Employer Exhibit 55.
16 **(Employer Exhibit Number 55 Marked for Identification)**
17 Q BY MR. WILSON: And you still have in front of you
18 Employer Exhibit 21, correct?
19 A Yes, I do.
20 Q Central purchase clerk JB?
21 A Yes.
22 Q So who is the employee referenced in Employer Exhibit 55?
23 A This is Ms. Chizuko Sho.
24 Q Okay. And it appears, looking at Employer Exhibit 5,
25 page -- 55, excuse me -- that she left the company?

1 A Yes. She -- her last day of employment -- looks like it
2 was March 30th, 2018.
3 Q Okay. Now, it states "title, production associate," and
4 that was March 30th, 2018.
5 To your knowledge, what was she doing in 2018 prior to the
6 time she left?
7 A Her --
8 MS. SANCHEZ: Objection as to the timeframe.
9 MR. WILSON: I said 2018, prior to the time she left. I
10 don't --
11 MS. SANCHEZ: Okay.
12 THE WITNESS: Her -- her final position when she left the
13 company was GPO central purchase clerk.
14 Q BY MR. WILSON: Okay, do you know why it says "product
15 associate" on page 1 of Exhibit 55?
16 A We never received a request to change her job title, but
17 her actual position is central purchase clerk.
18 Q Okay, so how is that supposed to work? Why wasn't that
19 requested?
20 A Looking at page 2 -- or -- yeah, page 2, this is a manager
21 request form that the manager will provide HR whenever they
22 want to make a position change or any kind of change within the
23 employee's position or personnel file.
24 Q Okay, but, in the case of page 2, this time it appears
25 just simply to be a resignation reference.

1 A Resignation, yes.
2 Q Yeah, okay.
3 A So we have to get this from the manager to make the
4 change, and then the final change that we received was on March
5 15th, 2010 under the product development division. And we no
6 longer have that division.
7 Q Okay. So in February 6th of 2018, was there a product
8 allocation division?
9 A I don't know if it was called in reference to product
10 allocation division or GPO operation.
11 Q Okay. But to your knowledge on February 6th, 2018, what
12 job duties were Ms. Sho performing?
13 A GPO central purchase clerk.
14 Q Okay. As described in Employer Exhibit 21?
15 A Yes.
16 Q Okay.
17 MR. WILSON: Move for the admission of Employer Exhibit
18 55.
19 MS. SANCHEZ: I'd like to voir dire, Your Honor.
20 JUDGE LAWS: Okay.
21 **VOIR DIRE**
22 Q BY MS. SANCHEZ: Mr. Fujimoto, does this Exhibit Number
23 55 -- Employer Exhibit 5 (sic) -- it doesn't show her as a GPO
24 central purchase clerk anywhere. Is that correct?
25 A Yes.

1 Q Okay.

2 MS. SANCHEZ: No objection, Your Honor.

3 JUDGE LAWS: Okay. Employer Exhibit 55 is admitted.

4 **(Employer Exhibit Number 55 Received into Evidence)**

5 MR. WILSON: Okay, but just to clarify --

6 JUDGE LAWS: All right, let's --

7 MR. WILSON: Okay.

8 JUDGE LAWS: Question answered. Let's move on.

9 MR. WILSON: Okay.

10 JUDGE LAWS: If you want to ask him a clarification

11 question, go ahead, but don't make a statement for the record.

12 MR. WILSON: No, I'm not --

13 JUDGE LAWS: Okay.

14 MR. WILSON: -- making a statement.

15 JUDGE LAWS: Okay.

16 MR. WILSON: Yeah.

17 JUDGE LAWS: Through witness testimony only.

18 MR. WILSON: Okay.

19 **DIRECT EXAMINATION (RESUMED)**

20 Q BY MR. WILSON: So back to -- never mind. I think we've

21 had -- okay.

22 So we'll now next -- Employer Exhibit 56.

23 **(Employer Exhibit Number 56 Marked for Identification)**

24 Q BY MR. WILSON: So this document, Employer Exhibit 56,

25 appears to refer to a Jenifer Tran?

1 A Yes.
2 Q Okay. And once again, it appears that in June 15th
3 Ms. Tran left the company?
4 A Yes. She submitted a resignation that her last day of
5 employment shows June 15th, 2018.
6 Q Okay. Now, what was her position when she resigned?
7 A She was the GPO central purchase clerk.
8 Q Okay, and can you go to page 3 or Exhibit 56?
9 A Yes.
10 This is her offer letter showing the offer of GPO central
11 purchase clerk to Ms. Tran.
12 Q Okay. And was she employed at the company on February
13 6th, 2018?
14 A Yes, she was.
15 Q Okay, in what position?
16 A As GPO central purchase clerk.
17 Q Okay. As is summarized in Employer Exhibit 21?
18 A Yes.
19 Q Okay. All right.
20 MR. WILSON: Move for the admission of Employer Exhibit
21 56.
22 MS. SANCHEZ: I'd like to voir dire, Your Honor.
23 JUDGE LAWS: Okay.
24 **VOIR DIRE**
25 Q BY MS. SANCHEZ: Mr. Fujimoto --

1 A Uh-huh.
2 Q I'm sorry, I didn't say hello before.
3 A That's fine.
4 Q Hello. I'm going to ask you a question about page 2 of
5 this document. This is Ms. Tran's resignation letter, correct?
6 A Yes.
7 Q And at the time of her resignation on June 15th, 2018, she
8 believed she was a purchasing clerk.
9 Isn't that correct, based on the first letter of her --
10 first sentence of her letter?
11 A She annotates purchasing clerk, yes.
12 Q Okay.
13 MS. SANCHEZ: No objection, Your Honor.
14 JUDGE LAWS: Employer 56 is admitted.
15 **(Employer Exhibit Number 56 Received into Evidence)**
16 **(Employer Exhibit Number 57 Marked for Identification)**
17 **DIRECT EXAMINATION (RESUMED)**
18 Q BY MR. WILSON: I'm going to show you what's been marked
19 as Employer Exhibit 57.
20 Q And this document appears to apply to a Shun Man Yung?
21 A Yes.
22 Q Also goes by Niki?
23 A Yes.
24 Q Okay. Now, it appears that -- looking at page 1 of
25 Exhibit 57 -- on April 17th, this employee changed positions?

1 A Yes. Based on this MRF, it looks like on Feb -- April
2 2nd, 2018 that they req -- they changed her position to
3 operation coordinator.
4 Q Okay, and what were they prior to that?
5 A She was the GPO central purchase clerk.
6 Q Okay, and was she employed at the company on February
7 6th --
8 A Yes, she was.
9 Q -- 2018?
10 A Yes, she was.
11 Q And what position was she performing?
12 A GPO central purchase clerk.
13 Q As is stated in Employer Exhibit 21?
14 A Yes.
15 MR. WILSON: Move for admission of the Employer Exhibit
16 57.
17 MS. SANCHEZ: No objection, Your Honor.
18 JUDGE LAWS: Okay. Employer 57 is admitted.
19 **(Employer Exhibit Number 57 Received into Evidence)**
20 MR. WILSON: Can you put in front of the witness Employer
21 Exhibit 37?
22 Okay. Sorry, Your Honor.
23 And the witness has been shown Employer Exhibit 37?
24 THE WITNESS: Yes.
25 MR. WILSON: Okay.

1 **(Employer Exhibit Number 58 Marked for Identification)**
2 Q BY MR. WILSON: So Mr. Fujimoto, I want to show you what's
3 been marked as Employer Exhibit 58.
4 Okay. Mr. Fujimoto, this document appears to refer to --
5 and I hope my pronouncement is okay -- Kazumi Kasai?
6 A Yes.
7 Q Okay. And what does Ms. Kasai do?
8 A She is a GPO import clerk.
9 Q Okay. And looking at page 2 of Exhibit 58, it looks like
10 way back in 2008 there was reference to a lead order desk?
11 A Yes.
12 Q And does that position still exist?
13 A No.
14 Q And was she employed on February 6th, 2018?
15 A Yes, she was.
16 Q In what position?
17 A As the GPO import clerk.
18 Q Okay, and how do you know?
19 A Because I've talked to her, I -- I -- you know, at her
20 desk in the way of her position.
21 Q Okay. Do you know why -- once again, there's nothing in
22 her file updating her actual position?
23 A The manager didn't submit the request form to update her
24 position.
25 Q But she's been at the company a long time?

1 A Yes. Just this position change notice -- it looks like --
2 2008. There's one that says 2007 here, so from my memory she's
3 been at the company before I was even hired.
4 Q Okay. And when you say GPO operation import clerk, are
5 you referring to the job duties on Employer 37?
6 A Yes.
7 Q And that's what she was performing on February 6th, 2018?
8 A Yes.
9 Q Okay.
10 MR. WILSON: Move for admission of Employer Exhibit 58.
11 MS. SANCHEZ: I'd like to voir dire --
12 JUDGE LAWS: Okay.
13 MS. SANCHEZ: -- Your Honor.
14 **VOIR DIRE**
15 Q BY MS. SANCHEZ: Mr. Fujimoto, if you look at page 1 of
16 this same exhibit --
17 A Yes.
18 Q -- there's an email that says, "Dear Sirs."
19 Do you see where I'm referring to?
20 A Yes.
21 Q It says, "This is just to confirm that the following
22 employees have been coded back as hourly employees."
23 Does that mean that they were previously coded as salary
24 employees?
25 A I don't know.

1 Q Okay. If you look down to number 2 in the middle of the
2 email it says, "I am requesting confirmation" --
3 Do you see where I'm referring to?
4 A Yes.
5 Q If you continue reading, it says, "if they should remain
6 salary."
7 Does that help you answer my first question?
8 A I don't know if they were salary or not.
9 Q Okay. Do you know who Douglas Shin is?
10 A No.
11 Q Okay. Who -- is Cristina Veron still employed with the
12 company?
13 A No.
14 Q Okay.
15 MS. SANCHEZ: Your Honor, I'm going to object to this
16 document as irrelevant, given that it doesn't refer to any of
17 the challenged categories and also because it lacks foundation.
18 MR. WILSON: Your Honor, I can ask him a few more
19 questions.
20 JUDGE LAWS: Okay. Go ahead.
21 **DIRECT EXAMINATION (RESUMED)**
22 Q BY MR. WILSON: So page 1 of Exhibit 58 -- that email --
23 what's the date on that, if you can tell at the top?
24 A March 17th, 2004.
25 Q Okay. So at the time -- at February 6th, 2018, was

1 Ms. Kasai an hourly or salaried employee?
2 A She is an hourly employee.
3 Q Okay.
4 JUDGE LAWS: I guess I'm wondering what the relevance of
5 this one is, given that her position as of February 6th, 2018
6 came solely from witness testimony. There's nothing on this
7 document showing what she did at all on the date of the
8 election.
9 MR. WILSON: And that's why he testified that she's --
10 JUDGE LAWS: No, I know, but what am I gleaning from this
11 document with regard to the timeframe I'm dealing with?
12 MR. WILSON: Simply to reflect that the file wasn't
13 updated.
14 JUDGE LAWS: All right. I will go ahead and admit
15 Employer Exhibit 58. However, I do not think it shows me what
16 she was doing at the time of the election.
17 **(Employer Exhibit Number 58 Received into Evidence)**
18 MR. WILSON: The -- so --
19 JUDGE LAWS: The document doesn't.
20 MR. WILSON: Okay, but his testimony -- refer you to that.
21 Okay.
22 **(Employer Exhibit Number 59 Marked for Identification)**
23 Q BY MR. WILSON: So next I'm going to show you what's been
24 marked as Employer 59.
25 MR. WILSON: And does the witness have in front of him

1 Employer Exhibit 23?
2 THE WITNESS: Yes, I do.
3 Q BY MR. WILSON: Okay, can you take a look at Employer
4 Exhibit 23?
5 A Okay.
6 Q Okay. Now, who is the employee that's referred to in
7 Employer Exhibit 59?
8 A Mr. Yukihiko Amanuma.
9 Q Okay. So can you go through the exhibit, pages 1
10 through -- looks like 5?
11 A Okay.
12 Q So looking at pages 1 and 2 of the exhibit 59, can you
13 give us a brief summary of this person employment in 2018?
14 A Yes. So he was a GPO distribution coordinator, and on
15 April 2nd of 2018 they promoted him to the GPO -- or I guess
16 PAD distribution supervisor.
17 Q Okay. And was the person employed on the date of election
18 at February 6th, 2018?
19 A Yes.
20 Q Okay. And what job duties was he performing on February
21 6th, 2018?
22 A Distribut- -- GPO distribution coordinator.
23 Q Okay, and that's what's referenced in Employer Exhibit 23,
24 correct?
25 A Yes.

1 Q Okay.
2 MR. WILSON: Okay, I'll move for admission of Employer
3 Exhibit 59.
4 JUDGE LAWS: Okay. Any objection?
5 MS. SANCHEZ: Yes. I'd like to voir dire, Your Honor.
6 JUDGE LAWS: Okay.
7 **VOIR DIRE**
8 Q BY MS. SANCHEZ: Mr. Fujimoto, I think I just heard you
9 say that this -- Mr. Amanuma was promoted to a supervisor
10 position on February 2nd, 2018, correct?
11 A No, April 2nd, 2018.
12 Q April 2nd, 2018.
13 So where on this document does it show that he was a GPO
14 distribution coordinator?
15 A If you look at the 2nd page on the very top, his job title
16 when hired on March 25th, 2015 -- it was offered at GPO
17 distribution coordinator.
18 MS. SANCHEZ: Okay. Thank you, Your Honor. No objection.
19 JUDGE LAWS: Okay. Employer 59's admitted.
20 **(Employer Exhibit Number 59 Received into Evidence)**
21 MR. WILSON: Can the court reporter please show the
22 witness Employer Exhibit 33?
23 **(Employer Exhibit Number 60 Marked for Identification)**
24 **DIRECT EXAMINATION (RESUMED)**
25 Q BY MR. WILSON: Okay, I'm going to show you what's marked

1 as Employer Exhibit 60.
2 JUDGE LAWS: I got two copies.
3 Q BY MR. WILSON: Okay. So can you take a second and review
4 of Employer Exhibit 33?
5 A Yes.
6 Q And Employer Exhibit 60 appears to refer to a Chiaki
7 Mazlomi?
8 A Yes.
9 Q Okay. And can you take a second and review Employer
10 Exhibit 60, pages 1 through 3?
11 A Yes.
12 Q And it appears that -- strike that.
13 So was Ms. Mazlomi employed at the company on February 6,
14 2018?
15 A Yes, she was.
16 Q And what position was she performing?
17 A On February 6, 2018?
18 Q Yes, I'm sorry.
19 A She was the GPO coordinator.
20 Q Okay. And it appears -- looking at page 1 of Exhibit 60,
21 it appears she was promoted to supervisor on February 17, 2018?
22 A No, she was promoted to the operation supervisor on April
23 2, 2018.
24 Q I'm sorry, I misspoke. And what was her position prior to
25 that?

1 A GPO coordinator.
2 Q Okay. And then as I understood your testimony, on
3 February 6, 2018 she was the GPO coordinator.
4 A Can you repeat that?
5 Q Okay.
6 JUDGE LAWS: He already established that.
7 MR. WILSON: Okay. That's fine. We'll move for admission
8 of Employer Exhibit 60?
9 MS. SANCHEZ: No objection, Your Honor.
10 JUDGE LAWS: And I should say he already said that.
11 Employer Exhibit 60 is admitted.
12 **(Employer Exhibit Number 60 Received into Evidence)**
13 **(Employer Exhibit Number 61 Marked for Identification)**
14 Q BY MR. WILSON: I'm going to show what is marked Employer
15 Exhibit 61.
16 Which employee is referred to Employer Exhibit 61?
17 A Brian Noltensmeier.
18 Q Okay. And what is his position at the company?
19 A His position is chief of distribution, coordinator.
20 Q Okay. And can you go to page 3 of Exhibit 61?
21 A Okay.
22 Q And what does that offer letter refer to?
23 A This is Brian's offer letter showing that we offered him
24 the position as GPO central purchase clerk.
25 Q And did he change to GPO distribution coordinator at some

1 point?
2 A Yes, on November 13, 2017 his position changed to GPO
3 distribution coordinator.
4 Q Okay. And how can you tell that?
5 A On the first page, on the very top right, the fact that it
6 shows November 13, 2017.
7 Q Okay. And was he employed at the company on February 6,
8 2017.
9 A GPO distribution coordinator.
10 Q And that's the position set out in Employer Exhibit 23?
11 A Yes.
12 Q Okay. I move for the admission of Employer Exhibit 61?
13 MS. SANCHEZ: No objection, Your Honor.
14 JUDGE LAWS: Okay. Employer 61 is admitted.
15 **(Employer Exhibit Number 61 Received into Evidence)**
16 Q BY MR. WILSON: Okay. Now, I want to show what will be
17 marked as Employer Exhibit 62.
18 **(Employer Exhibit Number 62 Marked for Identification)**
19 Q BY MR. WILSON: And who does this employee refer -- who
20 does this job description refer to?
21 A This employee is Ms. Ryan Prewitt.
22 Q You still have in front of you Employer Exhibit 23,
23 correct?
24 A Yes.
25 Q Now -- and what is her title at the company?

1 A GPO distribution coordinator.
2 Q And do you know when she assumed that position?
3 A She was hired on July 31, 2017.
4 Q Okay. Can you go to page 3 of Exhibit 62?
5 A Yes.
6 Q Is that her offer letter?
7 A Yes, it is.
8 Q Okay. Now, in your previous testimony where did you
9 indicate that GPO distribution coordinators sit?
10 A The sit in the warehouse receiving area.
11 Q Okay. In the case of Ms. Pruitt, did she sit in a
12 different location?
13 A Yes, she does.
14 Q Okay. And where does she sit?
15 A She sits in the first floor office.
16 Q And do you know why she sit on the first floor office.
17 A There's no room in the receiving warehouse office.
18 Q Okay.
19 A There's only limited seating area.
20 Q Okay.
21 A And was she employed at the company on February 6, 2018?
22 A Yes.
23 Q And in what position was she employed?
24 A GPO distribution coordinator.
25 Q And that's the position summarized in Employer Exhibit 23?

1 A Yes.
2 MR. WILSON: Okay. Move for the admission of Employer
3 Exhibit 62?
4 JUDGE LAWS: Any objection.
5 MS. SANCHEZ: No objection, Your Honor.
6 JUDGE LAWS: Okay. Employer Exhibit 62 is admitted.
7 **(Employer Exhibit Number 62 Received into Evidence)**
8 MR. WILSON: Your Honor, we're like halfway through the
9 files; can we take a brief break?
10 JUDGE LAWS: We are. I'm wondering, does it make sense?
11 Our minds are in the same place, but it was like we have two
12 more distribution clerks before we switch job descriptions and
13 potentially switch exhibits, so maybe get through those next
14 two?
15 MR. WILSON: Mr. Salazar and Hideki -- okay. Yeah, we can
16 do that.
17 JUDGE LAWS: And then we can take a break.
18 MR. WILSON: Okay.
19 JUDGE LAWS: And deal with all the challenged ones based
20 on logistics office clerk.
21 **(Employer Exhibit Number 63 Marked for Identification)**
22 Q BY MR. WILSON: So I'm going to show you what's been
23 marked Employer Exhibit 63.
24 Okay. So, Mr. Fujimoto, you still have in front of you
25 Employer Exhibit 23, correct?

1 A Yes.
2 Q Okay. And who's the employee referred to in Employer
3 Exhibit 63?
4 A Mr. John Salazar, Jr.
5 Q Okay. And it appears that he left the company on May 25,
6 2018?
7 A Yes, Mr. Salazar submitted a resignation on page 2 ending
8 his employment with us on May 25, 2018.
9 Q Okay. And was he employed on the date of the election?
10 A Yes, he was.
11 Q February 6, 2018?
12 A Yes.
13 Q Okay. And what position was he employed in?
14 A GPO distribution coordinator.
15 Q Okay. And that's the job description summarized in
16 Employer Exhibit 23?
17 MR. WILSON: Okay. I'm move for admission of Employer
18 Exhibit 63?
19 MS. SANCHEZ: I'd like voir dire, Your Honor?
20 JUDGE LAWS: Okay.
21 **VOIR DIRE**
22 Q BY MS. SANCHEZ: Mr. Fujimoto, at the time of
23 Mr. Salazar's resignation, he believed his position was GPO
24 logistics coordinator, correct?
25 A Based on the letter, yes.

1 Q Okay. Based on page 2 is what you're referring to?
2 A Yes.
3 Q Page 2 of Exhibit 63? No further questions, Your Honor.
4 No objection.
5 JUDGE LAWS: All right. And just so we don't have a name
6 that hasn't been identified in the record, can you identify who
7 this supervisor is, I'm looking at page 6?
8 THE WITNESS: Yes, Mr. Nobuyasu Yamamoto, is the GPO
9 distribution manager.
10 JUDGE LAWS: Thank you. All right. I will admit Employer
11 Exhibit 63.
12 **(Employer Exhibit Number 63 Received into Evidence)**
13 **DIRECT EXAMINATION (RESUMED)**
14 Q BY MR. WILSON: So I want to show you what's going to be
15 marked as Employer Exhibit 64?
16 **(Employer Exhibit Number 64 Marked for Identification)**
17 Q BY MR. WILSON: And can you identify the employee
18 referenced in Employer Exhibit 64?
19 A It is Mr. Hideki Takegahara.
20 Q And can you read through that exhibit?
21 A Okay.
22 Q And at the time of the election, was Mr. Takegahara
23 employed at the company?
24 A Yes, he was.
25 Q And when I say time of the election, we're referring

1 February 6, 2018?
2 A Yes.
3 Q And what position was he employed in?
4 A He was a distribution -- GPO distribution coordinator.
5 Q And how do you know that?
6 A Knowing that his position, you know, when I walk
7 downstairs and talking to him.
8 Q Okay. Did you interact with him?
9 A Yes.
10 Q During February 2018?
11 A Not during February, the actual date, but throughout my
12 course of employment at the company.
13 Q Okay. I meant the month of February 2018. And once
14 again, looking at his file, it's difficult to know what he
15 actually does; do you know why that is?
16 A We never received a request after -- it looks like 2011 on
17 the actual position change.
18 Q And do you know why that is?
19 A No.
20 Q And has he been with the company a long time?
21 A Yes. Since -- looking at the offer letter on page 4, July
22 16, 2007.
23 Q Okay. But to your knowledge he was employed on February
24 6, 2018?
25 A Yes.

1 Q Performing in the position --
2 JUDGE LAWS: You already asked that.
3 MR. WILSON: Okay. Sorry, Your Honor. We'll move into
4 evidence Employer Exhibit 64?
5 MS. SANCHEZ: I'd like to voir dire, Your Honor?
6 JUDGE LAWS: Okay.
7 **VOIR DIRE**
8 Q BY MS. SANCHEZ: Mr. Fujimoto, if you look at page 1 of
9 Employer Exhibit 64, in the comments section, I'm not sure, but
10 is this congee script?
11 A It's Japanese.
12 Q It's Japanese? Do you read Japanese?
13 A No, I don't.
14 Q Do you know what this says?
15 A No, I don't.
16 Q Okay. Thank you.
17 MS. SANCHEZ: Your Honor, I'm going to object to this
18 document as irrelevant and I also don't know what those comment
19 say.
20 JUDGE LAWS: And those comments are not going to be a
21 matter of record, because they haven't been translated. I'm
22 going to ask a question though. Looking at page 1 of this
23 document, how can you tell what employee it pertains to?
24 THE WITNESS: It says please see list attached and that
25 second page will for Osamu Suzuki, Kazumi Kasai, Hideki

1 Takegahara. So in 2011 they were working for LA branch, but
2 then they report to -- now it's known GPO or PAD.
3 JUDGE LAWS: Okay.
4 THE WITNESS: So it pertains to these three individuals.
5 JUDGE LAWS: Thank you. I will go ahead and admit Employer
6 Exhibit 64.
7 **(Employer Exhibit Number 64 Received into Evidence)**
8 JUDGE LAWS: And with that let's take a break. It's 9:17,
9 let's resume at 9:30
10 (Off the record at 9:17 a.m.)
11 JUDGE LAWS: We're on the record and let's resume,
12 presumably, with the next employee.
13 **(Employer Exhibit Number 65 Marked for Identification)**
14 MR. WILSON: Can the court reporter show the witness,
15 Employer Exhibit 31?
16 **DIRECT EXAMINATION (RESUMED)**
17 Q BY MR. WILSON: So Mr. Fujimoto, I'm going to show what's
18 been marked as Employer Exhibit 65.
19 Before I ask you about Employer Exhibit 65, can you read
20 through Employer Exhibit 31 that the court reporter just handed
21 you? Okay.
22 And then can you take a minute to go through Employer
23 Exhibit 65, it's pretty long, it goes pages 1 through 9.
24 A Okay.
25 Q Okay. And who does this exhibit refer to?

1 A This is for Ms. Kumiko Naka Estrada.
2 Q Okay. And what is her position?
3 A Currently, her position is export office clerk.
4 Q Okay. And what was her position at the time of the
5 election on February 6, 2018?
6 A Export office clerk.
7 Q Okay. Now, going through these documents, does it
8 reference anywhere that she was employed as an export office
9 clerk on February 6, 2018?
10 A No.
11 Q And then how do you know she was an export office clerk on
12 February 6, 2018?
13 A The -- page 8 that is a position change for that division.
14 New business, Dai-san, Dai-3 division. So that division no
15 longer exists and it's actually the international export
16 division. And she actually sits in the first floor office in a
17 room specifically for the international exports division.
18 Q Okay. And can you take another look at Exhibit 31?
19 A Yes.
20 Q Now, the next to last bullet point of essential job
21 functions, refers to labeling of products?
22 A Yes.
23 Q And to what extent is Ms. Estrada's job involve labeling a
24 product?
25 A So what happens is that this division will sell our food

1 products to South America and Mexico, and each country has
2 different labeling requirements, just like how we have for
3 United States, we have that list, ingredients, cholesterol,
4 saturated fat and so forth. So that country has a specific
5 labeling requirement, so we'll relabel the products, because
6 it's under U.S. compliant labeling standard.
7 Q So do you bring the products into the first floor office
8 to label them?
9 A No, because we export, you know, pallets of items that
10 goes in containers. It's easier for the person to go to the
11 warehouse to do the labeling.
12 Q Okay.
13 A And we can't put the pallet -- we can't move the pallet --
14 or the pallet's too big for us to fit it through the door.
15 Q Okay. How ongoing are her duties as a labeler?
16 A You know, in a given week we send two to three containers,
17 every week, to different customers in South America and Mexico,
18 20 foot containers, pallets that could go up to 15 to 20
19 pallets in there. So I'm not sure -- it depends on what the
20 customer orders and how much volume is in there.
21 Q But is that a regular part of her job?
22 A Yes, it would be regular.
23 Q And was that a regular part of her job on --
24 MS. SANCHEZ: Objection. Leading.
25 JUDGE LAWS: Let's ask more open-ended, you are leading

1 the witness.

2 MR. WILSON: I'm sorry, Your Honor. That's fine.

3 Q BY MR. WILSON: So would she have been performing labeling

4 duties in or around February 6, 2018?

5 A Yes, because she's in that division before and after that

6 timeframe, doing the export office clerk responsibilities.

7 MR. WILSON: So I move for the admission of Employer

8 Exhibit 65.

9 MS. SANCHEZ: We'll offer an objection. These documents

10 are irrelevant they don't state that this person was a labeler,

11 they don't state that this person was a logistics officer clerk

12 or an export officer clerk.

13 JUDGE LAWS: I do just want to ask -- what is Nishimoto

14 Trading Company?

15 THE WITNESS: Nishimoto Trading Company was our old former

16 name.

17 JUDGE LAWS: Okay. When did it change? And I will ask

18 you to guess, here.

19 THE WITNESS: So the process that went through it. It was

20 Nishimoto Trading Company and there was doing business as

21 Wismettac Asian Food and I think that took place around 2014.

22 And officially we filed with the state in 2015, I want to say.

23 And Nishimoto Trading was no longer used and it's now Wismettac

24 Asian Foods, Inc.

25 JUDGE LAWS: All right. I will admit Exhibit 65.

1 **(Employer Exhibit Number 65 Received into Evidence)**
2 JUDGE LAWS: I agree with counsel, there's nothing
3 directly relevant in this document, but it does provide context
4 for the witness's testimony.
5 MR. WILSON: Your Honor, I can ask him one follow-up
6 question.
7 JUDGE LAWS: Okay.
8 Q BY MR. WILSON: Once again, as was the case with previous
9 files, is there some reason why there's nothing in this file as
10 to what the person was doing on February 6, 2018?
11 A I mean, the manager forgot to submit the manager request
12 form.
13 Q Okay. And how long had this employee been with the
14 company, to your knowledge?
15 A Hire date shows, May 8, 2006.
16 MR. WILSON: So it's my understanding, Your Honor, the
17 document's admitted.
18 JUDGE LAWS: Yeah, it is admitted.
19 MR. WILSON: Okay. Can the witness be shown Employer
20 Exhibit 24?
21 Q BY MR. WILSON: And I'm going to show you what's been
22 marked as Employer's Exhibit 66.
23 **(Employer Exhibit Number 66 Marked for Identification)**
24 Q BY MR. WILSON: Now before we talk about Employer Exhibit
25 66, can you read through Employer Exhibit 24?

1 A Yes.
2 Q This refers to what position?
3 A Logistics office clerk.
4 Q And where are those employees located in the facility?
5 A In the warehouse office.
6 Q Is that on the warehouse floor?
7 A Yes.
8 Q Now, this exhibit refers to a Ms. Cheryl Johnston. Can
9 you look at page 1 of 66, where it says, "supporting comment,"
10 and take a second and read through that?
11 A Okay.
12 Q Okay. Can you just give us a brief history of
13 Ms. Johnston's employment?
14 A Ms. Johnston was a temp between June 12, 2017 to March 4,
15 2018, in the capacity of the logistics -- or office clerk
16 working for the warehouse office. And then she was hired on --
17 I'm sorry, there's two. Originally hired -- original hire date
18 with this employee was March 5, 2018. And then she did resign
19 on June 20, 2018 but was rehired again on July 16, 2018.
20 Q Okay. So was she working at the company on February 6,
21 2018?
22 A Yes, she was working as a temp between June 12, 2017 to
23 March 4, 2018.
24 Q And what was her position on February 6, 2018?
25 A The warehouse clerk.

1 Q And is that the same position that's referred to in
2 Employer Exhibit 24?
3 A Yes, we now list it as logistics office clerk.
4 Q Okay. Very good. I move for admission of Employer
5 Exhibit 66.
6 JUDGE LAWS: Any objection?
7 MS. SANCHEZ: No objection, Your Honor.
8 JUDGE LAWS: Employer Exhibit 66 is admitted.
9 **(Employer Exhibit Number 66 Received into Evidence)**
10 **(Employer Exhibit Number 67 Marked for Identification)**
11 Q BY MR. WILSON: So I want to show you what's been marked
12 as Employer Exhibit 67.
13 And who does this exhibit refer to?
14 A This exhibit refers to Ms. Maho Kobayashi.
15 Q Okay. And you still have Employer Exhibit 31, in front of
16 you?
17 A Yes, I do.
18 Q Okay. Now, was she employed at the time of the election
19 on February 6, 2018?
20 A She was hired as a Wismettac employee on May 30, 2018, but
21 she was a temp at this time, record on page 4 -- during that
22 time, yes. February 6, 2018.
23 Q Okay. So let's go to pages 4 and 5 of Exhibit 67; are
24 those her time cards as a temporary employee?
25 A Yes, on the top left it shows employee name, Kobayashi,

1 Maho. Supervisor's name, it says, Yoshie Narimoto, he's the
2 general manager.
3 Q Okay. And how's it you know that on February 6, 2018 she
4 was employed as an expert office clerk?
5 A Because the time shows that from January 22 to February 2
6 she was working and then we eventually converted her to May 30,
7 2018, which means that she continued with employment.
8 MS. SANCHEZ: Objection. No responsive, Your Honor, and
9 also the question assumed facts not in evidence.
10 JUDGE LAWS: I don't see anything showing a conversion, I
11 just seen an offer letter.
12 THE WITNESS: Well, as a temp, a temporary employee
13 working as an agency, and we only issue an offer letter once we
14 convert that person to a Wismettac employee.
15 JUDGE LAWS: Okay.
16 THE WITNESS: And we wouldn't convert if there was a break
17 in employment or they don't show up to work or there's
18 performance issues.
19 Q BY MR. WILSON: Okay. To your knowledge she voted in the
20 election on February 6, 2018, correct?
21 A Yes.
22 Q So is page 1 of Exhibit 67 her offer letter?
23 A Yes.
24 Q Okay. Now that says office clerk?
25 A It says office clerk but she -- if you look at the third

1 paragraph, the manager that she reports to is Mr. Kengo Sawada.
2 He is the international export manager that she reports to, so
3 it's specifically for that international export division.
4 Q Okay.
5 A And the attachment reflects the actual export office
6 clerk's job description, in terms of Exhibit 31.
7 Q And that's page 2 of --
8 A Page 2 of the Exhibit, 67.
9 Q -- 67. Okay.
10 Now, can you go back to page -- excuse me, Employer
11 Exhibit 31? Once again directing your attention to the last
12 bullet point, or next to last bullet point, where it reflects
13 labeling?
14 A Yes.
15 Q Okay. And you testified earlier as it related to
16 Ms. Estrada regarding labeling activities. Okay. Is that also
17 true of Ms. Kobayashi?
18 A Yes.
19 Q Okay.
20 JUDGE LAWS: I'm just going to jump in and ask a question.
21 Do you have personal knowledge as to what Ms. Kobayashi
22 performed -- what work she performed?
23 THE WITNESS: Yes, she works, physically, in the office of
24 the international export. I've talked to her in that office
25 and I know that office handles that internal export division.

1 JUDGE LAWS: Have you observed her during her work?
2 THE WITNESS: I've worked through the floor. I've seen
3 her do labeling. I've seen her do the work, but I haven't been
4 spending a hundred percent of my time sitting next to her.
5 JUDGE LAWS: Okay. And there was an objection. Is there
6 anything else counsel for the Union wants to add?
7 MS. SANCHEZ: Thank you, Your Honor. The Union would
8 further object that this document is irrelevant. It doesn't
9 relate or speak to any of the challenge categories.
10 JUDGE LAWS: And I will admit Employer Exhibit 67.
11 **(Employer Exhibit Number 67 Received into Evidence)**
12 MS. SANCHEZ: Your Honor, may we go off the record for a
13 brief moment? I believe that -- well, we can stay on if you
14 like, the Employer's counsel and the Union discussed a possible
15 stipulation and I believe we are reaching an employee that we
16 may be able to stipulate to. And I apologize that we didn't
17 discuss this before, but it might speed up the hearing.
18 JUDGE LAWS: If it's one employee it's going to be just as
19 quick to walk through the testimony. If it's multiple
20 employees I'm willing to entertain --
21 MS. SANCHEZ: It's three.
22 JUDGE LAWS: -- a stipulation that will avoid us having to
23 keep doing this over and over again. But if it's just once,
24 it's not going to save any time.
25 MS. SANCHEZ: It's three, Your Honor, so --

1 MR. WILSON: Well, what would the stipulation be?
2 MS. SANCHEZ: What we discussed this morning and what part
3 two of your email said, yesterday, late afternoon, which was
4 that the Union would stipulate that those three employees held
5 that position of logistics office at the time of the election,
6 February 6, 2018. Not that those categories share a community
7 of interest, but just that those three people did hold that
8 position.
9 MR. WILSON: Okay. So we'll just --
10 MS. SANCHEZ: And you had suggested in your email that we
11 then still litigate whether all of the other people held that
12 position.
13 MR. WILSON: I just want to make sure we're all clear on
14 this. So logistics office work is one of the four disputed
15 categories of others permitted to vote, correct?
16 MS. SANCHEZ: Correct.
17 JUDGE LAWS: You know what, let's just move forward with
18 the testimony.
19 MS. SANCHEZ: Okay.
20 JUDGE LAWS: If it's just three employees, we've spent
21 almost as much time as it would have taken to go through one.
22 I do prefer stipulations, but I don't prefer to interrupt
23 testimony for them. I prefer for them to be done prior to the
24 relevant testimony.
25 Q BY MR. WILSON: So I want to show you what's marked as

1 Employer Exhibit 69.
2 JUDGE LAWS: 68?
3 MR. WILSON: Your Honor, we had one out of order, we'll go
4 back to that, I apologize.
5 Q BY MR. WILSON: I'm showing you what's marked as Employer
6 Exhibit 68.
7 **(Employer Exhibit Number 68 Marked for Identification)**
8 Q BY MR. WILSON: And who does this exhibit refer to?
9 A This is for Ms. Sachie Liu.
10 MR. WILSON: Okay. And can the court reporter show the
11 witness, Employer Exhibit 34?
12 Q BY MR. WILSON: Okay. Can you take a look at that?
13 A Yes.
14 Q Okay. So back to Exhibit 68, can you explain the
15 employment status of Ms. Sachie Liu?
16 A Ms. Sachie Liu is currently employed. Her job title is
17 sales assistant and she works for the institutional customer
18 division.
19 Q Now, is that the job referred to in Employer Exhibit 34?
20 A Yes.
21 Q Okay. Now, can we tell by looking at her time card,
22 excuse me, at Exhibit 68 as to what duty she was performing on
23 February 6, 2018?
24 A I mean, the only thing that I see is the offer letter
25 showing office clerk for MBD. We don't have that division. On

1 page 4 of the thing, her time card, it shows that the
2 supervisor, Mr. Kazutaka Sato, he's actually one of the
3 managers for the institutional customer division.
4 Q Do you have independent knowledge that she was employed on
5 February 6, 2018?
6 A Yes, she was.
7 Q Okay. In what position?
8 A As the sales assistant for institutional customer
9 division?
10 Q Okay. And how do you know that?
11 A Based on the time card. Also, observing her in the first
12 floor working with Mr. Sato.
13 MR. WILSON: I move for admission for Employer 68.
14 JUDGE LAWS: Okay. Any objection? And before -- I'm
15 going to ask a question, actually, beforehand.
16 Does Mr. Sato supervise any other categories of employees?
17 THE WITNESS: Yes.
18 JUDGE LAWS: Who else, if you recall?
19 THE WITNESS: I want to say it's Wakako Park.
20 JUDGE LAWS: But what other job categories?
21 THE WITNESS: Oh, so sales associates.
22 JUDGE LAWS: Okay. Thank you.
23 MR. WILSON: And then --
24 JUDGE LAWS: Well, hold on. I turned things over for
25 objection.

1 MS. SANCHEZ: Yes, thank you, Your Honor. The Union
2 offers a relevance objection. It's the same objection we
3 offered before with regard to these documents don't speak to
4 any of the challenged categories.
5 JUDGE LAWS: And I will admit Employer 68.
6 **(Employer Exhibit Number 68 Received into Evidence)**
7 JUDGE LAWS: So the objection's overruled.
8 Q BY MR. WILSON: And, Mr. Fujimoto, just to follow up to
9 Exhibit 68, the same issue as it's been with other files, do
10 you know why there's nothing in Employer Exhibit 68,
11 indicating what duties this employee was performing on February
12 6, 2018?
13 A We don't get the manager request form indicating her
14 position at the time.
15 Q And how long has she been at the company, roughly, if you
16 know?
17 A Well, her offer letter shows that she started August 2,
18 2010. However, she also was a previous employee at our Hawaii
19 branch prior to that, I just don't when that original hire date
20 is.
21 Q Okay.
22 **(Employer Exhibit Number 69 Marked for Identification)**
23 Q BY MR. WILSON: Mr. Fujimoto, I want to show you what has
24 been marked as Employer Exhibit 69.
25 MS. SANCHEZ: Is there something you're waiting for?

1 JUDGE LAWS: We're not going to be answering the door
2 during testimony.
3 MR. WILSON: Oh, no? Okay. I didn't know. I'm sorry. I
4 was outside. I was going to be polite and let the person in.
5 No, I'm not expecting anyone.
6 Q BY MR. WILSON: So, Mr. Fujimoto, which employee does
7 Exhibit 69 refer to?
8 A Ms. Fumi Meza.
9 Q Okay. And to your knowledge what is Ms. Meza's current job
10 title?
11 A Her job title is GPO export clerk.
12 Q Now, do you have Exhibit 31 in front of you?
13 A Yes.
14 Q Okay. Is that the job position she currently holds?
15 A No, this is the international export division, she does
16 the GPO export clerk.
17 Q Okay.
18 JUDGE LAWS: I don't think we need to belabor finding it.
19 You looked at that position description yesterday.
20 Does she do something different than what that position
21 description says? For the job you just said, does she do
22 anything other than what's indicated in the job description for
23 that position?
24 THE WITNESS: Sorry, I don't understand what --
25 JUDGE LAWS: You just said her title?

1 THE WITNESS: Yeah.
2 JUDGE LAWS: Does her title match the position description
3 for that title?
4 THE WITNESS: This exhibit?
5 JUDGE LAWS: No.
6 THE WITNESS: No.
7 JUDGE LAWS: Just what she does, in her job?
8 Never mind, let's just go through it your way.
9 Q BY MR. WILSON: Okay. So we put the wrong job
10 description, obviously.
11 A Yeah.
12 Q In referencing her -- what does she actually do?
13 A She does GPO export clerk.
14 Q Her job title is export clerk?
15 A Yes.
16 JUDGE LAWS: I don't think we need to cross-reference it
17 with a description.
18 MR. WILSON: No, no.
19 JUDGE LAWS: Unless there's something different that
20 you're going to point out that she does, other than what's
21 already in evidence.
22 MR. WILSON: Okay. And I'll just represent that that's
23 Exhibit 36.
24 JUDGE LAWS: Okay.
25 MR. WILSON: That's all I wanted to get in.

1 Q BY MR. WILSON: And was she employed on February 6, 2018?
2 A Yes.
3 Q And going through Employer Exhibit 69, is there any way to
4 tell what her job duties were on February 6, 2018?
5 A No.
6 Q Okay. And why is that?
7 A Because we never received a request or the form to update
8 her job title.
9 Q Okay. But you have knowledge that on February 6, 2018 she
10 was performing as an export officer?
11 MS. SANCHEZ: Objection. Leading.
12 JUDGE LAWS: Well, he already said that; how do you know?
13 THE WITNESS: I know because I talked to her. I drive
14 with her throughout my years of employment.
15 MR. WILSON: All right. I move for admission of Employer
16 Exhibit 36 -- not 36, excuse me.
17 JUDGE LAWS: 69. Any objection?
18 MS. SANCHEZ: Yes, Your Honor, we're going to object to
19 the relevance of these documents.
20 JUDGE LAWS: And I agree that in and of themselves they
21 are not relevant because they don't speak to the time period
22 that I'm dealing with; however, they provide context for
23 Mr. Fujimoto's testimony, so I will admit them for what they're
24 worth.
25 **(Employer Exhibit Number 69 Received into Evidence)**

1 MR. WILSON: And can the court reporter please show,
2 Mr. Fujimoto, Employer Exhibit 34?
3 THE WITNESS: I have that.
4 MR. WILSON: Oh, you have that. Okay.
5 **(Employer Exhibit Number 70 Marked for Identification)**
6 Q BY MR. WILSON: I want to show you what's marked as
7 Employer Exhibit 70.
8 And who does the Employer Exhibit 70 refer to?
9 A Ms. Kristie Mizobe.
10 Q And what is her position at the company?
11 A She is a sales assistant for our institutional customer
12 division.
13 Q Okay. And was she employed at the company on February 8,
14 2018?
15 A Yes.
16 Q And in what position was she employed in?
17 A Sales assistant.
18 Q Okay. And is that the job referenced in Employer Exhibit
19 34?
20 A Yes, it is.
21 MR. WILSON: I move for admission of Employer Exhibit 70.
22 JUDGE LAWS: And I just want to ask a question in line
23 with what I've asked you before, on page 5, who's the
24 supervisor?
25 THE WITNESS: That is Mr. Shuzo Hosoma; he's another

1 manager for the institutional customer division.
2 JUDGE LAWS: And what types of employees does he
3 supervise?
4 THE WITNESS: Sales assistants and also sales associates.
5 JUDGE LAWS: Thank you. Any objection?
6 MS. SANCHEZ: No, I have no objection to it, Your Honor.
7 JUDGE LAWS: Okay. I'm going to admit Employer Exhibit
8 70.
9 **(Employer Exhibit Number 70 Received into Evidence)**
10 MR. WILSON: Can the court reporter had the witness
11 Exhibit 36 -- Employer Exhibit 36?
12 **(Employer Exhibit Number 71 Marked for Identification)**
13 Q BY MR. WILSON: I want to show you what's been marked as
14 Employer Exhibit 71.
15 And before you look at Employer Exhibit 71, can you take a
16 look at Employer Exhibit 36?
17 A Okay.
18 Q Okay. And who does Employer Exhibit 71 refer to?
19 A This is Ms. Steffanie Mizobe.
20 Q Is she related to Kristie Mizobe?
21 A Yes, they are sisters.
22 Q And can you take a look at page 1 of Employer 71?
23 A Yes.
24 Q Okay. So can you give me just a quick summary of her
25 employment at the company in 2018?

1 A Well, in 2018, Ms. Steffanie Mizobe was the exports -- GPO
2 exports clerk. And then April 17, 2018, her position changed
3 to GPO central purchase clerk.
4 Q Okay. And is GPO export clerk the same job description
5 that's described in Employer Exhibit 36?
6 A Yes.
7 Q Okay. And was she employed on February 6, 2018?
8 A Yes, she was.
9 Q And what was her position on February 6, 2018?
10 A GPO export clerk.
11 Q As described in Employer 36?
12 A Yes.
13 Q I move for admission of Employer 71?
14 JUDGE LAWS: Any objection?
15 MS. SANCHEZ: I'd like to voir dire, Your Honor?
16 JUDGE LAWS: Okay.
17 **VOIR DIRE**
18 Q BY MS. SANCHEZ: Mr. Fujimoto, on page 1 of Employer
19 Exhibit 71, down towards the bottom, under, "supporting
20 comment."
21 A Uh-huh.
22 Q There's a reference to, "item master," what is -- is that
23 a position?
24 A No, it's just a list of all of our items that we have for
25 our company.

1 Q What kind of list?
2 A All the products. From agricultural, confectionary,
3 seafood, dry can, it's just an item master.
4 Q And that list is kept on the Employer computer system or
5 electronically, rather?
6 A Electronically.
7 Q Okay. The Union will offer a relevance objection. GPO
8 export clerk is not an included or challenged category, Your
9 Honor.
10 JUDGE LAWS: And I will overrule that and admit Employer
11 Exhibit 71.
12 **(Employer Exhibit Number 71 Received into Evidence)**
13 **DIRECT EXAMINATION (RESUMED)**
14 Q BY MR. WILSON: Okay. Mr. Fujimoto --
15 MR. WILSON: Oh, excuse me, can the court reporter show
16 the witness, Exhibit 38?
17 **(Employer Exhibit Number 72 Marked for Identification)**
18 Q Okay. I'll show you what is marked as Employer Exhibit
19 72.
20 Before we talk about Employer Exhibit 72, can you read
21 through Employer Exhibit 38?
22 A Okay.
23 Q Now, who does this, Employer Exhibit 72, refer to?
24 A This is for Mr. Shuji Ohta.
25 Q And was Mr. Ohta employed on February 6, 2018?

1 A Yes, he was.
2 Q Okay. And do you know his position on February 6, 2018?
3 A His position was purchasing clerk.
4 JUDGE LAWS: And how do you know that?
5 THE WITNESS: This MRF on the front page shows that --
6 well, it says, "branch purchasing clerk." They made a
7 mistake -- well, most likely the manager made a mistake and
8 they didn't annotate that in the new job title, which is
9 supposed to be indicated in the first checkbox, I would say.
10 But on the top, it says purchasing clerk. They listed a
11 job title where it should be branch and department.
12 Q BY MR. WILSON: So is it your testimony then that on
13 February 6, 2018 Mr. Ohta --
14 JUDGE LAWS: Your leading up to a leading question. So
15 let's ask open-ended please?
16 MR. WILSON: All right.
17 Q BY MR. WILSON: Mr. Fujimoto, just so we're clear, on
18 February 6, 2018, what position was Mr. Shuji Ohta employed in
19 at the company?
20 A Purchasing clerk.
21 Q Okay. And is that the same job description -- or the same
22 job that's described in Employer Exhibit 38?
23 MS. SANCHEZ: Objection. Leading.
24 JUDGE LAWS: Overruled. I mean, it would be better if he
25 wasn't initially shown the description and asked to say what

1 the job was and then shown it later.
2 MR. WILSON: Okay.
3 JUDGE LAWS: But I -- can you do anything different than
4 what's in Exhibit 38?
5 THE WITNESS: No.
6 MR. WILSON: Move for admission of Employer Exhibit 72?
7 MS. SANCHEZ: Objection.
8 JUDGE LAWS: And before I turn things over to objections,
9 I just want to go to -- similar to what I've done before, to
10 page 7, and ask you who Susan Sands is?
11 THE WITNESS: Susan Sands is our Los Angeles assistant
12 operation manager.
13 JUDGE LAWS: And that's a broad title. I assume -- does
14 she have supervisors who work below her?
15 THE WITNESS: She has one supervisor, yes. A purchasing
16 supervisor.
17 JUDGE LAWS: Okay. And who's that person?
18 THE WITNESS: Mayumi Misawa.
19 JUDGE LAWS: Thank you. Is there any objection?
20 MS. SANCHEZ: I'd like to voir dire?
21 JUDGE LAWS: Okay.
22 **VOIR DIRE**
23 Q BY MS. SANCHEZ: First, I didn't catch that last name?
24 A Mayumi is her first name. Misawa is her last name.
25 Q And who else does Mayumi Misawa supervise? Other

1 categories of employees?
2 A Just the purchasing clerk.
3 Q On the first page, where it says, "branch department, Los
4 Angeles." You said, most likely, the manager made a mistake.
5 Did you have a direct conversation with the manager that you're
6 referring to?
7 A No.
8 Q What manager are you referring to?
9 A The manager that initiated, which is the first signature,
10 Shoichi Kaku.
11 Q Okay. So you did not have any conversation with Shoichi
12 Kaku?
13 A No.
14 MS. SANCHEZ: The Union is going to object to the
15 relevance of this document and also note that it lacks
16 foundation.
17 JUDGE LAWS: And I will overrule that and admit Employer
18 Exhibit 72.
19 **(Employer Exhibit Number 72 Received into Evidence)**
20 **(Employer Exhibit Number 73 Marked for Identification)**
21 **DIRECT EXAMINATION (RESUMED)**
22 Q BY MR. WILSON: I'm going to show you what's been marked
23 as Employer Exhibit 73.
24 JUDGE LAWS: I guess I am going to jump in here and
25 wonder -- is there any significance to his 2014 tests? I

1 cannot imagine in what world I would be evaluating that for
2 this case?
3 MR. WILSON: Only, Your Honor that those are tasks given
4 to warehouse workers to operate equipment and so --
5 JUDGE LAWS: As long as -- go ahead and -- is there any
6 dispute as to that?
7 MS. SANCHEZ: The Union, Your Honor, thank you. The Union
8 actually believes these documents, related to tests provided to
9 warehouse employees, are relevant to the community of interest
10 question.
11 JUDGE LAWS: All right. Let's just proceed as we have
12 been, then.
13 Q BY MR. WILSON: Okay. Can the court reporter put Exhibit
14 27 in front of the Employer?
15 JUDGE LAWS: But I'm going to ask in front of the witness,
16 but I'm going to ask him to -- I want the witness questioned
17 about the document without having first reviewed a preordained
18 position description. I just think that's better testimony and
19 it's much less leading.
20 MR. WILSON: Okay. Sorry, Your Honor.
21 Q BY MR. WILSON: So can you take a look at Employer 73,
22 Mr. Fujimoto?
23 A Yes.
24 Q And it's several pages long, go ahead and flip through it?
25 Okay. And this refers to which employee?

1 A Mr. Suguru Onaka.
2 Q Okay. Now, can you tell us just a quick summary, to the
3 best of your understanding, of his employment leading up to the
4 election in 2006?
5 A Yes, Mr. Onaka was hired as a warehouse worker, December
6 5, 2014. However, I'm not sure of the exact date, but at the
7 time of the election he was a logistics office clerk. He
8 actually sits in the warehouse office.
9 Q Okay. Now, there's --
10 JUDGE LAWS: And how do you know that?
11 THE WITNESS: Because I've talked to him in the warehouse
12 office on several occasions.
13 JUDGE LAWS: Thank you.
14 Q BY MR. WILSON: Okay. But prior to that, he was a
15 warehouse worker?
16 A Yes.
17 Q Would you consider a warehouse worker to be a warehouse
18 employee?
19 A Yes.
20 Q Okay. So do you have Employer Exhibit 17? I showed that
21 to you a long time ago?
22 A Yes.
23 Q So we've already agreed Employer Exhibit 17 was a summary
24 of the jobs that were imported, exported and subject to
25 challenge?

1 A Uh-huh.
2 Q At the bottom of page 1, of Employer 17, can you read
3 through the employees in the included category?
4 A All full time?
5 JUDGE LAWS: Just read it to yourself.
6 MR. WILSON: Read it to yourself.
7 THE WITNESS: Okay.
8 Q BY MR. WILSON: Does it include warehouse employees?
9 A Yes.
10 Q And to your knowledge has Mr. Onaka stayed employed
11 consistently with the company since 2014?
12 A Yes.
13 Q And to your knowledge is that entire time spent working in
14 the warehouse?
15 A Yes.
16 Q And why do you believe -- or, excuse me, do you believe or
17 ask -- what I'm asking -- so just to be clear, what duties was
18 he performing on February 6th, 2018?
19 A Logistics office clerk.
20 Q Okay. Is there anything in Exhibit 73 indicating when he
21 may have changed from warehouse worker to logistics office
22 clerk?
23 A No.
24 Q Okay. But that's still your understanding what his
25 employment was at the time of the election?

1 A Yes.
2 Q Okay.
3 MR. WILSON: I would move for the admission of Employer
4 Exhibit 73.
5 JUDGE LAWS: Okay. Any objection?
6 MS. SANCHEZ: I'd like to voir dire, Your Honor.
7 JUDGE LAWS: Okay.
8 **VOIR DIRE**
9 Q BY MS. SANCHEZ: Mr. Fujimoto, on page 4 of Employer
10 Exhibit 73, can you take a look at this document?
11 A Yes.
12 Q This is a document that's kept in the regular course of
13 business at Wismettac, correct?
14 A Yes.
15 Q And if you look on the left-hand side -- left-hand column,
16 four down, it says, "EEO category," and then the next column it
17 says, "Laborers and helpers"; do you see that?
18 A Yes.
19 Q Laborers and helpers is a category that the Employer puts
20 in this column; is that correct?
21 A It's tied to the job title. Yeah.
22 Q It's tied to the job? Okay. It's tied to the job --
23 A Of warehouse worker.
24 Q -- okay. To the job classification then?
25 A Yes.

1 Q Okay. And then, if you go back to -- a couple pages to
2 page 6, where you get to the Mishimoto powered industrial truck
3 all sheet (phonetic), do you see that?
4 A Yes.
5 Q Can you tell me, under the second column, I see a PJ and
6 an FK. PJ refers to pallet jack; is that correct?
7 A I don't know.
8 Q And FK refers to fork lift, right?
9 A I don't know.
10 Q Okay. And if you turn the next page, to page 7, there's
11 also another reference to PJ, is that pallet jack?
12 A I don't know.
13 Q Do you know if pallet jack is the same as powered
14 industrial truck?
15 A No, I don't know.
16 Q You don't know. So this is driving test, do you know what
17 kind of driving test this is referring to?
18 JUDGE LAWS: Well, we're getting a little beyond voir dire
19 here.
20 MS. SANCHEZ: Sorry.
21 JUDGE LAWS: And getting more into --
22 MS. SANCHEZ: I was just trying to understand the
23 document.
24 JUDGE LAWS: Okay.
25 MS. SANCHEZ: No further questions, Your Honor. No

1 objection.

2 JUDGE LAWS: Okay. Employer Exhibit 73 is admitted.

3 **(Employer Exhibit Number 73 Received into Evidence)**

4 MR. WILSON: Thank you.

5 **(Employer Exhibit Number 74 Marked for Identification)**

6 **DIRECT EXAMINATION (RESUMED)**

7 Q BY MR. WILSON: So Mr. Fujimoto, I want to show you what's

8 marked as Employer Exhibit 74. And who does this job -- or

9 excuse me, this exhibit refer to?

10 A This is for Ms. Wakako Park.

11 Q Okay. And can you read through Exhibit 74, pages 1

12 through 9?

13 A Okay.

14 Q Okay. And I'd like to direct your attention, in

15 particular, to page 4 of Exhibit 74.

16 A Okay.

17 Q So can you read that for a second and then I'll ask you a

18 question?

19 A Okay.

20 Q So can you just give us a quick summary of Wakako Park's

21 employment?

22 A Wakako Park was hired as a GPO central purchase clerk.

23 But on July 24th, 2017, she changed to a sales assistant for

24 our institutional customer division.

25 Q Okay. And can the -- I believe you have in front of you

1 Employer 30 -- Exhibit 34 in that stack?
2 A Yes, I do.
3 Q Okay. You can look at it now.
4 MS. SANCHEZ: I'm going to object. This is the same kind
5 of line of questioning that's been leading where the -- he's
6 shown the position first, and then asked if it's the same thing
7 as sales --
8 MR. WILSON: It was the other way around.
9 JUDGE LAWS: It was the other way around.
10 MS. SANCHEZ: It was -- okay.
11 JUDGE LAWS: He did identify the position. And so now
12 he's being asked to confirm or say --
13 MS. SANCHEZ: Okay.
14 JUDGE LAWS: -- whether it's something different than
15 what's on that sheet. So I didn't like being initially shown
16 before being asked any questions, but he answered before he was
17 directed to the document. So proceed.
18 Q BY MR. WILSON: So on February 6th, 2018, what job duties
19 was is it Ms. Or Mrs. Park performing?
20 A I don't know if she's married, but Ms. Wakako Park was a
21 sales assistant for our institutional customer division.
22 Q Okay. On the date of the election?
23 A Yes.
24 Q Okay. And that's -- those duties are in Employer Exhibit
25 34?

1 A Yes, it is.

2 MR. WILSON: Okay. I move for the admission of Exhibit

3 74.

4 JUDGE LAWS: Okay. Any objection?

5 MS. SANCHEZ: Your Honor, I -- one second. I would like to

6 voir dire.

7 JUDGE LAWS: Okay.

8 **VOIR DIRE**

9 Q BY MS. SANCHEZ: Mr. Fujimoto, where does it show that

10 Ms. Park was working in that position on the date of the last

11 election?

12 A Well, the MRF, on page 4, shows that her title or position

13 change on July 24th for the ICD division. And then on her time

14 card, it shows that the same supervisor, Mr. Sato Kazutaka, was

15 her manager. And then, also, under department, which is

16 SW4500, that's our ice -- institutional customer division

17 department code.

18 Q Let me stop you there. Where is FW4500?

19 A On page 8.

20 Q Oh, in the column to the right.

21 A Yeah. Page 8, in the column to the -- second to the

22 right, I guess, it says SW -- FW4500.

23 Q Tell me what that department code is again?

24 A FW4500 is our institutional customer division.

25 Q And the supervisor, Kazutaka?

1 A Yes. Or he's the sales director for that division.
2 Q And so he's supervises sales employees?
3 A Sales employees as well as sales assistants.
4 Q Sales assistants. And so you're speculating that because
5 of the code that this employee was working in the position of
6 sales associate on February 6th, 2018, correct?
7 MR. WILSON: Objection. Argumentative.
8 JUDGE LAWS: Yeah. And -- I'll overrule. Did you know
9 her? And did you --
10 THE WITNESS: Yes, I know her. And then I know that she
11 sits in the same room with Mr. Sato doing the duties of an
12 institutional customer division.
13 JUDGE LAWS: Thank you.
14 MS. SANCHEZ: The Union will offer relevance objection.
15 JUDGE LAWS: All right. And I will overrule and admit
16 Employer Exhibit 74.
17 **(Employer Exhibit Number 74 Received into Evidence)**
18 **DIRECT EXAMINATION (RESUMED)**
19 Q BY MR. WILSON: Okay. So I want to show you what is going
20 to be marked as Employer Exhibit 75.
21 **(Employer Exhibit Number 75 Marked for Identification)**
22 JUDGE LAWS: Thank you.
23 Q BY MR. WILSON: And who does this employer -- which
24 employee does the Employer Exhibit 75 refer to?
25 A This is for Mr. Domingo Pliego.

1 Q Okay. Now let me ask you about this it says temporary
2 employee information sheet. Is that a document that you use
3 for temporary employees?
4 A Yes. Whenever we bring in a temporary employee, we have
5 the temporary employee fill out this form, so they annotate who
6 they are. And they will list an emergency contact, so we know
7 who to contact just in case something were to happen. And
8 then, on the very bottom, the manager will fill out their temp
9 start date, the agency, as well as the position that they work
10 in.
11 Q Okay. And whose responsibility is it to get this form
12 filled out?
13 A The manager.
14 Q What does the manager do with it after it's filled out?
15 A The manager will then forward that over to HR. And with
16 this information, we will upload it into our system, our ADP
17 system.
18 Q Has there been occasions where managers did not fill out
19 the temporary information sheet on Employer Exhibit 75?
20 MS. SANCHEZ: Objection. Leading.
21 JUDGE LAWS: Overruled.
22 THE WITNESS: Yes.
23 Q BY MR. WILSON: And what -- how does that happen, do you
24 know?
25 A They just forget to submit it or have temporary employee

1 fill it out.
2 Q Okay. So is it possible that there are temporary
3 employees working there let's say February 6th, 2018, who the
4 temporary employee information sheet was not filled out?
5 MS. SANCHEZ: Objection. Leading.
6 JUDGE LAWS: Overruled.
7 THE WITNESS: Yes.
8 JUDGE LAWS: You can --
9 MR. WILSON: All right. So I move for the admission --
10 okay -- strike that.
11 Q BY MR. WILSON: And just so I'm clear, on February 6th,
12 2018, what job was being filled by Mr. Pliego?
13 A Food safety coordinator.
14 Q Okay. And is that the job description you testified about
15 yesterday?
16 A Not yesterday, but Monday.
17 Q Monday, I'm sorry.
18 A Yes.
19 Q And I'll represent that was Exhibit 39. Okay.
20 MR. WILSON: Move for admission of Exhibit 75.
21 JUDGE LAWS: Okay. Any objection?
22 MS. SANCHEZ: Yes, Your Honor. Food safety coordinator is
23 not a challenge ballot category. We're going to offer
24 relevance objection. And this witness has no personal
25 knowledge as to the facts contained in this document.

1 JUDGE LAWS: Did you know this employee?
2 THE WITNESS: Yes. Domingo, I do.
3 JUDGE LAWS: Okay. And do you know what his job was back
4 in February of 2018?
5 THE WITNESS: Yes. Food safety coordinator. He sat in
6 the warehouse office.
7 JUDGE LAWS: Did you observe him do that position/
8 THE WITNESS: I've observed him, but not a hundred percent
9 of my time.
10 JUDGE LAWS: Yes. Understood.
11 THE WITNESS: Yeah.
12 JUDGE LAWS: But from what you observed, did you know what
13 his position was?
14 THE WITNESS: Yes.
15 JUDGE LAWS: Okay. All right. I will admit Employer
16 Exhibit 75.
17 **(Employer Exhibit Number 75 Received into Evidence)**
18 **(Employer Exhibit Number 76 Marked for Identification)**
19 Q BY MR. WILSON: Okay. Next, I want to show you what's
20 been marked as Employer 76. And who does this employer --
21 which employee does Employer Exhibit 76 refer to?
22 A Mr. Mamoru Tagai.
23 Q Okay. And I want to direct your attention to page 11 of
24 Employer 76. Okay. And can you tell me what that document is?
25 A This is an offer letter offering Mr. Tagai the warehouse

1 clerk position at the LA office.
2 Q Okay. And was he still in that position on February 6th,
3 2018?
4 A The title has changed to logistics office clerk, but
5 they're the same position. Just --
6 Q Okay.
7 A -- the job titles changed.
8 Q So -- and logistics office clerk you have in front of you
9 as an exhibit. I believe it's Employer Exhibit 24.
10 A Yes.
11 Q It's in the stack. Yeah. Okay. So what duties was
12 Mr. -- get his name right -- Tagai performing on February 6th,
13 2018?
14 A Logistics office clerk.
15 Q Okay.
16 MR. WILSON: Okay. I would move for the admission of
17 Exhibit 76.
18 JUDGE LAWS: Okay. Any objection?
19 MS. SANCHEZ: No objection, Your Honor.
20 JUDGE LAWS: All right. Employer Exhibit 76 is admitted.
21 **(Employer Exhibit Number 76 Received into Evidence)**
22 **(Employer Exhibit Number 77 Marked for Identification)**
23 Q BY MR. WILSON: Okay. I want to show you what's marked as
24 Employer Exhibit 77.
25 And Mr. Fujimoto, which employee does Employer Exhibit 77

1 refer to?
2 A Ms. Keiko Takeda.
3 Q Okay. And it appears from looking at page 1 of Employer
4 Exhibit 77, she left the company?
5 A Yes.
6 Q Okay. And do you know her position at the time she left
7 the company?
8 A Purchasing clerk.
9 Q Okay. And was she employed on -- or excuse me. Can I
10 direct your attention to page 3 of Exhibit 77?
11 A Yes.
12 Q Okay. And can you tell me what position she was hired
13 into?
14 A Purchasing clerk.
15 Q Okay. And what's the date on that?
16 A November 13th, 2017.
17 Q Okay. And was she employed at the time of the election, on
18 February 6th, 2018?
19 A Yes, she was.
20 Q In what position?
21 A Purchasing clerk.
22 Q Okay. And purchasing clerk is the same job description
23 referred to as Employer Exhibit 38, which should be in your
24 stack?
25 A Yes.

1 Q Okay.

2 MR. WILSON: Move for admission of Employer Exhibit 77.

3 JUDGE LAWS: Okay. Any objection?

4 MS. SANCHEZ: I'd like to voir dire, Your Honor.

5 JUDGE LAWS: Okay.

6 **VOIR DIRE**

7 Q BY MS. SANCHEZ: Mr. Fujimoto, on page 2 of this exhibit,

8 exhibit -- Employer's Exhibit 77, I see on the top left, branch

9 department. What does LOS branch refer to?

10 A Los Angeles branch.

11 Q Oh, thank you. And page -- the last -- second to last

12 page of this document is the time card. Can you take a look at

13 that?

14 A Yes.

15 Q Department code, LA5500 is what, again?

16 A It is our operations office. LA means Los Angeles.

17 Q Thank you.

18 MS. SANCHEZ: Your Honor, the Union will offer a relevance

19 objection to this document. It doesn't refer to any of the

20 challenge ballot categories.

21 JUDGE LAWS: Okay. And I will overrule and admit Employer

22 Exhibit 77.

23 **(Employer Exhibit Number 77 Received into Evidence)**

24 **(Employer Exhibit Number 78 Marked for Identification)**

25 ///

1 **DIRECT EXAMINATION (RESUMED)**

2 Q BY MR. WILSON: Mr. Fujimoto, I want to show you what's
3 been marked as Employer Exhibit 78.
4 JUDGE LAWS: Oh, I have two. Here you go.
5 Q BY MR. WILSON: So who does this -- who -- which employee
6 does Employer Exhibit 78 refer to?
7 A Ms. Stacy Umemoto.
8 Q Okay. And was Ms. Umemoto employed on February 6th, 2018?
9 A Yes, she was.
10 Q And in what position?
11 A Purchasing clerk.
12 Q Okay. And can you go to page 2 and 3 of 2000 -- or excuse
13 me, of Exhibit 78?
14 A Okay.
15 Q Okay. What are those documents?
16 A These two pages are her offer letter extending an offer of
17 purchasing clerk, which she started on January 3rd, 2012.
18 Q Okay. And she's remained in that position?
19 A Yes.
20 Q Okay. And is purchasing clerk -- the job, purchasing
21 clerk, as performed by Ms. Umemoto the same that's described in
22 Employer 38, which you should have in front of you?
23 A Yes.
24 Q Okay.
25 MR. WILSON: Move for the admission of Employer's 78.

1 JUDGE LAWS: Okay. Any objection?
2 MS. SANCHEZ: Yes, Your Honor. Same objection as last
3 time.
4 JUDGE LAWS: Relevance. All right. And I will admit
5 Employer Exhibit 78.
6 **(Employer Exhibit Number 78 Received into Evidence)**
7 **(Employer Exhibit Number 79 Marked for Identification)**
8 Q BY MR. WILSON: So I want to show you what's been marked
9 as Employer 79.
10 And who does Employer -- which employee does Employer
11 Exhibit 79 refer to?
12 A This is for Ms. Karen Mariko Yamamoto.
13 Q Okay. And was she employed at the time of the election?
14 A Yes, she was.
15 Q In what -- and I'm referring to February 6th, 2018?
16 A Yes.
17 Q Okay. And in what position was she employed in?
18 A She was the export sales assistant for our international
19 export division.
20 Q Okay. And looking at page 1 of Exhibit 79, it appears she
21 has left the company?
22 A Yes.
23 Q Okay.
24 A As of April 6th, 2018.
25 Q But in terms of her duties on February 6th, 2018, do you

1 have Employer 35 in front of you?
2 A No, I don't.
3 Q Okay.
4 MR. WILSON: Can the hearing -- excuse me, the court
5 reporter show the witness Employer Exhibit 35?
6 Q BY MR. WILSON: Can you take a look at that?
7 A Okay.
8 Q So were her job duties on February 6th, 2018 the same as
9 are reflected in Employer Exhibit 35?
10 A Yes.
11 Q Okay. Move for admission of Employer Exhibit 79.
12 MS. SANCHEZ: I'd like to voir dire.
13 JUDGE LAWS: Okay.
14 MS. SANCHEZ: Thank you, Your Honor.
15 **VOIR DIRE**
16 Q BY MS. SANCHEZ: Mr. Fujimoto, on page 3 of this exhibit,
17 Employer Exhibit 79?
18 A Yes.
19 Q I see on the top left, requested by Kengo Sawada?
20 A Yes.
21 Q Can you tell me who that person is?
22 A He is the senior manager of the international export
23 division.
24 Q And the document seems to -- I can't tell if there was
25 writing where it's -- below there where it says immediate

1 supervisor. Do you know if this document originally had
2 information listed here?
3 A Yes. The MRF has a -- it's a general template that all
4 manager uses, and it just lists the supervisor's name, type of
5 allowance. It's just words to help them fill out this form.
6 Q So I'm -- I guess my question was, whether there was a
7 name listed under immediate supervisor that I just can't see or
8 not?
9 A No, it just says the template, which is name of supervisor
10 and title.
11 Q Okay. So that --
12 A Yeah.
13 Q -- oh, I see. I understand. So nothing was added to
14 that --
15 A No.
16 Q -- template is what you're saying? Okay.
17 MS. SANCHEZ: Your Honor, the Union would offer a
18 relevance objection along the same lines as our last one.
19 JUDGE LAWS: Okay. And I will -- it will be overruled as
20 were the last. Employer Exhibit 79 is admitted.
21 **(Employer Exhibit Number 79 Received into Evidence)**
22 **(Employer Exhibit Number 80 Marked for Identification)**
23 **DIRECT EXAMINATION (RESUMED)**
24 Q BY MR. WILSON: I'll show you what's been marked as
25 Exhibit -- Employer Exhibit 80.

1 A I got it.
2 Q You have it. Yeah. Okay.
3 And so, Mr. Fujimoto, just a few more of these here. Who
4 does Employer Exhibit 80 refer to?
5 A Ms. Chiaki Yamashita.
6 Q Okay. And was she employed on February 6th, 2018?
7 A Yes, she was.
8 Q And what was her position at that time?
9 A GPO export clerk.
10 Q Okay.
11 MR. WILSON: And can the employee -- witness be shown
12 Employer Exhibit 36?
13 THE WITNESS: I have that.
14 MR. WILSON: Which I think you have, so --
15 JUDGE LAWS: Yeah.
16 Q BY MR. WILSON: So on February 6th -- and what job duties
17 was she performing on February 6th, 2018?
18 A GPO export clerk.
19 Q And are those reflected in Employer Exhibit 36?
20 A Yes.
21 Q Okay.
22 MR. WILSON: So I move for the admission of Employer
23 Exhibit 80.
24 JUDGE LAWS: Okay. Any objection?
25 MS. SANCHEZ: Yes, Your Honor. Our objection is this

1 document is irrelevant. The job category is not a disputed
2 category.
3 JUDGE LAWS: All right. I will admit Employer Exhibit 80.
4 **(Employer Exhibit Number 80 Received into Evidence)**
5 MR. WILSON: Okay. Guess what? Last one.
6 **(Employer Exhibit Number 81 Marked for Identification)**
7 JUDGE LAWS: Last one.
8 Q BY MR. WILSON: So Mr. Fujimoto, I want to show you what's
9 been marked as Employer Exhibit 81.
10 And who does this, Employer Exhibit 81, refer to?
11 A That's Mr. David Yamashita, but his -- I'm not sure if
12 David is his legal name. But he also goes by Yasuhiro.
13 Q Okay. And was he employed at the company on February 6th,
14 2018?
15 A Yes.
16 Q And what job was he performing?
17 A He is our administrative assistant for our institutional
18 customer division.
19 Q Okay. Now is there anything in Employer Exhibit 81 that
20 indicates what he was doing on February 6th, 2018?
21 A No.
22 Q Okay. And how would we know that he was performing those
23 job duties that you described on February 6th, 2018?
24 A Because I know because I've spoken to him. Also, on the
25 timesheet, on page 4, the department code GW4500 is

1 institutional customer division, but it pertains to the grocery
2 side.
3 Q Okay.
4 MR. WILSON: And can the court reporter show the witness
5 Employer Exhibit 40?
6 Q BY MR. WILSON: Can you take a second to read through
7 that?
8 A Okay.
9 Q Okay. So on February 6th, 2018 -- excuse me -- so does
10 Exhibit 40 -- Employer Exhibit 40 reflect the job duties
11 Mr. Yamashita was performing on February 6th, 2018?
12 A Yes.
13 Q Okay.
14 MR. WILSON: So move for admission of Exhibit 81.
15 JUDGE LAWS: Okay. And just one question before I turn
16 things over for objections. Who's Jon Chen?
17 THE WITNESS: Jon Chen is our assistant sales manager for
18 this institutional customer division.
19 JUDGE LAWS: Thank you. All right. Any objection?
20 MS. SANCHEZ: I'd like to voir dire, Your Honor.
21 JUDGE LAWS: Okay.
22 **VOIR DIRE**
23 Q BY MS. SANCHEZ: Mr. Fujimoto, who else does Jon Chen
24 supervise?
25 A Sales associates.

1 MS. SANCHEZ: Your Honor, I'm going to object to this
2 document based on the relevance of it.
3 JUDGE LAWS: And I will admit Employer Exhibit 81.
4 **(Employer Exhibit Number 81 Received into Evidence)**
5 MR. WILSON: Your Honor, we would ask for a brief break.
6 We have one more exhibit to go through with him. It's not a
7 job classification. It's simply --
8 JUDGE LAWS: If there's only one more exhibit, let's get
9 through it and then take a break.
10 MR. WILSON: Okay. That's fine. Can the court reporter
11 show the witness Employer Exhibit 4?
12 **DIRECT EXAMINATION (RESUMED)**
13 Q BY MR. WILSON: So Mr. Fujimoto, can you take a little
14 time and look at Exhibit 4?
15 A Yes.
16 Q Do you recognize what this document is?
17 A Yes, this is our layout of our facility.
18 Q Okay. The entire facility or just part of the facility?
19 A This looks like entire facility.
20 Q Does part of it reference the warehouse?
21 A Yes.
22 Q Okay. And you indicated previously that certain of the
23 challenge ballot job categories are situated in the warehouse?
24 A Yes, they are.
25 Q Okay. And can you, again, explain which job categories of

1 challenge ballots are situated in the warehouse, one at a time,
2 and where they are located?
3 JUDGE LAWS: Is this going to be different than what he
4 already testified about with regard to those --
5 MR. WILSON: No, I just wanted him to show it on here so
6 you could see -- it just makes it easier to --
7 JUDGE LAWS: If you want to. I mean, I think we're
8 getting cumulative, and we are very time pressed.
9 MR. WILSON: Okay.
10 JUDGE LAWS: It's almost 11:00. If this is going to help,
11 but it's not going to show up on the record because it's a
12 diagram.
13 MR. WILSON: Okay. Then --
14 JUDGE LAWS: So word descriptions are the best thing I can
15 get.
16 MR. WILSON: Okay. So we have no further questions then,
17 at this point, for Mr. Fujimoto.
18 JUDGE LAWS: All right. It is 10:50. Let's take a
19 ten-minute break. I want to allow time to prepare cross.
20 Let's start at ten after 11. And I want to tell everybody now
21 get something to eat. We are going to not take lunch until
22 this witness is finished.
23 MR. WILSON: Okay.
24 JUDGE LAWS: So grab a snack. Do what you need to do, but
25 we're going to have a late lunch today.

1 Off the record.
2 (Off the record at 10:51 a.m.)
3 JUDGE LAWS: When you're ready to proceed with cross.
4 MS. SANCHEZ: Thank you, Your Honor.
5 **CROSS-EXAMINATION**
6 Q BY MS. SANCHEZ: Mr. Fujimoto, I'm going to ask you
7 questions both about your testimony today and two days ago.
8 A Okay.
9 Q So starting with two days ago, I had some clarifications.
10 You testified to a number of employees and the locations of
11 where they sat. And you said multiple times, first floor
12 office. And I just want to clarify that first floor office,
13 when you were testifying, you meant first floor office in the
14 main office or the front -- what's been referred to as the
15 front office?
16 A Yes.
17 Q Okay. Thank you. And that's distinguished from the
18 warehouse office, correct?
19 A But they're all connected.
20 Q That's not my question. My question is the first floor
21 office is distinguished from the warehouse office? They're in
22 two separate locations, correct?
23 A Yes.
24 Q The first floor office that you --
25 JUDGE LAWS: We have the diagram. We don't need to go too

1 much more into this.
2 MS. SANCHEZ: Okay.
3 Q BY MS. SANCHEZ: And the first floor main office is
4 separated from the warehouse by a long hallway, correct?
5 A There's two ways of getting into the warehouse office.
6 Q You testified about a long hallway.
7 A Yes.
8 Q And I wanted to ask you a question about that. That long
9 hallway, you said was approximately 150 feet? And you
10 estimated that--
11 A Yeah.
12 Q -- and that's fine, and that's not my question. My
13 question is along that hallway there's a chain link fence,
14 correct?
15 A Yes.
16 Q That separates the hallway from the warehouse?
17 A Yes.
18 Q Okay. And so in order to get from the kitchen area
19 through that hallway to the warehouse area, you can't go
20 directly into the warehouse? You have to walk all the way
21 through, correct?
22 A Through the hallway, yes.
23 Q Okay. Thank you. You also previously testified two days
24 ago to the ERP system, and I had asked what that stood for.
25 And I think you said you didn't recall, which is fine. You

1 testified that inventory control files are maintained by the
2 company electronically through that system. And my question is
3 if somebody needed to adjust inventory, they'd go in --
4 electronically into the ERP system to do that adjustment,
5 correct?
6 A Yes.
7 Q And does somebody need a login or password to get into the
8 ERP system?
9 A Yes.
10 Q What type of password or login is that? Is it provided by
11 the Employer?
12 A It's provided by our IT department.
13 Q Okay.
14 A And then with a temporary password, and then that
15 temporary password is -- could be changed by the user. Both
16 the office as well as the warehouse workers get those user IDs.
17 Q And let me ask you about Employer Exhibit 27, if I may
18 have you take a look at that, please.
19 A I don't have that.
20 Q Do you have that?
21 A No.
22 Q Oh. Let me know when you have that in front of you.
23 A I have that in front of me.
24 Q Thank you. I'd like to ask you a couple of questions
25 about this, mostly clarifying questions. There's been various

1 employees that are considered or have been identified as order
2 selectors, order pickers, order pullers. These job positions
3 are general warehouse workers, right?
4 A Yes.
5 Q Thank you. And assemblers are also warehouse workers?
6 Those words are used interchangeably?
7 A Yes.
8 Q As well as forklift drivers, they are also considered
9 warehouse workers, correct?
10 A Yes.
11 Q So Exhibit 27, this warehouse worker job description
12 applies to both permanent employees and temporary employees?
13 A Yes.
14 Q Okay. I meant who are temporary employers who are
15 warehouse workers. Yes. Thank you. And so the warehouse
16 worker job description applies to all warehouse workers
17 regardless of their shift; is that right?
18 A Yes.
19 Q So AM shift or PM shift?
20 A Yes.
21 Q And this job description applied to warehouse workers from
22 September 2017 to present; is that correct?
23 A Yes.
24 Q And since September 2017, to your knowledge, have there
25 been any changes to the warehouse worker job description?

1 A No.
2 Q Okay. You can put that document aside. I'd now like to
3 ask you some questions regarding the employee personnel files
4 that we just went through and those folks. So with regard to
5 John Kirby who you testified about for exhibit -- Employer
6 Exhibit 43. Did you know that John Kirby -- isn't it true that
7 John Kirby was an antiunion -- he did not support the Union?
8 A No.
9 Q You did not know that?
10 A No.
11 Q Okay. So you don't know one way or the other?
12 A No.
13 Q Okay. You previously testified about the lead position.
14 I think that was a couple of days ago. And you said the lead
15 position was held by people who have the most knowledge about
16 the position and are long-term, et cetera; is that right?
17 A Yes.
18 Q Okay.
19 A Or they're the most experienced warehouse workers.
20 Q The most experienced. Isn't it true that John Kirby was a
21 short-term employee?
22 A Short term meaning what?
23 Q Short-term employee? John Kirby?
24 A Meaning what?
25 Q Did he -- he did not work at the facility for very long,

1 did he?
2 A No.
3 Q He didn't?
4 A Uh-uh.
5 Q And Jose Rosas, he also didn't work at the facility for
6 very long, did he? Jose Rosas you testified --
7 A Can I review his -- can I review his file?
8 JUDGE LAWS: Do you know off the top of your head how long
9 he worked there?
10 THE WITNESS: No.
11 JUDGE LAWS: Okay.
12 Q BY MS. SANCHEZ: Okay. Do you know if Jose Rosas was also
13 sometimes referred to as Jose De La Rosas?
14 A No.
15 Q You don't know one way or the other?
16 A No.
17 Q I'd like to show you a document.
18 MS. SANCHEZ: May I approach, Your Honor?
19 JUDGE LAWS: Yes.
20 Q BY MS. SANCHEZ: Mr. Fujimoto, you testified two days ago
21 that in your position it's your job to know who all of the
22 employees are. That you handle those matters. So I want to
23 ask you some questions about the document I've just placed
24 before you. These are the employees that were hired between
25 January 1, 2017 and March 31, 2018. If you go four -- on the

1 far left-hand side column, four rows down, do you see who's
2 listed there?
3 **(Union Exhibit Number 2 Marked for Identification)**
4 JUDGE LAWS: And before you do that, I just want note for
5 the record we're looking at a document that's been marked for
6 identification as Union Exhibit 2.
7 THE WITNESS: Wait, what was -- how many row down?
8 Q BY MS. SANCHEZ: Four -- one, two, three, four, five,
9 thank you. I see John Kirby. Do you see him there?
10 A Yes.
11 Q And is this the John Kirby that you previously
12 identified -- testified about in Employer Exhibit 43?
13 A I believe so.
14 Q And he was hired on 3/6/2017, correct?
15 A According to this document, yes.
16 Q And he was paid $46 per hour?
17 A I don't know.
18 Q Okay. Did you put this document together?
19 A No.
20 Q Okay. And if you could keep going further down, 1, 2, 3,
21 4, 5, 6, 7, 8, 9 rows down, you see Jose Angel Rosas, Jr.
22 That's the Jose Rosas that you testified previously with regard
23 to Employer Exhibit 44, correct?
24 A I believe so.
25 Q Okay. And so he was also hired on May 15th, 2017, right?

1 A Based on this document, yes.
2 Q Okay.
3 MS. SANCHEZ: Your Honor, the Union would like to offer
4 Exhibit 2.
5 JUDGE LAWS: Okay. Any objection?
6 MR. WILSON: No objection.
7 JUDGE LAWS: All right. Union Exhibit 2 is admitted.
8 **(Employer Exhibit Number 2 Received into Evidence)**
9 Q BY MS. SANCHEZ: I would like to now ask you about
10 Mr. Wesley Chang. You previously testified about his
11 employment at the facility.
12 **(Union Exhibit Number 3 Marked for Identification)**
13 MS. SANCHEZ: Your Honor, I'd like to approach and provide
14 Union Exhibit 3.
15 JUDGE LAWS: Okay.
16 MS. SANCHEZ: What's been marked as Union Exhibit 3.
17 Q BY MS. SANCHEZ: Mr. Fujimoto, if you would please scan
18 the pages of this document. Some may look familiar to. I'm
19 going to ask you about the ones that may not -- were not
20 previously offered.
21 A Okay.
22 Q Okay. If you look at page 11, do you have that in front
23 of you?
24 A Yes.
25 Q We previously looked at a document similar to this that I

1 asked you a question about for Ms. Fumi Meza. I had asked you
2 about the EEO category of Ms. Meza. I see that this is a
3 similar document. So my question is this is a document that's
4 kept in the regular course of business, correct?
5 A Yes.
6 MS. SANCHEZ: I'd like to offer Union Exhibit 3, Your
7 Honor.
8 JUDGE LAWS: All right. Any objection?
9 MR. WILSON: No, Your Honor.
10 JUDGE LAWS: Okay. Union Exhibit 3 is admitted.
11 MS. SANCHEZ: May I approach, Your Honor?
12 JUDGE LAWS: Yes.
13 **(Union Exhibit Number 3 Received into Evidence)**
14 **(Union Exhibit Number 4 Marked for Identification)**
15 Q BY MS. SANCHEZ: Mr. Fujimoto, the document I just handed
16 to you marked as Union Exhibit 4 is with regard to employee
17 Thao Nguyen. I'd like you to look at page 8, please.
18 A Okay.
19 Q Page 8 is the employee summary, the similar document that
20 I just had you look at with regard to the previous file. This
21 is kept in the regular course of business, as well, correct?
22 A Yes.
23 Q Okay. And if you'd look at page 17, please.
24 A Okay.
25 Q This document -- can you tell me what this document is?

1 A This is a notice to employee that we give on the first day
2 of work informing the employee of, you know, the start date,
3 where they work, what their rate of pay is, our -- if there was
4 a second page, it would be our worker's comp information.
5 Q Okay.
6 A And acknowledgement that they received it.
7 Q Okay. And so the rate of pay listed there, that's the
8 original rate of pay they were provided upon hire?
9 A Yes.
10 Q Okay.
11 MS. SANCHEZ: The Union would like to offer Exhibit 4.
12 JUDGE LAWS: Okay. Any objection?
13 MR. WILSON: Well, Your Honor, this document's like 28
14 pages, and we've referenced 2 pages. I'm a little concerned
15 about admitting pages that aren't otherwise referenced in the
16 testimony.
17 MS. SANCHEZ: Your Honor, what I would say is these
18 documents were provided by the Employer. They're documents
19 kept in the regular course of business. I did previously
20 confer with Employer's counsel about stipulating to the
21 admission of personnel documents. They go to the community of
22 interest question and they are -- they're absolutely relevant.
23 JUDGE LAWS: They are. I guess I think what counsel is
24 saying is, you know, am I going to be looking at each and every
25 one of these 28 pages to determine community of interest, or

1 can we pair it down?

2 MS. SANCHEZ: Well, I think that all of the pages do go to

3 the question, and so in the interest of time, I'd like a

4 stipulation that these documents are true and correct.

5 Otherwise, we're going to have to call the Employer's custodian

6 of documents.

7 MR. WILSON: No.

8 JUDGE LAWS: I don't think that's his objection that

9 they're true and correct.

10 MR. WILSON: That's not --

11 JUDGE LAWS: Hold on. They were provided pursuant to

12 subpoena. I don't think that's what he's getting at. I think

13 he's getting at do I need to be looking at --

14 MS. SANCHEZ: I could ask the witness further questions

15 about the document if you'd like.

16 JUDGE LAWS: Well, I think the question is like do I need

17 to be looking at -- do all of these pages, I mean, we're going

18 to be looking at -- if we're 30 pages per employee, we're

19 going to be looking at an unnecessarily cumbersome exhibit

20 record.

21 MS. SANCHEZ: That won't be the case for each of the

22 documents we are going to be providing, Your Honor. Sometimes

23 there's going to be cumulative documents. That was the

24 housekeeping issue I wanted to bring up. And in the interest

25 of time, we're providing the entire pile. And with a note that

1 we have excluded any documents that we don't believe need to be
2 reviewed for the community of interest question of the R case,
3 Your Honor.
4 JUDGE LAWS: All right. I will admit Union Exhibit 4. To
5 the extent that the Union is going to argue specific parts of
6 this relate to the community of interest standard, I would like
7 that to be pointed out so that we are not, after the fact,
8 trying to interpret something that might not be clear from the
9 document.
10 **(Union Exhibit Number 4 Received into Evidence)**
11 MS. SANCHEZ: Okay.
12 JUDGE LAWS: So if there's anything that I wouldn't be
13 able to look at this document and know exactly what it means
14 that you intend to rely on, I want that pointed out.
15 MS. SANCHEZ: Understood, Your Honor. Thank you.
16 Q BY MS. SANCHEZ: Back to Union Exhibit 4, Mr. Fujimoto, on
17 page 9 --
18 A Yes.
19 Q -- on the top, there's the title central purchase clerk.
20 Do you see that there?
21 A Yes.
22 Q And the EEO category administrative support workers. This
23 is the -- this is a document you've previously testified to,
24 and you noted that what's listed after EEO category is the
25 internal classification that the Employer uses to classify

1 these employees, correct?
2 A Yes.
3 Q Thank you. And if you look at page 12, please. This
4 document lists on the top, the supervisor's name for this
5 employee, correct?
6 A Yes.
7 Q And that is Nobuyasu Yamamoto.
8 A Nobuyasu Yamamoto.
9 Q Nobuyasu, excuse me. And who else does Nobuyasu Yamamoto
10 supervise?
11 JUDGE LAWS: Not by name, correct?
12 MS. SANCHEZ: By classification. Thank you, Your Honor.
13 THE WITNESS: Distribution -- GPO distribution
14 coordinators, distribution clerks, GPO warehouse workers.
15 Those are the individuals.
16 MS. SANCHEZ: Thank you. No further questions about this
17 document --
18 JUDGE LAWS: Okay.
19 MS. SANCHEZ: -- Your Honor.
20 **(Union Exhibit Number 5 Marked for Identification)**
21 Q BY MS. SANCHEZ: Mr. Fujimoto, I just handed you what's
22 been marked as Union Exhibit 5. This document has to do with
23 Kayoko Nishikawa; do you see that?
24 A Yes.
25 Q And this document provides Kayoko Nishikawa's rate of pay,

1 correct?
2 A Yes.
3 Q Okay. And this would have been -- strike that --
4 MS. SANCHEZ: The Union would like to offer Union Exhibit
5 5.
6 JUDGE LAWS: Any objection?
7 MR. WILSON: No objection, other than to note this
8 document was created in 2007.
9 JUDGE LAWS: All right. I will admit Union Exhibit 5.
10 **(Union Exhibit Number 5 Received into Evidence)**
11 **(Union Exhibit Number 6 Marked for Identification)**
12 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what
13 we've marked as Union Exhibit 6.
14 A This one's not marked.
15 JUDGE LAWS: It's okay.
16 THE WITNESS: Okay.
17 Q BY MS. SANCHEZ: This is with regard to employee Joshua
18 Fulkerson that you previously testified to. I'd like to draw
19 your attention to page 8 of this document. Can you let me know
20 when you get there?
21 A Okay.
22 Q Okay. Does this document look familiar to you?
23 A Yes.
24 Q This is the application that Wismettac uses, correct?
25 A Yes.

1 Q Okay.
2 MS. SANCHEZ: The Union would like to offer Exhibit 6,
3 Your Honor.
4 JUDGE LAWS: Okay. Any objection?
5 MR. WILSON: Once again, I mean, there was testimony as to
6 one page of over 20, and I am concerned about this, you know,
7 sandbagging where when we write the brief someone says, oh,
8 this -- and there's no indication that there's any relevance to
9 the rest of this.
10 MS. SANCHEZ: Your Honor, if --
11 JUDGE LAWS: Well, for any part of it that doesn't speak
12 for itself, I will not be considering it unless the document is
13 explained through witness testimony. I mean, for example, the
14 last several pages that -- I don't know what reports pages 12
15 through 18 were run from, how they were run, so I won't be
16 considering those pages. You know, simple things like a letter
17 in plain English speaks for itself. But for any pieces of the
18 document that are not self-explanatory and/or appear to be
19 derived from a system that has not been authenticated or
20 described for the record, I won't be considering those pages.
21 MS. SANCHEZ: Thank you, Your Honor. And I previously
22 noted that had we had the time we would have gone out and
23 called --
24 JUDGE LAWS: Yeah.
25 MS. SANCHEZ: -- to the documents we needed. So I

1 understand the direction.
2 Q BY MS. SANCHEZ: But I actually am reminded that I did
3 want to ask about page 11 of this document, if you would look
4 at that page, please, Mr. Fujimoto?
5 A Yes.
6 Q This is the same document that you previously testified
7 about. This is a document kept in the regular course of
8 business, correct?
9 A Yes.
10 Q And it identifies the supervisor's name for Mr. Fulkerson
11 in this instance, correct?
12 A Yes.
13 Q And that's Hwami Oh, right?
14 A Yes.
15 Q And you previously identified that supervisor?
16 A Yes.
17 Q Okay. And if you look at page 12?
18 A Yes.
19 Q Page 12 is the employee profile report. And this is also
20 a document that I had asked you about before. And this
21 document is also kept in the regular course of business, isn't
22 it?
23 A Yes.
24 Q And this document also regularly identifies the department
25 that employees work in, correct?

1 A Yes.
2 Q And their rate of pay?
3 A Yes.
4 Q And it also identifies the department they work in,
5 correct?
6 A Yes.
7 Q And then page 20 is a document you also previously
8 identified as a document kept in the regular course of business
9 that provides the employee's wage rates, correct?
10 A Yes.
11 MS. SANCHEZ: Okay. I'd like to offer this document, Your
12 Honor.
13 JUDGE LAWS: Okay. And I will admit it with the caveat
14 that I previously articulated.
15 **(Union Exhibit Number 6 Received into Evidence)**
16 **(Union Exhibit Number 7 Marked for Identification)**
17 Q BY MS. SANCHEZ: Mr. Fujimoto, I have just handed you a
18 document marked as Union Exhibit 7. This is regarding the
19 employee you previously testified, Ms. Senllacett Gonzalez
20 Guardado. I'd like to have you go ahead and take a look at
21 page 5 of this document.
22 A Yes.
23 Q This document is familiar to you because it's the same one
24 we just looked at in the previous testimony, correct?
25 A Yes.

1 Q And the supervisor listed here is the same supervisor,
2 Hwami Oh, right?
3 A Yes.
4 Q Okay. And page 6, same document we looked at before.
5 This is the document that provides the employee their rate of
6 pay, correct?
7 A Yes.
8 Q And in this instance, it was 14.60.
9 A Yes.
10 Q And then page 7 and 8, this is the application for
11 employment that Wismettac uses that you previously testified to
12 but with regard to Ms. Gonzalez Guardado, correct?
13 A Yes.
14 Q Okay.
15 MS. SANCHEZ: The Union would like to offer Union Exhibit
16 7.
17 JUDGE LAWS: Okay. Any objections?
18 MR. WILSON: No objection.
19 JUDGE LAWS: Union Exhibit 7 is admitted.
20 **(Union Exhibit Number 7 Received into Evidence)**
21 **(Union Exhibit Number 8 Marked for Identification)**
22 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what's
23 been marked as Union Exhibit 8. Page 1 of Union Exhibit 8 --
24 excuse me, strike that. This is a document that relates to
25 Kaori Juichiya, correct?

1 A Yes.
2 Q Okay. And page 1 of Exhibit 8 is Ms. -- Ms. Juichiya, is
3 that --
4 A I don't know if she's married.
5 Q Okay, that's fine. I was not sure of the gender of this
6 employee so excuse me.
7 A Yeah, Ms., yeah. It's female.
8 Q This document is Ms. Juichiya's application for employment
9 for Wismettac, correct?
10 A Yes.
11 Q And if you look at page 11.
12 A Yes.
13 Q This appears to be Ms. Juichiya's resume or CV, correct?
14 A Yes.
15 Q And is it the case that sometimes that when employees
16 provide their application for employment they also provide
17 their resume?
18 A Yes.
19 Q Do the folks who work in the front office, either first
20 floor or second floor, are they required to provide a resume
21 with their employment application?
22 A If they have it we take it.
23 Q Do you ask for it from those folks?
24 A Yes.
25 Q And if you look at page 13 of this document. This is the

1 same document that we have looked at before that identifies the
2 supervisor, correct?
3 A Yes.
4 Q And in this case it is Hwami Oh again.
5 A Yes.
6 Q And then if you look at page 14 through 22, this is the
7 employee profile report that you previously identified,
8 correct, for the other employees?
9 A Yes.
10 Q Okay. And this document is kept in the regular course of
11 business, right?
12 A Yes.
13 Q If you look at page 16, towards the top, I see something
14 that says "labor charge sales department." This is where the
15 department is identified on these documents for employees,
16 correct?
17 A Yes.
18 Q In this case, it was GPO Operation Office.
19 A Yes.
20 Q And if you skip to page 25 of this document -- page 25 of
21 Union Exhibit 8 -- this is also a document we've seen a number
22 of times where the wage information is provided, correct?
23 A Yes, it is.
24 Q And for Ms. Kaori (sic) it's $14, right?
25 A Yes.

1 Q Okay.
2 MS. SANCHEZ: I'd like to offer this document, Your Honor.
3 JUDGE LAWS: Okay. And with the same caveat that any
4 pages that aren't self-explanatory, haven't been addressed, I
5 won't be considering them. But with that caveat, any objection
6 to --
7 MR. WILSON: No, Your Honor.
8 JUDGE LAWS: Okay. I will admit Union Exhibit 8.
9 **(Union Exhibit Number 8 Received into Evidence)**
10 **(Union Exhibit Number 9 Marked for Identification)**
11 Q BY MS. SANCHEZ: Mr. Fujimoto, I just handed you what's
12 been marked as Union Exhibit 9. I'd like you to take a look at
13 page 5 of this document.
14 A Okay.
15 Q This is the document that identifies the wage that Kaipo
16 Eda had and it says $15 an hour, correct?
17 A Yes.
18 Q And this is a document that's kept in the regular course
19 of business?
20 A Yes.
21 Q If you look at page 6 of this document, it identifies a
22 supervisor. Is this a document -- this is offer letter request
23 form -- is this a document kept in the regular course of
24 business?
25 A Yes.

1 Q And this document regularly identifies the supervisor if
2 something is listed there?
3 A Yes.
4 Q So in this case, the supervisor is the same one we've
5 talked about before, Hwami Oh?
6 A Yes.
7 Q Can you turn the page to the next page 7. This is a
8 similar document that identifies the supervisor, correct?
9 A Yes.
10 Q And it's kept in the regular course of business?
11 A Yes.
12 Q If you go to page 10 -- I'm sorry -- 9. Is this Kaipo
13 Eda's resume?
14 A Yes.
15 Q And that was provided along with what's listed on page 10
16 and 11, the Wismettac application for employment?
17 A Yes.
18 Q Okay. And if you look at pages 12 through 20, this is the
19 same employee, similar employee profile report that you've
20 previously testified to, correct?
21 A Yes.
22 Q And it's kept in the regular course of business for this
23 employee?
24 A Yes.
25 MS. SANCHEZ: The Union would like to offer Exhibit 9.

1 JUDGE LAWS: All right. And any objections?
2 MR. WILSON: With the same understanding, no objection.
3 JUDGE LAWS: Then I will ask objections with regard to
4 this type of document with that same understanding, so. I will
5 admit Union Exhibit 9.
6 **(Union Exhibit Number 9 Received into Evidence)**
7 **(Union Exhibit Number 10 Marked for Identification)**
8 Q BY MS. SANCHEZ: Okay. Mr. Fujimoto, I have just handed
9 you what we've marked as Union Exhibit 10. This is the
10 personnel file of employee Rachel Lin who you previously
11 testified to. I'd like to call your attention to page number 2
12 of this document.
13 A Okay.
14 Q If you would tell me who Yuichi Maruyama is?
15 A Mr. Yuichi Maruyama is the manager of GPO, Global
16 Procurement Operation.
17 Q Okay. And this document is identified -- well, it says at
18 the top "support letter of pay raise." Is this type of
19 document typical where a manager would offer a letter of
20 support for a pay raise?
21 A Depends on the manager.
22 Q Okay. So sometimes it happens and sometimes it doesn't.
23 A Yes.
24 Q Okay. In this case it looks like it did. I'd like to
25 call your attention to the middle of the paragraph above the

1 signature line where it says, "Rachel has learned how to build
2 and customize." Do you see that comment?
3 A Yes.
4 Q Okay. It says,
5 "Rachel has learned how to build and customize the BI
6 report from IT. There are less than ten people from
7 the entire company in North America who has the
8 knowledge for the BI data management."
9 Do you know what BI is?
10 A Business Intelligence.
11 Q What is business intelligence --
12 A It's --
13 Q Intelligence report?
14 A It's just a module within the Oracle ERP system that they
15 refer to.
16 Q What is the function of that program?
17 A I don't know.
18 Q And how many employees are employed by Wismettac North
19 America?
20 A That includes Canada?
21 Q Yes.
22 A Wismettac employees -- there are roughly 1,080 employees.
23 Q So Ms. Rachel Lin was one in less than ten people who knew
24 how to deal with the BI report for Wismettac in North America
25 then.

1 A I don't know.
2 Q Who else is familiar with business intelligence at the
3 company?
4 A I don't know.
5 Q Okay. Can you please turn to page 9 of this document.
6 Are you there?
7 A Yes.
8 Q Okay. And this is Ms. Lin's application for employment at
9 Wismettac, correct?
10 A Yes.
11 MS. SANCHEZ: The Union would like to offer Union Exhibit
12 10, please.
13 JUDGE LAWS: Okay. And with the same qualification, any
14 objections to Union Exhibit 10?
15 MR. WILSON: No, Your Honor.
16 JUDGE LAWS: Union Exhibit 10 is admitted.
17 **(Union Exhibit Number 10 Received into Evidence)**
18 **(Union Exhibit Number 11 Marked for Identification)**
19 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what
20 we've marked as Union Exhibit 11 for employee Stephany
21 Manjarrez. I'd like you to take a look at page 4 of this
22 document.
23 A Yes.
24 Q Is this a document that's kept in the regular course of
25 business?

1 A Yes.
2 Q And it provides upon the offer of employment the rate of
3 pay, correct?
4 A Yes.
5 Q And in this case, it was $15 for Ms. Manjarrez?
6 A Yes.
7 Q Okay. Can you go to the next page, page 5, please? This
8 is a document that we previously looked at that you said it's
9 kept in the regular course of business that identifies the
10 supervisor, in this case it was Hwami Oh again, correct?
11 A Yes.
12 Q And if you look at page 7 of this document. We've also
13 reviewed a number of these documents. This is also kept in the
14 regular course of business and identifies the rate of pay for
15 employees, correct?
16 A Yes.
17 Q And then if you go to page 8, 9 -- 8 and 9, excuse me.
18 This would be Ms. Manjarrez's application for employment for
19 Wismettac, correct?
20 A Yes.
21 MS. SANCHEZ: I'd like to offer Union Exhibit 11, please.
22 JUDGE LAWS: Okay. Any objection?
23 MR. WILSON: With the same understanding, no objection.
24 JUDGE LAWS: Okay. Union Exhibit 11 is admitted.
25 **(Union Exhibit Number 11 Received into Evidence)**

1 MS. SANCHEZ: We would ask Mr. Court Reporter to provide
2 the witness with Union Exhibit 1.
3 Q BY MS. SANCHEZ: Do you have that document in front of
4 you?
5 A Yes.
6 Q Can you please look at page 2 of that document? Does this
7 document look familiar to you?
8 A Yes.
9 Q This is -- how do you -- this is a floor plan, excuse me,
10 of the first floor front main office, correct?
11 A Yes.
12 Q Stephany Manjarrez, who we just testified to, has a
13 particular spelling of her name, it's with a "Y" at the end. I
14 notice that the top right of this document there's a Stephany
15 with a "Y," is that the same Stephany?
16 A I don't know.
17 Q Okay.
18 **(Union Exhibit Number 12 Marked for Identification)**
19 Q BY MS. SANCHEZ: Okay. Mr. Fujimoto, I have just handed
20 you what's been marked as Union Exhibit 12 with regard to
21 employee Miwa Sassone. Can you take a look at page 2 of this
22 document? This is her offer letter, correct?
23 A Yes.
24 Q And her offer rate of pay was $15 an hour?
25 A Yes.

1 Q And that was in 2015.
2 A Yes.
3 Q If you look at page 8 of this document.
4 A Okay.
5 Q This is a document we've looked at before. It's the
6 employee registration form setup. This document is kept in the
7 regular course of business you've testified. And this
8 supervisor, I see, is Atsushi Uehara. That's not -- you're not
9 the same Atsushi as this one.
10 A No.
11 Q Person. Can you tell me what other classifications of
12 employees Atsushi Uehara supervises?
13 A Assistant buyers as well as our GPO associates.
14 Q Can you look at page 11 of this document through 13?
15 A Yes.
16 Q This a sales company guideline. Is this document
17 something that -- this document is something that's provided to
18 sales employees on a regular basis, correct?
19 A Sales employees as well as sales office employees.
20 Q Okay. Thank you.
21 MS. SANCHEZ: The Union would like to offer Union Exhibit
22 12.
23 JUDGE LAWS: Okay. With the same qualification, any
24 objection?
25 MR. WILSON: No objection.

1 JUDGE LAWS: All right. Union 12 is admitted.

2 **(Union Exhibit Number 12 Received into Evidence)**

3 **(Union Exhibit Number 13 Marked for Identification)**

4 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what's

5 been marked as Union Exhibit 13. I'd like you to take a look

6 at page 4. Can you please tell us who Takeo Hashii is?

7 A I don't know.

8 Q You don't know if Takeo Hashii is the president?

9 A I wasn't employed at that time.

10 Q Okay. Do you know if Takeo Hashii is currently employed?

11 A No.

12 Q Do you know who the current president is?

13 A Yes.

14 Q Who is it?

15 A Daryl Gormley.

16 Q Gorman?

17 A Gormley.

18 Q Gormley. Thank you.

19 This document says that Ms. Teijiro Sho was earning a

20 salary of $60,000 in 2003. Do you know if that's the case?

21 A No.

22 Q You don't know one way or the other?

23 A No.

24 Q Do you know what Ms. Sho's salary is currently?

25 A She's not employed with us.

1 Q Okay. What was her last salary?
2 A I don't know.
3 MS. SANCHEZ: The Union would like to offer Exhibit 13.
4 JUDGE LAWS: Subject to the same qualification, any
5 objection to Union 13?
6 MR. WILSON: Your Honor, I think we should give the
7 witness a little bit of time to go through the document to see
8 if he can determine from it, rates of pay.
9 MS. SANCHEZ: If he doesn't know, he doesn't know.
10 JUDGE LAWS: Yeah --
11 MR. WILSON: Well, Your Honor, if it's in the --
12 JUDGE LAWS: You can address that on redirect if you'd
13 like to.
14 And I will admit Union 13.
15 **(Union Exhibit Number 13 Received into Evidence)**
16 MS. SANCHEZ: Thank you, Your Honor.
17 **(Union Exhibit Number 14 Marked for Identification)**
18 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what's
19 been marked as Union Exhibit 14. I'd like to draw your
20 attention to page 3, please. This is a document that we've
21 looked at before, the registration form that identifies the
22 supervisor. In this case, it's Hwami Oh, correct?
23 A Yes.
24 Q And then if you would look at pages 5 and 6 -- you
25 previously identified that this document is also kept in the

1 regular course of business. In this case, it's for Jennifer
2 Tran, correct?
3 A Yes.
4 Q And I'd like to have you look at page 7.
5 A Okay.
6 Q This portion of the employee profile report provides
7 information including levels of education and skills. Do you
8 see where I'm referring to?
9 A Yes.
10 Q So in Ms. Tran's case, she -- excuse me -- she notes, for
11 example, she was on the dean's honor list, at the top left. Do
12 you see that?
13 A Yes.
14 Q And has the skills of -- under skills, it says "Japanese."
15 I'm assuming that means that she speaks Japanese, correct?
16 A Yes.
17 Q And then, for example, she lists other skills -- admin
18 support, PowerPoint, Excel, et cetera. Do you see that there?
19 A Yes.
20 Q And if you'd please get to page 10. Page 10 provides the
21 rate of pay that Ms. Tran was provided when she was hired,
22 correct?
23 A Yes.
24 Q And then pages 11 and 12 are Ms. Tran's application for
25 employment?

1 A Yes.
2 Q And 13 was the associated resume she provided, correct?
3 A Yes.
4 Q Okay.
5 MS. SANCHEZ: The Union would like to offer 14.
6 JUDGE LAWS: Okay. Any objection?
7 MR. WILSON: Same understanding, no objection.
8 JUDGE LAWS: With that understanding, I will admit Union
9 Exhibit 14.
10 **(Union Exhibit Number 14 Received into Evidence)**
11 **(Union Exhibit Number 15 Marked for Identification)**
12 Q BY MS. SANCHEZ: Mr. Fujimoto, I've handed you what's been
13 marked as Union Exhibit 15. I'd like to have you turn to page
14 7.
15 A Okay.
16 Q Shun Man Yung was offered the rate of pay of $15 upon
17 hire, correct?
18 A Yes.
19 Q And if you look at page 8 and 9, this is Shun Man Yung --
20 or Niki also who refers to themselves as Niki. This is their
21 application for employment at Wismettac, correct?
22 A Yes.
23 Q Okay.
24 MS. SANCHEZ: The Union would like to offer Exhibit 15.
25 JUDGE LAWS: Okay. As qualified, any objection to 15?

1 MR. WILSON: No, Your Honor.
2 JUDGE LAWS: All right. Union 15 is admitted.
3 **(Union Exhibit Number 15 Received into Evidence)**
4 **(Union Exhibit Number 16 Marked for Identification)**
5 Q BY MS. SANCHEZ: Mr. Fujimoto, I have just provided you
6 what we've marked as Union Exhibit 16. These are documents
7 related to employee Kazumi Kasai. I'd like to draw your
8 attention to page 4 of this document. This is the manager
9 request form that identifies the rate of pay. Do you see where
10 it says rate of pay $15 per hour?
11 A No.
12 Q To the -- it's a little bit blurred but it's at the top --
13 JUDGE LAWS: Looks like it says 15.40.
14 THE WITNESS: 4 -- 40.
15 Q BY MS. SANCHEZ: Oh, I apologize -- 15.40. It's a little
16 bit blurred. This is a document that's kept in the regular
17 course of business, correct?
18 A Yes.
19 Q If you look at page 5, this is a document similar to the
20 ones we've looked at before, the employee summary, which you've
21 also testified is kept in the regular course of business. If
22 you look at the bottom under "work," it identifies the
23 employee's job title, correct?
24 A Yes.
25 Q And then two lines below that this is where the EEO

1 category is entered and, in this case, it's administrative
2 support workers, correct?
3 A Yes.
4 Q Okay. If you look at the next page, this is Kazumi
5 Kasai's CV or curriculum vitae, correct?
6 A Yes.
7 Q And that was provided to the Employer upon application?
8 A Yes.
9 Q Okay.
10 A Well, I don't know because I wasn't employed at that time.
11 Q Okay. But similar to the other files that we've looked at
12 the Employer does collect resumes or CVs upon application if
13 they're provided.
14 A Yes.
15 Q Okay.
16 MS. SANCHEZ: The Union would like to offer Exhibit 16
17 into evidence.
18 JUDGE LAWS: All right. With the same qualifications, is
19 there any objection to Union Exhibit 16?
20 MR. WILSON: No objection.
21 JUDGE LAWS: Okay. That is admitted.
22 **(Union Exhibit Number 16 Received into Evidence)**
23 **(Union Exhibit Number 17 Marked for Identification)**
24 Q BY MS. SANCHEZ: Okay. Mr. Fujimoto, I have just handed
25 you what's been marked as Union Exhibit 17. This is with

1 regard to employee Yukihiko Amanuma. I'd like you to look at
2 page 4 of this document. I apologize. I mean page 6 of this
3 document. Are you there?
4 A Yes.
5 Q This is the same document we have looked at before where
6 it identifies the rate of pay the employee was provided upon
7 hire. In this case, it's 15.50; is that correct?
8 A Yes.
9 Q And at page 7 and 8 is the employee's application for
10 employment, correct?
11 A Yes.
12 Q And if you look at page 12 of this document, the EEO
13 category listed for Yukihiko Amanuma is, in this case,
14 administrative support workers; do you see that?
15 A Yes.
16 Q Okay.
17 MS. SANCHEZ: And the Union would like to offer this
18 document into evidence.
19 JUDGE LAWS: Okay. With the same qualification, any
20 objection to Union Exhibit 17?
21 MR. WILSON: No, Your Honor.
22 JUDGE LAWS: That is admitted.
23 **(Union Exhibit Number 17 Received into Evidence)**
24 **(Union Exhibit Number 18 Marked for Identification)**
25 Q BY MS. SANCHEZ: Mr. Fujimoto, I have just handed you a

1 document marked as Union Exhibit 18 relating to employee Chiaki
2 Mazlomi. I'd like you to look at page 2 of this document.
3 A Yes.
4 Q This is the same manager request form we've looked at
5 before. It identifies the compensation for employees. In this
6 case it was $17 an hour for Chiaki Mazlomi, correct?
7 A Yes.
8 Q And I'd like you to turn to page 18 of this document.
9 A Okay.
10 Q I apologize. I mean to page 19 of this document. This is
11 the -- this says employee management center at the top but this
12 is part of the employee's summary we've looked at before,
13 correct?
14 A Yes.
15 Q And it's kept in the regular course of business?
16 A Yes.
17 Q So page 19 and 20, they're related to each other. And
18 page 21, this is also part of the employee summary, correct?
19 A 21?
20 Q Page 21.
21 A It looks like a different printout but all the information
22 is from the ADP database.
23 Q Okay.
24 A For this employee form.
25 Q Okay. Thank you. I apologize. Thank you for the

1 clarification.

2 And on page 21, we've looked at this before. The EEO

3 category listed for Chiaki Mazlomi is administrative support

4 workers. Do you see that there?

5 A Yes.

6 Q On page 22 and page 23, this is this employee's

7 application for employment, correct?

8 A Yes.

9 Q Okay.

10 MS. SANCHEZ: The Union would like to offer Union Exhibit

11 18 into evidence.

12 JUDGE LAWS: Okay. Any objection with the same caveat?

13 MR. WILSON: No, Your Honor.

14 JUDGE LAWS: Okay. I will admit Union Exhibit 18.

15 **(Union Exhibit Number 18 Received into Evidence)**

16 MR. WILSON: Your Honor, can we go another ten minutes and

17 then just have a short break or?

18 JUDGE LAWS: A comfort break? That's fine. Maybe once we

19 get to the end of the GPO distribution clerks, assuming you're

20 going in order.

21 MS. SANCHEZ: I am going in order, Your Honor.

22 JUDGE LAWS: Okay. Why don't we break at that point, same

23 as we did on direct.

24 MS. SANCHEZ: Sorry. I'm just noting that. Thank you.

25 **(Union Exhibit Number 19 Marked for Identification)**

1 Q BY MS. SANCHEZ: Mr. Fujimoto, I have just handed you
2 what's been marked as Union Exhibit 19. I'd like you to skip
3 to pages 8 and 9, please.
4 A Okay.
5 Q Page 8 is the notice to employee regarding their wage. In
6 this case Brian Noltensmeier was provided the rate of pay of
7 $15 per hour, correct?
8 A Yes.
9 Q And page 9 also identifies his offer and his rate of pay
10 of $15 per hour, correct?
11 A Yes.
12 Q Page 10 and 11, these are documents you've also identified
13 before as kept in the regular course of business. Up at the
14 top of page 10, this is where the supervisor is listed. In
15 this case it's Hwami Oh who we have already identified,
16 correct?
17 A Yes.
18 Q And then if you go ahead and turn to pages 14, 15 --
19 excuse me -- 14 through 21. This the employee profile report.
20 You've already testified these are kept in the regular course
21 of business. In this case it's for Brian Noltensmeier,
22 correct?
23 A Yes.
24 Q And on page 15 Hwami Oh is, again, listed as the
25 supervisor, right?

1 A Yes.
2 Q If you turn to page 22 and 23. This is the application
3 that was provided for Brian Noltensmeier, correct?
4 A Yes.
5 Q Okay.
6 MS. SANCHEZ: The Union would like to offer Exhibit 19
7 into evidence.
8 JUDGE LAWS: With the same qualification, any objection to
9 Union 19?
10 MR. WILSON: No, Your Honor.
11 JUDGE LAWS: Okay. That is admitted.
12 **(Union Exhibit Number 19 Received into Evidence)**
13 **(Union Exhibit Number 20 Marked for Identification)**
14 Q BY MS. SANCHEZ: Mr. Fujimoto, I have just handed you
15 what's been marked as Union Exhibit 20 for employee Ryan Marie
16 Prewitt. If you would turn to page 7. Ms. Prewitt was offered
17 $15 per hour upon hire, correct?
18 A Yes.
19 Q And page 8, if you'd look at page 8. This is a document
20 that you testified to -- I'm not sure whether you testified to
21 this document with regard to this particular employee but I
22 remember on direct you were asked questions about this bottom
23 portion where it says "branch office only." Do you see where
24 I'm referring to?
25 A Yes.

1 Q And this is where the supervisor and the job title, as
2 well as the rate of pay, is provided, correct?
3 A Yes.
4 Q And that would be what their -- strike that. In this
5 case, Hwami Oh was the supervisor of employee Ryan Prewitt and
6 the title was data entry clerk, correct?
7 A Yes.
8 Q And if you go to page 9. We've looked at this document a
9 number of times. The supervisor is listed up at the top here
10 and in this case the supervisor was the same one that we talked
11 about before, Hwami Oh, correct?
12 A Yes.
13 Q And if you turn to page 13. Pages 13 and 14 are Ryan
14 Marie Prewitt's application for employment at Wismettac,
15 correct?
16 A Yes.
17 MS. SANCHEZ: Your Honor, the Union would like to offer
18 Union Exhibit 20 into evidence.
19 JUDGE LAWS: And as previously qualified, any objection to
20 Union Exhibit 20?
21 MR. WILSON: No, Your Honor.
22 JUDGE LAWS: That is admitted.
23 **(Union Exhibit Number 20 Received into Evidence)**
24 **(Union Exhibit Number 21 Marked for Identification)**
25 Q BY MS. SANCHEZ: Mr. Fujimoto, I have just handed you

1 what's been marked as Union Exhibit 21. I'd like to call your
2 attention to page 6 of this document.
3 A Yes.
4 Q Union Exhibit 21 is the personnel file for John Salzer,
5 Jr. This is John Salzer Jr.'s application for employment at
6 Wismettac, correct?
7 A Yes.
8 Q And if you look at page 11. We've looked at this document
9 with regard to another employee and you previously testified
10 that this is a sales guideline that's provided to sales
11 associates, correct?
12 A As well as the sales office workers.
13 Q Sales office workers. Thank you.
14 And page 12 is a document you've already testified is kept
15 in the regular course of business and identifies the supervisor
16 as Nobuyasu Yamamoto, correct?
17 A Yes.
18 Q And pages 13 and 14, this is Mr. John Salzer Jr.'s resume
19 that was provided to the company, correct?
20 A Yes.
21 Q And page 15 is a document we have already looked at
22 before. Excuse me. Page 18 and 19, these are documents that
23 are provided as guidelines to sales associates and office
24 workers you testified -- I'm sorry, you're not there yet. 18
25 and 19.

1 A Yes.
2 Q Yes to my question.
3 A Yes.
4 Q Thank you.
5 And page 20 is a document we've looked at before. John
6 Salzer (sic) was provided the rate of pay of 15.25 per hour
7 when he was hired, correct?
8 A Yes.
9 Q And if you look at page 23 all the way to page 35.
10 MR. WILSON: Your Honor, I think the witness should have
11 some time to --
12 JUDGE LAWS: Yeah.
13 MS. SANCHEZ: No, he --
14 JUDGE LAWS: Take the time you need to look at it.
15 MS. SANCHEZ: Oh, sure.
16 THE WITNESS: Okay.
17 Q BY MS. SANCHEZ: Pages 23 to -- you've taken time to look
18 at the document -- pages 23 through 35. This is the employee
19 profile report that's kept in the regular course of business
20 that you testified to before, correct?
21 A Yes. But 32, 33, 34, 35 is a different format. But, in
22 essence --
23 Q Yeah, I've noticed that. And you previously testified
24 that it's all kept in the ADP system, correct?
25 A Yes. But one is from 2012 and one was from 2017.

1 Q Thank you.
2 A Just to clarify -- page 23 to 31 is 2017 and 32 to 35 is
3 2012.
4 Q The Union would like to draw your attention to page 41 of
5 this document and page 42. This is the application for
6 employment that was provided by Salzer Jr., correct?
7 A Yes, back in 2012.
8 MS. SANCHEZ: The Union would like to offer Exhibit 21
9 into the record.
10 JUDGE LAWS: Okay. And as previously qualified, any
11 objection to Union Exhibit 21?
12 MR. WILSON: No objection.
13 JUDGE LAWS: That is admitted.
14 **(Union Exhibit Number 21 Received into Evidence)**
15 **(Union Exhibit Number 22 Marked for Identification)**
16 Q BY MS. SANCHEZ: Mr. Fujimoto, I just handed you what's
17 been marked as Union Exhibit 22. This is for employee Hideki
18 Takegahara. I'd like you to take a look at page 2 of this
19 document.
20 A Okay.
21 Q This is Hideki Takegahara's resume, correct?
22 A Yes.
23 Q And on page 3 of this document, do you know what's listed
24 under the comments section?
25 A No, I cannot read Japanese.

1 Q And if you look at pages 5 and 6 of this document that's
2 Hideki Takegahara's application for employment, correct?
3 A Yes.
4 MS. SANCHEZ: The Union would like to offer Exhibit 22
5 into evidence.
6 JUDGE LAWS: Okay. Any objection?
7 MR. WILSON: Same understanding. No objection.
8 JUDGE LAWS: Okay. That is admitted.
9 **(Union Exhibit Number 22 Received into Evidence)**
10 JUDGE LAWS: And with that let's take -- it's 12:18.
11 Let's take ten. Be back ready to resume questioning at 12:30.
12 MS. SANCHEZ: Thank you.
13 JUDGE LAWS: Off the record.
14 (Off the record at 12:18 p.m.)
15 JUDGE LAWS: Let's go back on the record and resume
16 whenever you're ready.
17 MS. SANCHEZ: Thank you, Your Honor.
18 **(Union Exhibit Number 23 Marked for Identification)**
19 Q BY MS. SANCHEZ: Mr. Fujimoto, I have just handed you
20 what's been marked as Union Exhibit 23 for employee Kumiko Naka
21 Estrada. I'd like to have you take a look at page 4 of this
22 document.
23 A Okay.
24 Q Ms. Estrada -- this document is dated 2006. This is the
25 offer letter that was provided for her for product development

1 assistant. She was offered the rate of pay of $15 an hour,
2 correct?
3 A Yes.
4 Q And if you look at page 7 and 8 of this document, this is
5 Ms. Naka Estrada's resume, correct?
6 A Yes.
7 Q And skip to -- excuse me -- skip to page 10 of this
8 document.
9 A Yes.
10 Q This is a change of job. She changed to assistant,
11 correct?
12 A Yes.
13 Q And this document, where it says "eTime administrator," it
14 has Mr. Narimoto listed there. What is eTime administrator
15 mean?
16 A eTime administrator is the one who approves their eTime.
17 Their --
18 Q What is eTime?
19 A Their work schedule.
20 Q Okay.
21 A Yeah.
22 Q Thank you.
23 And if you look at pages 11 and 12 of this document, this
24 is Ms. Naka Estrada's application for employment, correct?
25 A Yes.

1 Q Okay.
2 MS. SANCHEZ: I'd like to offer Union Exhibit 23, Your
3 Honor.
4 JUDGE LAWS: All right. As previously articulated as
5 qualified, any objections?
6 MR. WILSON: No objection.
7 JUDGE LAWS: Union Exhibit 23 is admitted.
8 **(Union Exhibit Number 23 Received into Evidence)**
9 MS. SANCHEZ: Thank you.
10 I'd like the witness to take a look at Union Exhibit 1
11 again.
12 Q BY MS. SANCHEZ: If you'd take a look at page 2 of this
13 document. You've already testified that this is an accurate
14 description at the first floor of the front main office. It's
15 small writing but if you look to the far right of this
16 document, second column, there are boxes. Do you see where I'm
17 referring to? I see Narimoto listed; do you see that?
18 A Yes.
19 Q Okay. Is that the same Narimoto that you just identified
20 on the previous document?
21 A Yes.
22 Q And to the right of that, sort of printed sideways, I see
23 Kumiko. Is that Kumiko Estrada?
24 A Yes.
25 Q And that's where she sits, correct?

1 A Yes.
2 Q And this is the office that you've identified previously
3 as the international exports office.
4 A Yes.
5 Q And that's listed there at the top of this box, correct?
6 A Yes.
7 Q Okay. Thank you.
8 Still looking at this document, if you go to the next
9 column, I see on the second kind of row if you will, a Chizuko.
10 Is that Chizuko Sho? Is that where Chizuko Sho sits?
11 A From the top, right?
12 Q Yes, correct.
13 A Yes. 3815, yes.
14 Q Yes, correct. Okay, thank you.
15 And if you go above Chizuko Sho where it says Masae, is
16 that where Masae Inagaki sits?
17 A Masae -- I don't know. That name doesn't sound familiar.
18 Q Okay, that's fine. Thank you. I may have it incorrect.
19 Okay. I would like to move on to employee Cheryl Johnston
20 who you previously testified about.
21 **(Union Exhibit Number 24 Marked for Identification)**
22 Q BY MS. SANCHEZ: Mr. Fujimoto, I have just handed you what
23 we've marked as Union Exhibit 24. I'd like to draw your
24 attention to page 9 of this document. This is a document we've
25 looked at before and we've discussed the supervisors that are

1 listed here.

2 In this case, Christian McCormick is listed, correct?

3 A Yes.

4 Q Okay. I'd like you to look at page 11 of this document.

5 Pages 11 and 12 are Ms. Johnston's application for employment

6 at Wismettac, correct?

7 A Yes.

8 Q And pages 15 through --

9 JUDGE LAWS: With regard to 11 and 12, though, it looks

10 like this application post-dates the election.

11 MR. WILSON: Yeah, I was just about to --

12 MS. SANCHEZ: Oh. Your Honor, I would like to ask some

13 questions -- some further questions about the document.

14 JUDGE LAWS: Sure.

15 Q BY MS. SANCHEZ: Cheryl Johnston worked as a temp employee

16 prior to her hire as a permanent employee at Wismettac,

17 correct?

18 A Yes.

19 Q And so she worked -- do you recall whether the Employer

20 paid the fee to the temp agency when she became a Wismettac

21 employee?

22 A No.

23 Q She wasn't converted, right? She quit and then reapplied

24 like as somebody off the street, for example?

25 JUDGE LAWS: I want to go back to the question that was

1 previously asked because it was a whether or not and you said
2 no and so it's unclear to me what exactly he was answering.
3 MS. SANCHEZ: Thank you, Your Honor. I believe that
4 question was about the conversion fee.
5 JUDGE LAWS: Do you know whether or not one was paid. He
6 said no.
7 MS. SANCHEZ: Yes.
8 JUDGE LAWS: He doesn't know whether or not one was paid.
9 Q BY MS. SANCHEZ: Was a conversion fee paid for
10 Ms. Johnston?
11 A I don't know.
12 Q Ms. Johnston's education level didn't change from the time
13 she was a temp employee till the time she was a permanent
14 employee, correct?
15 MR. WILSON: Objection.
16 THE WITNESS: I don't know.
17 MR. WILSON: Lack of foundation.
18 JUDGE LAWS: He already said he didn't know --
19 MS. SANCHEZ: Okay.
20 JUDGE LAWS: -- so, takes care of that.
21 Q BY MS. SANCHEZ: I'd like to take a look at pages 15
22 through 23 of this document. I'm sorry. It's 22. And you can
23 take your time to look at those and let me know when you're
24 ready.
25 A Okay.

1 Q This document is similar to the documents we've looked at
2 before. This is the employee profile report. It's kept in the
3 regular course of business, correct?
4 A Yes.
5 Q And on page 19, if you look at -- I'd asked you before
6 with regard to other employees -- towards the top, this sort of
7 second group here. It says "labor charge sales." Do you see
8 where I'm referring to?
9 A Yes.
10 Q And the department Ms. Johnston is classified to is
11 warehouse, correct?
12 A Yes.
13 Q And that's what LA5000 is. That's the warehouse code?
14 A For Los Angeles, yes.
15 Q For Los Angeles. That's what the "LA" is.
16 And if you look at Union Exhibit 1, please -- first page
17 of that document. Do you see a box with the name Cheryl in it?
18 A Yes.
19 Q Is that where Ms. Cheryl Johnston sits?
20 A Yes.
21 Q Okay. And if you look at page 23 of Union Exhibit 24,
22 Ms. Johnston was provided a rate of pay of $14 an hour?
23 A Yes.
24 MS. SANCHEZ: The Union would like to offer Exhibit 24
25 into evidence.

1 JUDGE LAWS: Okay. With the same qualifications as
2 previous, any objections?
3 MR. WILSON: No, Your Honor.
4 JUDGE LAWS: Okay. I will admit Union Exhibit 24.
5 **(Union Exhibit Number 24 Received into Evidence)**
6 MS. SANCHEZ: Thank you.
7 I would like this witness to look at Union Exhibit 2,
8 please.
9 Q BY MS. SANCHEZ: Mr. Fujimoto, from the bottom of this
10 document, I would like to draw your attention to row number 5.
11 Do you see Cheryl Diane Johnston listed there?
12 A Yes.
13 Q That's the same Cheryl Johnston that you just testified
14 about, correct?
15 A Yes.
16 Q And so she was hired as a permanent employee on March 5th,
17 2018, correct?
18 A By this document, yes.
19 Q And do you know why she was provided a salary of -- sorry,
20 excuse me -- a rate of pay of $45 per hour?
21 A No.
22 Q Okay.
23 MR. WILSON: I'm not sure if he answered. She was paid
24 $45 an hour or he didn't --
25 JUDGE LAWS: He said he didn't know why.

1 MR. WILSON: Oh, okay.

2 **(Union Exhibit Number 25 Marked for Identification)**

3 Q BY MS. SANCHEZ: Okay. Mr. Fujimoto, I have just handed
4 you what we've marked as Union Exhibit 25 with regard to
5 employee Maho Kobayashi. I'd like to draw your attention to
6 page 14 of this document. Maho Kobayashi was provided a rate
7 of pay of $17 per hour, correct?

8 A What page?

9 Q I'm sorry. Page 4. I'm looking at the offer letter
10 request form.

11 A Yes.

12 Q And if you look at page 11 of this document. This also
13 reflects $17 an hour, correct?

14 A Yes.

15 Q And if you look at page 12 of this document, this is the
16 newer existing employee registration form you said was kept in
17 the regular course of business. The supervisor listed here is
18 Kengo Sawada. Can you tell me what other classifications of
19 employees Kengo Sawada supervises?

20 A Well that --

21 Q I'm on page 12.

22 A Well, he supervises export office clerk, export sales
23 assistants.

24 Q Thank you.

25 And if you would look at the next page, page 13. This is

1 Maho Kobayashi's resume, correct?
2 A Yes.
3 Q And pages 14 and 15 are the same employee's application
4 for employment at Wismettac, correct?
5 A Yes.
6 MS. SANCHEZ: The Union would like to offer Exhibit 25
7 into evidence, Your Honor.
8 JUDGE LAWS: Okay. Any objection with the same
9 qualifications as previously articulated?
10 MR. WILSON: Yes, Your Honor. Can I have a minute to go
11 through this document?
12 JUDGE LAWS: Sure.
13 MR. WILSON: So, Counselor, are you questioning him as to
14 Maho Kobayashi in Union Exhibit 25?
15 MS. SANCHEZ: Yes.
16 MR. WILSON: Okay. If you go to page -- starting on page
17 5, it starts with Yuki Amanuma. It like this was combined.
18 Looks like there's two --
19 JUDGE LAWS: Yep.
20 MR. WILSON: -- employees combined in one exhibit.
21 MS. SANCHEZ: Your Honor, I believe that counsel is
22 correct.
23 JUDGE LAWS: Yes.
24 MS. SANCHEZ: I think that this is a clerical error on our
25 part and so I'd be happy to remove Yukihiko Amanuma's documents

1 from Kobayashi's file --

2 MR. WILSON: But he testified beyond things that are on

3 page 5, I think.

4 MS. SANCHEZ: Yeah, but if you look at page 11, it's back

5 to Maho Kobayashi so.

6 JUDGE LAWS: It is. So let's extract pages 5 through 10

7 from this document.

8 MS. SANCHEZ: I apologize for that.

9 JUDGE LAWS: Because those appear to deal with a different

10 employee, so.

11 I will admit with the same qualifications as I had

12 previously said -- pages 1 through 4 and 11 through 15 of this

13 document.

14 **(Union Exhibit Number 25 Received into Evidence)**

15 MS. SANCHEZ: Thank you.

16 MR. WILSON: Okay, that's fine.

17 **(Union Exhibit Number 26 Marked for Identification)**

18 MR. WILSON: Thank you.

19 Q BY MS. SANCHEZ: Okay. Mr. Fujimoto, I've just handed you

20 what we've marked as Union Exhibit 26.

21 I would like to draw your attention to page 3 of this

22 document. This is the request for new employee form, I believe

23 we've looked at it before. This employee was provided a pay

24 rate of $15 per hour, correct?

25 A Yes.

1 Q And then down towards the middle of this document, this is
2 where the minimum requirements are listed. And in this case,
3 it's a language skill, a computer skill, and a college degree
4 skill, correct?
5 A Yes.
6 Q And then if you go to -- excuse me -- page 7 of this
7 document, this is the offer letter of request. This also
8 provides a pay rate of $15 per hour, correct?
9 A Yes.
10 Q And also, this form allows the user to check off the
11 equipment that the employee is going to use. In this case, it
12 was a desktop computer, correct?
13 A Yes.
14 Q I'd like you to take a look at page 12 of this document.
15 Are you there?
16 A Yes.
17 Q This is Sachie Liu's resume, correct?
18 A Yes.
19 Q And then pages 13 through 15 is the employee's summary
20 that we've talked about before, that's kept in the regular
21 course of business, correct?
22 A Yes.
23 Q And if you look at page 14, I think the second page of
24 this document, the EEO category listed for Sachie Liu is
25 Administrative Support Worker, correct?

1 A Yes.

2 MS. SANCHEZ: Okay. The Union would like to offer Exhibit

3 26, Your Honor.

4 JUDGE LAWS: As qualified, any objection to 26?

5 MR. WILSON: No Your Honor.

6 JUDGE LAWS: Union 26 is admitted.

7 **(Union Exhibit Number 26 Received into Evidence)**

8 **(Union Exhibit Number 27 Marked for Identification)**

9 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what

10 we've marked as Union Exhibit 27.

11 On page 1 of this document -- this is the enrollment

12 worksheet, correct?

13 A Yes.

14 Q And provides basic information, including the salary. So

15 it says salary, but where it says $14 towards the bottom on

16 number 25 of the first column, does $14 here refer to $14 per

17 hour?

18 A Yes.

19 Q Okay. And if you look at page 2 of this document, similar

20 document we've looked at before, this is the management center

21 document. This employee's job title is sales assistant,

22 correct?

23 A Yes.

24 Q And it says division and location, sales headquarters --

25 headquarters, sales. That is located in the second floor of

1 the main front office, correct?
2 A No.
3 Q The headquarters is --
4 A It could be first or second floor.
5 Q First or second, okay. Thank you for the clarification.
6 If you look at page 3, the offer letter request, we just looked
7 at it with regard to this type of document with regard to the
8 previous employee. Ms. Fumi Meza was provided a desktop
9 computer to work with, correct?
10 A I don't know.
11 Q Okay. You do see the document is checked off there?
12 A Checked off as computer, but I'm not sure if it was
13 desktop or laptop.
14 Q Oh okay, thank you. But a computer, then, correct?
15 A Yes.
16 Q Okay. Page 6 and 7 is where I'd like you to look next.
17 Are you there?
18 A Yes.
19 Q This is the application for employment that Fumi Meza
20 provided to Wismettac, correct?
21 A Yes.
22 Q Okay.
23 MS. SANCHEZ: The Union would like to offer Exhibit 27,
24 Your Honor.
25 JUDGE LAWS: Okay. And as previously qualified, any

1 objection?

2 MR. WILSON: No Your Honor.

3 JUDGE LAWS: Union Exhibit 27 is admitted.

4 **(Union Exhibit Number 27 Received into Evidence)**

5 JUDGE LAWS: And just potentially to save time going

6 forward, with regard to the employee data printed out that

7 references that EEO category, position, et cetera -- do we need

8 to walk through that each time? Or is the Employer willing to

9 stipulate the document says what it says and means what it

10 says?

11 MR. WILSON: I'll stipulate it says what it says, I won't

12 stipulate it means what it says.

13 JUDGE LAWS: All right.

14 MS. SANCHEZ: Okay Your Honor, thank you. I'm going to --

15 **(Union Exhibit Number 28 Marked for Identification)**

16 Q BY MS. SANCHEZ: Okay Mr. Fujimoto, I'm handing you what's

17 been marked as Union Exhibit 28.

18 This is for employee Kristie Mizobe. I'd like to draw you

19 attention to page 4. Ms. Mizobe was offered an hourly rate of

20 pay of $15 per hour, correct?

21 A Yes.

22 Q And page 5, if you would take a look at that one. This is

23 Kristie Mizobe's resume, correct?

24 A Yes.

25 Q And page 6 is the employee registration form we've

1 previously reviewed. Kristie Mizobe's supervisor is Nobuyasu
2 Yamamoto, correct? I'm looking at the top portion of the
3 document, where it says, "supervisor name."
4 A It says Nobuyasu Yamamoto, but that is incorrect.
5 Q Okay. Why is that incorrect?
6 A Because she works for the ICD department, and that manager
7 should be Shuzo Hosoma.
8 Q Can you spell that for me?
9 A S-H-U-Z-O Shuzo, H-O-S-O-M-A.
10 Q Thank you. And who else does Shuzo Hosoma supervise?
11 A Sales associates and sales assistants.
12 Q Thank you very much for the clarification. If you'd look
13 at the next page please -- the next two pages.
14 A Uh-huh.
15 Q This is --
16 JUDGE LAWS: And that's what I don't need you to keep
17 authenticating.
18 MS. SANCHEZ: Okay, thank you.
19 Q BY MS. SANCHEZ: I'd like you to look at page 9, please,
20 and 10.
21 JUDGE LAWS: And just for the record, those are the
22 employee profile reports.
23 MS. SANCHEZ: Thank you Your Honor.
24 JUDGE LAWS: And the Employer was willing to stipulate it
25 says what it says.

1 MR. WILSON: Right.
2 Q BY MS. SANCHEZ: Pages 9 and 10, this is the application
3 of Kristie Mizobe to Wismettac, correct?
4 A Yes.
5 Q Okay.
6 MS. SANCHEZ: The Union would like to offer Exhibit 28
7 into the record.
8 JUDGE LAWS: All right. As previously qualified, any
9 objection to Union 28?
10 MR. WILSON: No Your Honor.
11 JUDGE LAWS: That is admitted.
12 **(Union Exhibit Number 28 Received into Evidence)**
13 MS. SANCHEZ: I apologize, I seem to be one short, Your
14 Honor.
15 **(Union Exhibit Number 29 Marked for Identification)**
16 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what's
17 been marked as Union Exhibit 29.
18 This is for employee Steffanie Mizobe. If you could turn
19 to -- my apologizes -- page 6 of this document.
20 A Yes.
21 Q Steffanie Mizobe was offered a rate of pay of $15 an hour
22 in August of 2016, correct?
23 A Yes.
24 Q And if you look at pages 7 and 8, this is Steffanie
25 Mizobe's application for employment, correct?

1 A Yes.
2 Q And if you look at page 10, this is the associate resume,
3 correct?
4 A Yes.
5 Q Okay.
6 MS. SANCHEZ: The Union would like to offer Exhibit 29
7 into evidence.
8 JUDGE LAWS: Okay. With the same qualification, any
9 objection to Union 29?
10 MR. WILSON: No Your Honor.
11 JUDGE LAWS: And that is admitted.
12 **(Union Exhibit Number 29 Received into Evidence)**
13 MR. WILSON: Thank you.
14 **(Union Exhibit Number 30 Marked for Identification)**
15 Q BY MS. SANCHEZ: Okay. Mr. Fujimoto, I've just handed
16 what we've marked as Union Exhibit 30.
17 I'd like to have you go ahead and turn to page 7 of this
18 document.
19 A Okay.
20 Q This person was -- this employee was offered a rate of pay
21 of $12 per hour, correct?
22 A Yes.
23 Q And we've looked at this document before with regard to
24 other employees. Where it has the job description, these are
25 the skills required, correct?

1 A We base it upon the job description that the company has,
2 not based on -- this offer letter request form.
3 Q Okay. But in the offer letter request form, these are
4 bulleted to provide the employee notice of the summary of their
5 duties, correct?
6 A No.
7 Q Okay. Where it says, "please provide a detailed summary
8 of the duties will be responsible for," are you saying that
9 these duties are incorrect for this document?
10 A You asked me if the employee sees it, but the employee
11 doesn't see this. This is just for HR purposes.
12 Q Okay, excuse me. So this is an internal document kept in
13 the regular course of business, correct?
14 A Yes.
15 Q And the employee would be responsible for those duties?
16 A Listed on the job description.
17 Q Okay. And is it your testimony that the duties listed on
18 the job description are different than the duties listed under
19 the job description section of this document?
20 A Yes.
21 Q What's different?
22 A Because we don't -- in the job description, we don't
23 specify UPS or FedEx.
24 Q Okay. I would like to ask you whether office clerks
25 interact with UPS or FedEx -- for example, do they mail things

1 out?
2 A Yes.
3 Q Via USPS?
4 A Yes they do.
5 Q Okay. And then they receive and sign things with regard
6 to FedEx, correct?
7 A Yes.
8 Q Okay. I'd like you to move to page 8 of this document.
9 We've seen this document a number of times. The supervisor for
10 Shuji Ohta is listed as Mayumi Misawa; is that correct?
11 A Yes.
12 Q It's correctly listed and that's the correct supervisor?
13 A Yes.
14 Q Okay. And who else does Mayumi Misawa supervise? I don't
15 think I've asked about that supervisor before.
16 A Purchasing clerks.
17 Q Thank you. And page 10, is this the application for
18 employment for Shuji Ohta?
19 A Yes.
20 Q Okay.
21 MS. SANCHEZ: The Union would like to offer Exhibit 30
22 into evidence, Your Honor.
23 JUDGE LAWS: Okay. And with the same qualifications, any
24 objection to Union Exhibit 30?
25 MR. WILSON: No.

1 JUDGE LAWS: That is admitted.

2 **(Union Exhibit Number 30 Received into Evidence)**

3 MR. WILSON: Thank you.

4 **(Union Exhibit Number 31 Marked for Identification)**

5 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what

6 the Union has marked as Union Exhibit 31.

7 I'd like to draw your attention to pages 4, 5, and 6 of

8 this document. This is the employee summary that we have

9 talked about -- that you have testified about before, that's

10 kept in the regular course of business, correct?

11 A Yes.

12 Q And page 8 is the offer letter request -- I'm sorry. This

13 document in Union Exhibit 31 refers to employee Onaka Suguru,

14 correct?

15 A Yes.

16 Q Okay. And if you look at page 8 of this document, this

17 employee was provided an hourly base rate of -- excuse me, an

18 hourly rate of pay of $14 an hour, correct?

19 A Yes.

20 Q And below where I just referred to, the job description --

21 what's listed is "release orders and prepare invoices, helps

22 will call." Do you know who put that there?

23 A It would most likely be the signer, but I don't know

24 who -- what the signature is.

25 Q Okay. And this employee's supervisor was Tadashi Domem?

1 A Yes.
2 Q Okay. Page 9 and 10 is this employee's application for
3 employment at Wismettac, correct?
4 A Yes.
5 Q And pages 12 through 21, I believe were attached to the
6 Employer's exhibit with regard to this employee, that would be
7 Exhibit 73. That's where I asked you about whether PJ meant
8 pallet jack; do you remember that? You still don't know what
9 PJ refers to --
10 JUDGE LAWS: And he's already answered --
11 Q BY MS. SANCHEZ: -- on page 12?
12 JUDGE LAWS: Why would -- he's already answered this line
13 of questioning. Is there a reason to revisit it?
14 MS. SANCHEZ: I'll move on, Your Honor.
15 JUDGE LAWS: Okay.
16 Q BY MS. SANCHEZ: The supervisor you just referred to,
17 Tadashi Domem, that's the former warehouse supervisor?
18 A Warehouse manager.
19 Q Warehouse manager, thank you.
20 MS. SANCHEZ: The Union would like to offer Exhibit 31
21 into evidence.
22 JUDGE LAWS: Okay. As previously qualified, any objection
23 to Union 31?
24 MR. WILSON: No Your Honor.
25 JUDGE LAWS: That is admitted.

1 **(Union Exhibit Number 31 Received into Evidence)**

2 **(Union Exhibit Number 32 Marked for Identification)**

3 Q BY MS. SANCHEZ: Mr. Fujimoto, I just handed you what's

4 been marked as Union Exhibit number 32.

5 Would you take a look at page 4 of this document?

6 A Yes.

7 Q This document refers to employee Wakako Park, who was

8 offered an hourly rate of pay of $13.50 per hour, correct?

9 A Yes.

10 Q And page 6 of this document identifies Wakako Park's

11 supervisor as Hwami Oh, correct?

12 A Yes.

13 Q If you look at page 11 of this document, please.

14 A Okay.

15 Q This is Wakako Park's application for employment for

16 Wismettac, correct?

17 A Yes.

18 Q And pages 12 through 14 are their employee profile report,

19 correct?

20 A Yes.

21 Q And that document is kept in the regular course of

22 business?

23 A Yes.

24 Q If you look at page 17 thorough 19 of this document, this

25 is the associated resume for employment, correct?

1 A Yes.

2 MS. SANCHEZ: The Union would like to offer Exhibit 32

3 into evidence.

4 JUDGE LAWS: Okay. I do notice this one has a verbal

5 counseling in it. Is there any reason to include discipline in

6 the exhibit? Because that just seems inconsistent with

7 previous files.

8 MS. SANCHEZ: Yeah, that's fine Your Honor. We don't have

9 to offer that particular page into evidence.

10 JUDGE LAWS: Okay. Then I will admit, absent a new

11 objection, subject to the same qualifications, Union Exhibit 32

12 pages 1 through 9 and 11 through 19.

13 **(Union Exhibit Number 32, pg. 1-9 & 11-19 Received into**

14 **Evidence)**

15 MS. SANCHEZ: Thank you Your Honor.

16 MR. WILSON: No objection.

17 JUDGE LAWS: Thanks.

18 **(Union Exhibit Number 33 Marked for Identification)**

19 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you a

20 one-page document marked as Union Exhibit 33.

21 Q I'd like you to look at page 2 of that document. This is

22 a form we've looked at before. Domingo Pliego's supervisor was

23 Anthony Vasquez, correct?

24 A Yes.

25 Q And we've already established that Anthony also went by

1 Jose, correct?
2 A Yes.
3 MS. SANCHEZ: The Union would like to offer Exhibit 33
4 into evidence, Your Honor.
5 JUDGE LAWS: Again, I just note that it's the same as
6 Employer Exhibit 75 on the first page.
7 MS. SANCHEZ: Oh.
8 JUDGE LAWS: It does contain additional information on the
9 back page that is not present in the Employer exhibit. So any
10 objection to Union 33?
11 MR. WILSON: No Your Honor, and it was our fault for
12 missing the second page.
13 JUDGE LAWS: All right. That is admitted, then.
14 **(Union Exhibit Number 33 Received into Evidence)**
15 MS. SANCHEZ: Thank you, Your Honor. I may have --
16 JUDGE LAWS: I have two stapled together, so if he can
17 just --
18 MS. SANCHEZ: I actually think that the double staple was
19 from my office.
20 JUDGE LAWS: Yeah.
21 MS. SANCHEZ: So I don't think it's a duplicate. So I
22 guess the court reporter has offered to let me use his.
23 JUDGE LAWS: Okay.
24 MS. SANCHEZ: Thank you.
25 JUDGE LAWS: I do have two copies --

1 MS. SANCHEZ: Oh.
2 JUDGE LAWS: -- stapled together. But that's okay.
3 MS. SANCHEZ: Oh. Okay.
4 JUDGE LAWS: As long as the one the court reporter gets
5 only has one, that's fine.
6 MS. SANCHEZ: Thank you Your Honor, sorry about that.
7 **(Union Exhibit Number 34 Marked for Identification)**
8 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what's
9 been marked as Union Exhibit 34.
10 I'd like you to look at page 5 of this document please.
11 This is the registration form that we've looked at before.
12 Mamoru Tagai's supervisor was Tadashi Domem, correct?
13 A Yes.
14 Q And you've already identified that person. Can you
15 please -- can you please look at pages 19 and 20 of this
16 document?
17 A Okay.
18 Q This is the --
19 JUDGE LAWS: And again, this the employee summary I've
20 said we don't need to go over anymore, unless you're pointing
21 out something that isn't apparent from the document.
22 Because --
23 MS. SANCHEZ: I'm just -- thank you, Your Honor. I won't
24 point anything else out, other than I wanted the witness to
25 look at it as he has the other documents. I won't ask any

1 further questions.

2 JUDGE LAWS: Okay. Again, as I said, just to move things

3 along. I think that what the employee summary is has been

4 authenticated, and the Employer stipulated --

5 MS. SANCHEZ: Okay.

6 JUDGE LAWS: -- what it says, it says. And --

7 MS. SANCHEZ: Okay.

8 JUDGE LAWS: -- unless there's something ambiguous, we

9 don't need to address that piece anymore.

10 MS. SANCHEZ: Thank you. At this point I would like to

11 offer Union Exhibit 4 (sic) then, Your Honor.

12 JUDGE LAWS: Okay. Any objection to Union 34?

13 MS. SANCHEZ: 34.

14 MR. WILSON: With the same understanding, no.

15 JUDGE LAWS: Okay. I will admit that.

16 **(Union Exhibit Number 34 Received into Evidence)**

17 **(Union Exhibit Number 35 Marked for Identification)**

18 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you Union

19 Exhibit 35.

20 I'd like to draw your attention to page 6 of this

21 document.

22 A Okay.

23 Q Okay. This is -- Union Exhibit 35 refers to employee

24 Keiko Takeda, who was offered a rate of pay of $14 an hour,

25 correct?

1 A Yes.
2 Q And if you look at page 7 of this document, was Keiko
3 Takeda's supervisor Mayumi Misawa?
4 A Yes.
5 Q And page 8 of this document, and 9, if you'd take a look
6 at that for me, as well as 10.
7 A Okay.
8 Q Pages 8 and 9 are the employee -- Keiko Takeda's
9 application for employment to Wismettac, correct?
10 A Yes.
11 Q And page 10 is the associated resume --
12 A Yes.
13 Q -- correct? And I won't ask questions, but I'll note that
14 pages 11 and 14 are the -- through 15, excuse me -- are the
15 employee profile report that we've referred to before.
16 MS. SANCHEZ: The Union would like to offer Exhibit 35
17 into evidence, Your Honor.
18 JUDGE LAWS: Okay. With the same qualifications, any
19 objection?
20 MR. WILSON: No Your Honor.
21 JUDGE LAWS: Union 35's admitted.
22 **(Union Exhibit Number 35 Received into Evidence)**
23 **(Union Exhibit Number 36 Marked for Identification)**
24 Q BY MS. SANCHEZ: Okay. Mr. Fujimoto, I've just handed you
25 what we've marked as Union Exhibit 36, with regard to employee

1 Stacy Umemoto.
2 If you'd please take a look at page 7 -- one second. Are
3 you looking at page 7?
4 A Yes I am.
5 Q Thank you. This is the employee registration form that
6 we've looked at before. The supervisor is not listed here for
7 Stacy Umemoto; can you tell us who Stacy Umemoto's supervisor
8 is?
9 A Mayumi Misawa.
10 JUDGE LAWS: And has that always been the case? As far as
11 you know?
12 THE WITNESS: No. Mayumi Misawa was hired after. Based
13 on this, it looks like it was Hironari Noda. In the middle,
14 "HR use only," there's a supervisor's name that is listed as
15 Hironari Noda.
16 Q BY MS. SANCHEZ: Okay. And if you look at Employer's
17 Exhibit 78.
18 A Yes.
19 Q No --
20 A Oh.
21 Q -- Employer's Exhibit 78, it's a different document.
22 A Oh. Okay.
23 Q Page 2 of that document also lists Hironari Noda as the
24 supervisor, correct?
25 A Yes.

1 Q And who else did Hironari Noda supervise?
2 A I don't know.
3 Q Okay. I will note but not ask questions about pages 10
4 through 13 --
5 JUDGE LAWS: You don't even need to. It's been stipulated
6 to. So --
7 MS. SANCHEZ: The only -- thank you Your Honor. That's
8 fine.
9 Q BY MS. SANCHEZ: If you look at page 14 of this document,
10 are you familiar with the employee training records that are
11 used at Wismettac?
12 A No.
13 Q Okay. This employee, Stacy Umemoto, took the safety
14 training for back injury responsibility, correct?
15 A Based on this document, yes.
16 Q And if you look at pages 16 and 17, that's Stacy Umemoto's
17 application for employment to Wismettac, correct?
18 A Yes.
19 MS. SANCHEZ: Your Honor, we'd like to offer Exhibit 36
20 into evidence.
21 JUDGE LAWS: Okay. Subject to the same qualification, any
22 objection to Union 36?
23 MR. WILSON: No Your Honor.
24 JUDGE LAWS: That's admitted.
25 **(Union Exhibit Number 36 Received into Evidence)**

1 MS. SANCHEZ: Thank you.

2 **(Union Exhibit Number 37 Marked for Identification)**

3 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what's
4 been marked as Union Exhibit 37, with regard to employee Karen
5 Yamamoto.

6 JUDGE LAWS: Before you go any further, if you're going to
7 be questioning it on anything beyond page 7, my copy's
8 illegible. I don't know if other people's copies are also.

9 MS. SANCHEZ: Your Honor, I am. Thank you for noting that
10 and I apologize for the clerical error. We have the original
11 produced documents in my car.

12 JUDGE LAWS: Why don't you go ahead and then -- okay, if
13 you're going to question the witness, just come up and show him
14 that. And that will need to be the one that goes in the
15 record, because if a copy like mine is the official record,
16 it's going to not work.

17 MS. SANCHEZ: I understand Your Honor. But I don't have
18 that copy, it's in my car. So I would have to go get it.

19 JUDGE LAWS: Okay well, why don't we do what we can with
20 the copy we have.

21 Q BY MS. SANCHEZ: If you would take a look at page 5 --
22 excuse me, that's the one that Your Honor has asked us to move
23 along, that's fine. If you look at page 6 please, this
24 document -- Union Exhibit 37 with regard to Karen Yamamoto --
25 Ms. Yamamoto was provided an hourly rate of pay of $13 an hour,

1 correct?
2 A Yes.
3 Q And on page 7, by 2013 was making a rate of pay of $16.05
4 per hour, correct?
5 A No. At our company?
6 Q Excuse me. I withdraw that question.
7 If you look at pages 9 and 10, is your --
8 MS. SANCHEZ: Your Honor, I believe we have a poor copy of
9 pages 9 and 10, which I did want to ask this witness questions
10 about. And --
11 JUDGE LAWS: Are you just going to ask if it's the
12 application? Because, if so, I'm sure we can just substitute
13 it out.
14 MR. WILSON: Right.
15 JUDGE LAWS: Because it's been pretty perfunctory
16 questioning so I don't think --
17 MS. SANCHEZ: That's what I was going to suggest.
18 JUDGE LAWS: Okay.
19 MS. SANCHEZ: If we could hold the record open and I'll go
20 get the correct copy in.
21 JUDGE LAWS: We won't be able to do it through this
22 witness, but perhaps the parties will stipulate.
23 MR. WILSON: Yeah, I'll try to look at it -- looks --
24 yeah --
25 JUDGE LAWS: Okay.

1 MR. WILSON: -- then we don't have an objection.
2 MS. SANCHEZ: Okay. Thank you, Employer. We'll
3 stipulate, that's fine. The Union would like to offer Union
4 Exhibit 37 into the record.
5 JUDGE LAWS: Okay. And subject to a clean copy of pages 9
6 and 10 being provided, is there any objection -- also subject
7 to my previous qualifications?
8 MR. WILSON: No, Your Honor, that's fine.
9 JUDGE LAWS: Okay. Union 37 is admitted.
10 **(Union Exhibit Number 37 Received into Evidence)**
11 **(Union Exhibit Number 38 Marked for Identification)**
12 MS. SANCHEZ: All right.
13 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what
14 the Union has marked as Exhibit 30 -- Union Exhibit 38. I'd
15 like you to take a look at page 6, please. Are you there?
16 A Yes.
17 Q This is for Chiaki Yamashita?
18 A No.
19 Q Okay. Excuse me, this is for -- page 6 is for --
20 A For a different employee.
21 Q -- for a different Chiaki, excuse me.
22 MS. SANCHEZ: Your Honor, we will withdraw pages 6 through
23 19 of this document.
24 JUDGE LAWS: Okay.
25 MS. SANCHEZ: I apologize. I don't -- I'm not sure where

1 that error came from, but there's two Chiakis. So page 20, it
2 looks like, resumes for Yamashita.
3 Q BY MS. SANCHEZ: Mr. Fujimoto, if you would take a look at
4 page 20, please.
5 A 20?
6 Q Yes, thank you.
7 A I don't have 20. It goes to 19, 22.
8 JUDGE LAWS: Here, I'll show you my 20.
9 Q BY MS. SANCHEZ: The document I'm looking at is an email
10 regarding Chiaki Yamashita's 401(k) update. Do you see that
11 document?
12 A I see a document, but I can't confirm if it's Yamashita.
13 Q Can you look at the top -- page 20 at the top, does the
14 document you're looking at identify --
15 A Oh, yeah.
16 Q -- Thuy Nguyen with the subject of Chiaki Yamashita's
17 401(k) update?
18 A That's the subject line, yes.
19 Q The subject line, okay.
20 MR. WILSON: Your Honor, I'm going to object to this.
21 It's way after the petition. It's October -- August 31st,
22 2018 --
23 MS. SANCHEZ: I wanted to ask --
24 MR. WILSON: -- it's referring to personal financial
25 matter.

1 MS. SANCHEZ: I wanted to ask this witness whether he knew
2 if Chiaki Yamashita on February 6th, 2018, or before that
3 whether Chiaki Yamashita received a 401(k).
4 JUDGE LAWS: Okay.
5 THE WITNESS: I don't know.
6 Q BY MS. SANCHEZ: You don't know? If you'd take a look at
7 page 20 -- excuse me -- 25 and 26, this is Chiaki Yamashita's
8 application for employment for Wismettac, correct?
9 A Yes.
10 MS. SANCHEZ: So the Union would like to offer the correct
11 pages of Union Exhibit 38 into the record, Your Honor.
12 JUDGE LAWS: All right. So I will admit pages 1 through 5
13 and 20 through 28.
14 **(Union Exhibit Number 38 Received into Evidence)**
15 MS. SANCHEZ: Thank you, Your Honor.
16 JUDGE LAWS: Subject to the same qualifications, absent a
17 different objection.
18 **(Union Exhibit Number 39 Marked for Identification)**
19 Q BY MS. SANCHEZ: Mr. Fujimoto, I've just handed you what
20 we've marked as Union Exhibit 39. As a -- I believe you
21 already said this but Yasuhiro Yamashita also goes by David,
22 correct?
23 A Yes.
24 Q Some documents in his employee personnel file identify him
25 as one or the other, but he's the same person, correct?

1 A Yes.
2 Q Can you look at page 3 of this document?
3 A Okay.
4 Q This is a performance review of this employee. The
5 evaluator listed is K. Sasaki. Do you know who K. Sasaki is?
6 A Yes.
7 Q Who is K. Sasaki?
8 A K. Sasaki was the old alley (phonetic) branch manager.
9 Q And that's the person who evaluated Yasuhiro Yamashita?
10 A Based on this form, yes.
11 JUDGE LAWS: I guess I'm wondering why I'm looking at a
12 2004 evaluation when he -- there's a change in assignment in
13 2010 depicted on the first two pages.
14 MS. SANCHEZ: I'd like to -- I wanted to ask this employee
15 whether Yasuhiro Yamashita has received additional performance
16 evaluations after 2004.
17 JUDGE LAWS: Okay.
18 Q BY MS. SANCHEZ: So Mr. Fujimoto, do you know if Yasuhiro
19 Yamashita received additional performance reviews after 2004?
20 A Looking at page 5, in 2017 he did.
21 Q And then what about after that? Were they yearly?
22 A Yes.
23 Q Okay. Do you know why the documents that were produced to
24 the Union did not include all of the years of performance
25 reviews?

1 A I don't know.
2 Q Okay. Can you please look at page 6 of this document?
3 A Yes.
4 Q This is Yasuhiro Yamashita's resume that was provided for
5 application to Wismettac, correct?
6 A I don't know. I wasn't employed in 2000.
7 Q Okay.
8 MS. SANCHEZ: The Union would like to offer Exhibit 39
9 into evidence, Your Honor.
10 JUDGE LAWS: Okay. And again subject to the same
11 qualification, any objection to Union 39?
12 MR. WILSON: Well, I would object to page 6. He just said
13 he didn't know that -- what it said, I think.
14 MS. SANCHEZ: The Union would offer, Your Honor, that
15 these documents were produced by the Employer and this is a
16 document that's kept in the regular course of business, it's a
17 business record.
18 JUDGE LAWS: If they were produced pursuant to the
19 subpoena as being part and parcel of his personnel file, I will
20 admit it. Is there any dispute that this was what -- this
21 was -- these pages were produced by the Employer?
22 MR. WILSON: We have an understanding that now that
23 personnel files are business records, which would be an
24 exception to the hearsay rule?
25 JUDGE LAWS: Well, you know, I guess, we would need -- I'm

1 not going to make a blanket ruling, absent individual
2 objections on individual pieces. I'm just saying that they are
3 what they are. I mean, they were provided, they're authentic.
4 I'm not talking -- I'm not going to go into does each page
5 somehow withstand an objection to hearsay because that's just
6 not how I rule on evidence.
7 MR. WILSON: No, no, Your Honor. I'm just asking are you
8 admitting page 6, because it's self-authenticated or are you
9 admitting it because it's part of a personnel file, that she
10 indicated was kept in the regular course of business?
11 JUDGE LAWS: I am admitting it as authentic. I don't know
12 what application it was attached to. It's a resume that
13 existed in 2000. It doesn't really tell me anything beyond
14 that.
15 MR. WILSON: Okay. No objection, specific to the other
16 qualifications.
17 JUDGE LAWS: Union 39 is admitted.
18 **(Union Exhibit Number 39 Received into Evidence)**
19 Q BY MS. SANCHEZ: With regard to the same employee,
20 Mr. Fujimoto, David or Yasuhiro Yamashita, his supervisor and
21 employer in 81 is listed as John Chen. Can you tell us who
22 else John Chen supervises?
23 A Sales associates.
24 Q Thank you.
25 MS. SANCHEZ: I have no further questions for this

1 witness, Your Honor.

2 JUDGE LAWS: All right. Any redirect?

3 MR. WILSON: Well, Your Honor, I mean he's supposed to

4 leave in ten minutes.

5 JUDGE LAWS: He is.

6 MR. WILSON: We received a huge amount of documents that

7 don't necessarily match up to the ones that we put in

8 previously. So we would request that he come back Friday,

9 because they have their interpreter tomorrow and their boys are

10 off work, but we have no -- you know, I think his redirect is,

11 sort of important.

12 JUDGE LAWS: Right.

13 MR. WILSON: I can't do this in five minutes.

14 JUDGE LAWS: Understood. And yeah, I think it does make

15 sense, seeing as I -- we had all previously understood that

16 Mr. Fujimoto leave at 1:30 today. So if there is any redirect,

17 we can do that Friday.

18 MR. WILSON: Okay, thank you.

19 MS. SANCHEZ: Your Honor, if I may, the witnesses -- we

20 had planned on having our case on Thursday and Friday, with the

21 exception of the out-of-order witnesses for Thursday.

22 JUDGE LAWS: Uh-huh.

23 MS. SANCHEZ: We have one witness who is --

24 JUDGE LAWS: Why don't we go off the record and --

25 MS. SANCHEZ: Sure --

1 JUDGE LAWS: -- discuss this after Mr. Fujimoto gets in
2 his car and drives to Orange County.
3 Thank you for your testimony. Please don't discuss with
4 anyone.
5 THE WITNESS: Thank you very much, Your Honor.
6 JUDGE LAWS: Off the record.
7 MS. SANCHEZ: Thank you, sorry about that.
8 (Off the record at 1:26 p.m.)
9 Whereupon,
10 **CHRISTIAN MCCORMICK**
11 having been duly sworn, was called as a witness herein and was
12 examined and testified as follows:
13 JUDGE LAWS: Okay, please have a seat. And if you recall,
14 I gave a few preliminary instructions at the outset of your
15 testimony; those still apply. The most important one is just
16 make sure you don't talk over the person who's questioning you.
17 Okay? Thanks.
18 **DIRECT EXAMINATION**
19 Q BY MR. WILSON: Good afternoon, Mr. McCormick, thanks for
20 coming back.
21 MR. WILSON: Can the court reporter show the witness
22 General Counsel Exhibit 52?
23 Q BY MR. WILSON: Okay, Mr. McCormick, you have in front of
24 you General Counsel Exhibit 52.
25 A Yeah.

1 Q Can you turn to the second page of that and take a minute
2 to look at that?
3 A Okay.
4 MR. RIMBACH: He's looking at the third page. Are you
5 talking about the second page or the third page?
6 MR. WILSON: Actually, it would be the third page, I'm
7 sorry. Because it's double-sided.
8 Q BY MR. WILSON: So are you looking at the third page of
9 General Counsel Exhibit 52?
10 A Yes.
11 Q Okay. And do you recognize that document?
12 A Yes.
13 Q Okay. And I want to direct your attention to January --
14 well, let's start over again. So can you look at where it says
15 date?
16 A Uh-huh.
17 Q And can you tell me what date you believe that is? Is it
18 January 9th or was it another date?
19 A I believe it's January 9th.
20 Q Okay. And that's 2018?
21 A Yes.
22 Q Okay. And do you recall having an employee meeting on
23 January 9th, 2018?
24 A Yes.
25 Q Okay. And does the document in front of you reference

1 that meeting that you held that day?
2 A Yes.
3 Q Okay. And what time was the meeting you held?
4 A I don't recall exactly. It was sometime at night, maybe
5 anywhere from 5:30 to 7:30, somewhere in that time frame.
6 Q Okay. And why did you call this meeting?
7 A To have a group meeting with the warehouse, to introduce
8 the new leads, to talk about safety, quality, replenishments,
9 and housekeeping.
10 Q Okay. Now, to the right of the date it says manager,
11 Christian McCormick --
12 A Uh-huh.
13 Q -- that's you.
14 A Right.
15 Q And Gerber Flores. So who's Gerber Flores?
16 A He's the nighttime supervisor at that time. He was coming
17 on board to replace me. I was going to first shift.
18 Q Okay. And that was on January 9ty, 2019?
19 A Around that time, yes.
20 Q Okay. And prior to Mr. Flores becoming the new -- and you
21 said he was the new manager?
22 A Supervisor.
23 Q Supervisor, I'm sorry.
24 A Supervisor.
25 Q What position did he hold?

1 A Freezer lead.
2 Q Okay. Now, you also mentioned the new lead members, John
3 Kirby and Jose Rosas. Who was John Kirby?
4 A He was a worker in the freezer who became a lead. He was
5 just a regular worker.
6 Q Okay. And when did he become a lead to the best of your
7 recollection?
8 A Around this time.
9 Q Okay. And who was Jose Rosas?
10 A He was also a warehouse worker that worked in the freezer.
11 Q Okay. And do you recall -- did you say anything about
12 these individuals at the meeting? Did you introduce them or?
13 A As I recall, I just introduced them as the new leads
14 coming on board. Rosas was going to go to as the freezer lead,
15 John was going to go as the dry lead.
16 Q Okay. At any time, did you introduce them as the new --
17 let's just take them one at a time. At any point in that
18 meeting did you introduce Mr. Kirby as the new supervisor?
19 A No.
20 Q Okay. At any time during that meeting did you introduce
21 Mr. Rosas as the new supervisor?
22 A No.
23 Q Okay.
24 MR. WILSON: I have no further questions of this witness.
25 JUDGE LAWS: Okay, any cross?

1 MS. SANCHEZ: Yes, thank you, Your Honor.

2 **CROSS-EXAMINATION**

3 Q BY MS. SANCHEZ: Hello.

4 A Hi.

5 Q Mr. McCormick, both John Kirby and Jose Rosas were in the

6 freezer or was it only Jose Rosas in the freezer?

7 A I believe John Kirby was in the freezer as well at that

8 time with Rosas.

9 Q Okay. So both John Kirby and Jose Rosas came out of the

10 freezer?

11 A Yes.

12 Q And then they were leads in the freezer?

13 A They weren't leads in the freezer, they were just regular

14 workers.

15 Q They were regular workers in the freezer. And Jose Rosas,

16 does -- is he also known as Jose De la Rosas?

17 A That I don't know.

18 Q When did you -- can you remind me when you came to Santa

19 Fe Springs to work at Wismettac?

20 A I believe it was October 16th.

21 Q Of what year?

22 A 2017.

23 Q So you're aware that John Kirby became a warehouse worker,

24 originally, in March of 2017, correct?

25 A I'm not aware of that.

1 Q And are you aware that Jose Rosas -- that his hire date
2 was May 15th, 2017?
3 A I wasn't aware of his hire date to the best of my
4 knowledge.
5 Q Okay. Can you please look at Union Exhibit 2? Can you
6 look at the second column to the right where it says rate of
7 pay?
8 A Uh-huh.
9 Q Five rows down is John Kirby. His rate of pay is listed
10 as $46 an hour. Leads don't typically make $46 an hour, do
11 they?
12 A Not that I'm aware of, no.
13 Q Okay. You don't believe that they do, correct?
14 A I don't believe so, yes.
15 Q Yeah, okay. And if you could go further down -- sorry,
16 let me count here. Fourteen rows down from the top is Mr. Jose
17 Rosas. He also is listed as making $46 an hour. Leads, as you
18 just said, don't typically make $46 an hour. Do you know why
19 Mr. Rosas was making $46 an hour?
20 MR. WILSON: Objection. Assumes facts that in evidence
21 that he was making $46 an hour.
22 JUDGE LAWS: Do you know if he was?
23 THE WITNESS: I have no idea if he was.
24 Q BY MS. SANCHEZ: Do you know what his rate of pay was at
25 the time you were there?

1 A I do not.

2 MS. SANCHEZ: I have no further questions for this

3 witness, Your Honor.

4 JUDGE LAWS: Okay. Any redirect?

5 MR. WILSON: No.

6 JUDGE LAWS: All right. Well, thank you, for coming

7 again.

8 THE WITNESS: Okay.

9 JUDGE LAWS: Please don't discuss your brief testimony

10 with any other witnesses or any potential witnesses.

11 THE WITNESS: Okay.

12 JUDGE LAWS: Thank you. All right.

13 Come on around, and I'm going to swear you in again as

14 well, because it's been a couple of weeks. Can you please

15 raise your right hand?

16 Whereupon,

17 **FRANK MATHEU**

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

19 examined and testified as follows:

20 JUDGE LAWS: Okay, please have a seat. And just bear in

21 mind again, try not to speak when the person asking you the

22 question is speaking, to make our court reporter's life a

23 little easier.

24 **DIRECT EXAMINATION**

25 Q BY MR. WILSON: Mr. Matheu, welcome back.

1 A Thanks.
2 Q We missed you here.
3 MR. WILSON: So can the court reporter show the witness,
4 Employer Exhibit 26?
5 Q BY MR. WILSON: Please take some time and read that
6 document.
7 A Yeah.
8 Q Okay. Now, this document refers to -- it's a job
9 description for a lead warehouse worker. To your knowledge, is
10 that the only job description that exists for a lead warehouse
11 worker?
12 A That's correct.
13 Q Okay. And was that job description in effect during 2017?
14 A Yes.
15 Q Okay. And did it remain in effect during 2018?
16 A Yes.
17 Q Okay. And it's currently the job description for a lead
18 office --
19 A Correct.
20 Q -- lead warehouse worker, excuse me?
21 A Correct.
22 Q And can you just -- and you're familiar with the job
23 duties of a lead warehouse worker, are you?
24 A Correct.
25 Q Okay. And how is that?

1 A The three major functions that --
2 Q No, how is that you know what leads do?
3 A Oh, well I'm the one who actually promotes individuals and
4 gives them direction.
5 Q Okay.
6 A Through the manager, supervisor, and down the line.
7 Q Okay. So because of that you're familiar with the duties
8 of a lead?
9 A Yes.
10 Q Okay. Does Employer Exhibit 26 generally accurately
11 describe the duties of a lead?
12 A Yes.
13 Q Okay. So just in your own words, how would you describe
14 the duties of a warehouse lead, in addition to Employer Exhibit
15 26?
16 A Three major functions for a lead person, basically,
17 support the employees, any questions they have, any --
18 especially, new employees going into our -- coming into our
19 company. The second one would be work distribution, make sure
20 that work is distributed evenly amongst the employees. And
21 three, make sure the employee has everything they need to do
22 the job.
23 Q Okay.
24 A Tools and knives and whatever they might need to do the
25 job.

1 Q Now, you're in the room when Mr. McCormick testified,
2 correct?
3 A Yes.
4 Q Okay. About Mr. Kirby and Mr. Rosas being promoted to
5 lead?
6 A Correct.
7 Q Okay. And when they were promoted to lead do you know who
8 it was that they reported to directly?
9 A They reported -- when they got promoted they reported to
10 Gerber.
11 Q Okay. And what was Gerber's position before -- it's my
12 understanding Gerber was promoted then from lead to supervisor?
13 A Correct.
14 Q Okay. And do you recall, approximately, when that was?
15 A January -- sometime in January. I don't know the exact
16 date.
17 Q Okay.
18 JUDGE LAWS: And that's 2018?
19 THE WITNESS: Yes, ma'am.
20 JUDGE LAWS: Okay.
21 Q BY MR. WILSON: Okay, so I want to show you --
22 MR. WILSON: Can the court reporter show the witness
23 Employer Exhibit 44?
24 Q BY MR. WILSON: And can you take a few minutes to read
25 through that?

1 A Okay.
2 Q Okay, so first I wanted to direct your attention to, at
3 the very top it says manager request forms. At the very -- so
4 I'm sorry. Are you looking at 44 or 43?
5 A 44.
6 Q 44, that's right then. All right, and we'll go back to
7 43. So at the very top, the form is entitled manager request
8 form. What exactly is a manger request form if you know?
9 A A manager request form is a form filled out by managers.
10 Whenever there is a change of position, promotion, any type of
11 change in different than what the employee has currently at the
12 top.
13 Q Okay, so Exhibit 44 refers to Jose Rosas manager request
14 form. And can you explain to me then the next box, requested
15 personnel action, what was being done with regard to Jose
16 Rosas?
17 A Jose Rosas was being promoted from a warehouse worker to a
18 warehouse lead.
19 Q Okay. On or about the dates referenced in this document?
20 A Correct.
21 Q Okay. Now, it says -- do you know -- did he receive a pay
22 increase?
23 A Yes, he did.
24 Q Okay. Can you tell, looking at the document how much of a
25 pay increase he received?

1 A Yes. He went from 14.50 to 15.
2 Q Okay. And to your knowledge --
3 JUDGE LAWS: To 15.50?
4 THE WITNESS: I'm sorry?
5 JUDGE LAWS: Is it to 15.50 or to 15?
6 THE WITNESS: 15.50, I'm sorry, Your Honor.
7 JUDGE LAWS: Okay.
8 Q BY MR. WILSON: Okay. And to your knowledge, did he
9 remain at that rate until the time he left the company?
10 A Jose Rosas is still with us.
11 Q Oh, yeah, I'm sorry, I mixed them up. Okay.
12 Now, there was reference where Mr. McCormick testified and
13 it was asked by counsel for the Union, regarding Union Exhibit
14 2 about a $46 an hour pay rate?
15 A Uh-huh.
16 Q To your knowledge, did Mr. Rosas -- has he ever made $46
17 an hour since he's been employed at the company?
18 A No.
19 Q Do you have any idea where that $46 an hour pay rate came
20 from?
21 A I have no idea.
22 Q Okay. Would you like $46?
23 A I would love $46.
24 Q Okay, sorry. Now, then, down below that it says there is
25 supporting comment. Can you take a second and read that?

1 A Yeah.
2 Q Okay. And do you recall if you wrote that?
3 A I did.
4 Q And so the supporting comment, then, were just your
5 reasons for requesting or supporting the promotion of
6 Mr. Rosas?
7 A Yes.
8 Q Okay. And then, can you flip to the second page? And this
9 appears to be an email or a letter dated to -- addressed to
10 Mr. Narimoto. Is that Yoshie Narimoto?
11 A That's correct.
12 Q Now, did you write the memo to Mr. Narimoto that's on page
13 2 of Exhibit 44?
14 A Yes.
15 MS. SANCHEZ: Objection, leading.
16 JUDGE LAWS: It would be better to ask, do you know who
17 wrote this.
18 MR. WILSON: Okay. Well, it's kind of like we all know.
19 All right. I'm sorry, Your Honor.
20 Q BY MR. WILSON: Do you know who wrote this?
21 A I did.
22 Q Okay. And you indicated that you wrote the supporting
23 comment on page 1. Why did you follow it up with the
24 additional document on page 2?
25 JUDGE LAWS: It's different people.

1 MR. WILSON: Well, I'm going to ask him directly.
2 Q BY MR. WILSON: Let's talk about --
3 JUDGE LAWS: One is for Mr. Rosas, one is for Mr. Kirby.
4 MR. WILSON: But they're both in the same -- okay.
5 Q BY MR. WILSON: So there are two employees referred to in
6 this memo, correct?
7 A Correct.
8 Q Okay. And the first one is Mr. Rosas?
9 A Correct.
10 JUDGE LAWS: Sorry, I missed that.
11 MR. WILSON: Okay.
12 Q BY MR. WILSON: So why did you write this to Yoshie
13 Narimoto about Mr. Rosas?
14 A I would like to -- to -- for the approval process to go
15 faster. I usually like to indicate a few more comments why we
16 couldn't promote an individual from one position to another.
17 Q Okay.
18 MR. WILSON: Okay, can the court reporter show the witness
19 Employer Exhibit 63? No, 43, I'm sorry.
20 Q BY MR. WILSON: Can you take a second and go through that?
21 A Okay.
22 Q So Exhibit 43 appears to reference John Kirby. Do you
23 know what Exhibit 43 is?
24 A Yes. An MRF form.
25 Q Okay.

1 A Manager request form, sorry.
2 Q Okay. And was there also -- were you also requesting that
3 Mr. Kirby be promoted to a lead?
4 A Correct.
5 Q Okay. And approximately what date was that?
6 A Around the date that was the effective date.
7 Q Okay.
8 A Same time frame.
9 Q Was that in January --
10 A January, yeah.
11 Q -- 2018?
12 A Yeah.
13 Q Okay. And in the supporting comment, did you write that
14 for Mr. Kirby --
15 A Yes.
16 Q -- at the bottom of page 1?
17 A Yes.
18 Q And on page 2, the same memo that you testified about with
19 Jose Rosas, the second paragraph of that refers to Mr. Kirby.
20 Did you also write that regarding Mr. Kirby?
21 A Yes.
22 Q And for the same reasons?
23 A Yes.
24 Q That you wanted him to be promoted?
25 A Correct.

1 Q Okay. Okay. And his pay rate indicates -- appears to
2 indicate on page 1 of Exhibit 43 that he was going to receive a
3 dollar-an-hour increase to $15.50?
4 MS. SANCHEZ: Objection. Leading, and asked and answered.
5 JUDGE LAWS: Not for --
6 MR. WILSON: This is a different employee.
7 JUDGE LAWS: Not for this employee. Go ahead.
8 MS. SANCHEZ: Thank you.
9 MR. WILSON: And it's leading, Your Honor, but it's pretty
10 obvious what it is.
11 JUDGE LAWS: It's obvious, yes, it is. Go ahead. What
12 was his pay rate going to be?
13 THE WITNESS: 15.50.
14 Q BY MR. WILSON: Okay. Did he ever make $46 an hour to
15 your knowledge?
16 A No.
17 Q Okay. And Mr. Kirby no longer works there, does he?
18 A He is no longer with the company, no.
19 Q Okay. And did Mr. Kirby and Mr. Rosas perform the job
20 duties that you've testified about that are performed by a
21 warehouse lead?
22 A Yes.
23 Q Okay. And I'm referring to Employer Exhibit 26 as well as
24 your testimony that they do three specific functions?
25 A Yes.

1 Q And is it your testimony they each fulfilled those
2 functions?
3 A Yes.
4 Q Okay. Okay, now, you -- when you testified earlier in the
5 hearing, there was testimony about an employee, Mr. Ruben
6 Munoz; is that correct?
7 A Yes.
8 Q Okay. And was Mr. -- for a period of time in 2017, was
9 Mr. Ruben Munoz a warehouse lead?
10 A Yes.
11 Q Okay. And how did the job duties of Mr. Munoz compare to
12 those of Mr. Rosas as a warehouse lead?
13 A Same.
14 Q Okay. And how did the job duties of Mr. Munoz compare to
15 those of Mr. Kirby?
16 A The same.
17 Q As a warehouse lead?
18 A As a warehouse lead, yeah.
19 MR. WILSON: Okay. I have no further questions.
20 JUDGE LAWS: All right. Any cross?
21 MS. SANCHEZ: Yes, thank you, Your Honor.
22 JUDGE LAWS: Go ahead.
23 **CROSS-EXAMINATION**
24 Q BY MS. SANCHEZ: Hello, Mr. Matheu.
25 A Hi.

1 Q In looking at the warehouse lead worker job description
2 you were just referring to, which is Employer Exhibit 26, this
3 notes that's the position serves as -- the lead serves as the
4 most experienced and skilled worker; you agree with that,
5 correct?
6 A Yes.
7 Q Mr. Kirby was hired on March 6th, 2017, and was promoted
8 to lead just ten months later; isn't that correct?
9 A I am not certain what time he started, but yeah, he was
10 promoted.
11 Q Okay. And he was, generally, a new employee, though,
12 correct?
13 A Yes, you could say that.
14 Q And Mr. Rosas, do you know if he also was known in the
15 warehouse as Mr. De la Rosas?
16 A I have no idea.
17 Q Okay. And Mr. Rosas also was -- had even less seniority
18 than Kirby, he was only there for eight months; isn't that
19 right?
20 A Yes.
21 Q Okay. So there were many more employees, including temps,
22 for that matter, who had much more experience and skills than
23 these guys; isn't that correct?
24 A Yes.
25 Q Okay. I'd like to ask you about your testimony with

1 regard to Employer Exhibit 44. You were just looking at that
2 document.
3 A Uh-huh.
4 Q Page 2 of the document is the memo that you wrote?
5 A Yes.
6 Q The second half of the memo is regarding John Kirby and in
7 the third bullet point, you say that John Kirby has
8 continuously expressed his attentiveness to improve the company
9 and its values. John Kirby, just a few months after you wrote
10 this, was terminated for making offensive comments to women
11 like saying things that they should be whored; didn't he?
12 MR. WILSON: Objection. Argumentative. Irrelevant.
13 JUDGE LAWS: Overruled.
14 THE WITNESS: Yes.
15 Q BY MS. SANCHEZ: So John Kirby did not stand for improving
16 the company's values, did he?
17 MR. WILSON: Objection. Vague as to the time. That's
18 eight months after that.
19 JUDGE LAWS: Let's ask as to when.
20 Q BY MS. SANCHEZ: It was your belief that just months prior
21 to his termination that he was upholding the company's values?
22 A I don't understand your question.
23 Q Do you believe that saying women should be whored upholds
24 Wismettac's values?
25 MR. WILSON: Objection, argumentative.

1 JUDGE LAWS: That is argumentative. Let's --
2 MS. SANCHEZ: I have no further questions, Your Honor.
3 JUDGE LAWS: All right. Any redirect?
4 MR. WILSON: No. So you are free to go. Why don't you
5 stick around for a second?
6 THE WITNESS: Sure.
7 JUDGE LAWS: Okay. Let's -- thank you for your testimony
8 and I'm going to remind you again, please don't discuss it with
9 any witnesses or any potential witnesses.
10 Okay. Let's go off the record.
11 **(Whereupon, the hearing in the above-entitled matter was**
12 **recessed at 2:55 p.m. until Thursday, November 1, 2018 at 9:00**
13 **a.m.)**
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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Wednesday, October 31, 2018, 8:02 a.m.,
11 was held according to the record, and that this is the
12 original, complete, and true and accurate transcript that has
13 been compared to the reporting or recording, accomplished at
14 the hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
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21 _____
TROY RAY
22 Official Reporter
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OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

Place: Los Angeles, California

Dates: November 1, 2018

Pages: 1389 through 1574

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:	
WISMETTAC ASIAN FOODS, INC., Employer,	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union,	
and	
ROLANDO LOPEZ, An Individual,	
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Thursday, November 1, 2018, 9:04 a.m.**

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1 **EXHIBITS**

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1 **PROCEEDINGS**

2 JUDGE LAWS: All right. The two of you were discussing,
3 so I want to ask is there anything we want to discuss before we
4 take testimony?
5 MS. PEREDA: Yes.
6 MR. WILSON: I don't know if you want to go through the
7 outstanding subpoena issues or just have her testify and leave,
8 and then we can --
9 JUDGE LAWS: Well, why don't we do that?
10 MS. PEREDA: Do you want -- yeah -- to have her
11 testimony --
12 JUDGE LAWS: Yeah, let's --
13 MS. PEREDA: Okay. Yeah, we have subpoena issues; that's
14 all.
15 JUDGE LAWS: Okay.
16 MS. PEREDA: Not that's all, but that's what we want to
17 talk about.
18 JUDGE LAWS: Okay. All right. Well, why don't we get the
19 brief testimony finished so that Ms. Baik can go about her day
20 and then we can deal with that. Okay.
21 MR. WILSON: Jinna, come on down.
22 JUDGE LAWS: Okay. And then the -- is that a -- are you a
23 witness?
24 MS. PEREDA: She's interpreter.
25 JUDGE LAWS: Interpreter. Wonderful.

1 All right. Come on around. No, other way. Sorry, it's a
2 little crowded. Here and then around and behind the court
3 reporter. On the record.
4 Whereupon,
5 **JINNA BAIK**
6 having been duly sworn, was called as a witness herein and was
7 examined and testified as follows:
8 JUDGE LAWS: Please have a seat. And can you please state
9 and spell your name for the court reporter.
10 THE WITNESS: Jinna Baik. It's J-I-N-N-A, B-A-I-K.
11 JUDGE LAWS: Thank you, Ms. Baik. A couple instructions
12 before the lawyers ask you questions. The first is, if you're
13 asked a question and you don't know the answer, you're not
14 sure, just say I don't know or I'm not completely sure. Only
15 guess if you're asked to take your best guess.
16 Second is, if you don't understand a question, just say I
17 don't understand what you're asking and it will be rephrased
18 for you. And then finally, the gentleman to our left is our
19 court reporter. He has to take down everything that's said
20 while we are on the record. And for that reason, just try to
21 be sure you don't start your answer until you're -- the
22 question that you're being asked is finished, because he can't
23 take down two voices at once.
24 THE WITNESS: Okay.
25 JUDGE LAWS: Okay. Thank you.

1 **DIRECT EXAMINATION**

2 Q BY MR. WILSON: Good morning, Ms. Baik. Thank you for
3 coming. Where are you currently employed?
4 A I'm currently working at TM Wireless. T as in Tom. M as
5 in Mary.
6 Q Okay. Is that here in Los Angeles?
7 A Yes.
8 Q Okay. And were you formally employed at Wismettac Asian
9 Foods in Santa Fe Springs, California?
10 A Yes.
11 Q Okay. And what dates were you employed there?
12 A From July 2014 to December 2017.
13 Q Do you know when in December you left, if you recall?
14 A The exact date?
15 Q Just near the end of the month?
16 A End of the month.
17 Q Okay. Thank you. And what did you do there at Wismettac
18 Asian Foods?
19 A I was the employee relations specialist.
20 Q Okay. And what department is that in?
21 A In HR.
22 Q Okay. And by HR, you mean human resources?
23 A Human resources.
24 Q Okay. And did you have any other functions during your
25 entire time in HR other than employee relations?

1 A No.
2 Q Okay. And what does an employee relations specialist in
3 HR do?
4 A Usually, employees -- I think as a liaison between the
5 company and the employees. Employee has a complaint or if
6 there is any cases that company has to look into, then I'll be
7 the ones who will be talking to the employees.
8 Q Okay. And when you say a case, would that include
9 employee complaints?
10 A Employee complaints, yes.
11 Q Okay. And what type of employee complaint would you
12 investigate?
13 A In the past, any harassment-related discrimination, or
14 just working relationship between the coworkers or between a
15 worker and the supervisors.
16 Q Okay.
17 A And various things.
18 Q And how do these complaints normally get to HR, how do you
19 become aware of them?
20 A There are different methods. They can personally come to
21 me and we can have a talk or have a meeting. Or they can go
22 through their supervisors to file the complaint. Or there's --
23 I believe they had a anonymous call line -- hotline kind of
24 things that, without disclosing your name, you can file a
25 complaint.

1 Q BY MR. WILSON: Okay. Now, I want to show you some
2 documents here.
3 **(Employer Exhibit Number 82 Marked for Identification)**
4 Q BY MR. WILSON: Okay. So I want to show you what is
5 marked as Employer Exhibit 82 and ask if you can take some time
6 and look through that.
7 JUDGE LAWS: Is there a dinging sound coming from some
8 machine? If you could try to get rid of that, that would be
9 good. It's a little distracting.
10 Q BY MR. WILSON: So had a chance to go through that?
11 A Yes.
12 Q Okay. Now, do you recognize what this document is?
13 A This is the employee personnel file.
14 Q Okay. And who is it -- which employee?
15 A For Cameron San Nicolas.
16 Q Okay. Now, did the company have a practice of maintaining
17 personnel files for its employees?
18 A Yes.
19 Q Okay. And just generally, how is it that a document would
20 end up in an employee's personnel file?
21 A Every time there's a event -- for example, if you get
22 hired as a new hire, there's documents -- series of documents
23 that you have to sign off. So once the employee signed that
24 and whoever is conducting that meeting will file the documents
25 into the personnel file.

1 Q Okay. And to your knowledge, is that procedure -- strike
2 that.
3 Okay. And is that the procedure for all employees or just
4 some employees?
5 A All employees.
6 MS. PEREDA: Objection. Foundation. Knowledge, if she
7 knows.
8 Q BY MR. WILSON: Okay. Do --
9 JUDGE LAWS: She said all employees.
10 How do you know that?
11 THE WITNESS: We keep it in the filing room for all the
12 employees.
13 Q BY MR. WILSON: Okay. And is that done in just the
14 regular course of business, then, for all employees?
15 A Yes.
16 Q Okay. So can you direct your attention to page 19 of
17 Employer Exhibit 82, and can you tell me what that document is?
18 A This is new hire checklist.
19 Q For which employee?
20 A For Cameron San Nicolas.
21 Q Okay. Now, you mentioned there was a procedure about a
22 file going -- or document going into a pile, and you mentioned
23 new hire checklist; is that what page 19 of Exhibit 82 is?
24 A Yeah, so this is checklist for all the new hires. When we
25 present the forms that they have to sign, we go off this

1 checklist.
2 Q And what date was Mr. San Nicolas hired, based on the new
3 hire checklist?
4 A August 10th, 2015.
5 MS. SANCHEZ: Objection. The document speaks for itself.
6 JUDGE LAWS: It does. I can take a look at that --
7 MR. WILSON: Okay.
8 JUDGE LAWS: -- and figure that out. If there are things
9 that need interpretation though, certainly, that's appropriate
10 to ask this witness.
11 Q BY MR. WILSON: Okay. Can you turn to page 37 of
12 Exhibit -- Employer Exhibit 82?
13 A Did you say 37?
14 Q 37, yes.
15 A Okay.
16 Q And can you show me what that form is?
17 A This is personal information form, where the employee has
18 to fill it out on the first day of hire.
19 Q Okay. And is that done for all employees who are
20 permanent employees?
21 A Yes.
22 Q Okay.
23 JUDGE LAWS: How about temporary employees?
24 THE WITNESS: I believe -- I wasn't in charge of temporary
25 employees.

1 JUDGE LAWS: Okay.
2 THE WITNESS: Yeah. So I don't know how the procedure
3 went.
4 Q BY MR. WILSON: Okay. Now, can you turn to page 3 of
5 Employer Exhibit 82? And what is this? It says "termination
6 checklist" -- can you explain what that is?
7 A So termination checklist is filled out at the time of the
8 final check has been issued by the HR team.
9 Q But what would be the circumstances that a termination
10 checklist would be filled out; what would cause that?
11 A When there's event of termination separation.
12 Q Now, it says -- can you go down where it says termination
13 type?
14 A Uh-huh.
15 Q And do those represent the different reasons someone would
16 be terminated?
17 A Yes.
18 Q Okay. And in the case of Mr. Cameron San Nicolas, it
19 says, "termination involuntary"?
20 A Yes.
21 Q Do you have knowledge that he was terminated
22 involuntarily?
23 A Yes.
24 Q Okay. And then over -- a few boxes over it says,
25 "misconduct." Do you have recollection of him engaging in

1 misconduct?
2 A Yes.
3 Q Okay. Now, once again, is the termination checklist on
4 page 3 of Employer Exhibit 82 a standard practice for all
5 full-time employees?
6 A Yes.
7 Q Okay. Now, do you recall the misconduct that Mr. San
8 Nicolas was involved in?
9 A Yes.
10 Q And what was that?
11 A There was a incident where his coworker complain about his
12 violent behavior and making racial remarks towards him.
13 Q Now, the termination checklist says "term date" -- back to
14 page 3 -- is that March 16th, 2016 -- it's up in the upper
15 right-hand corner?
16 A Yes.
17 Q Okay. Do you know who filled this out?
18 A 2016. Our payroll administrator. Her name is Phuong
19 Tran.
20 Q Okay. And to the best of your recollection, about when
21 did the conduct you described regarding Mr. San Nicolas take
22 place?
23 A I believe that was sometime in March --
24 Q Of --
25 A -- in the same year, 2016.

1 Q -- 2016? Okay.
2 So did you investigate this alleged misconduct of Mr. San
3 Nicolas?
4 A Yes.
5 Q Okay. And can you tell me about your investigation?
6 A I don't recall the names -- exact names of the people that
7 I interviewed. But I talked to the person who was complaining,
8 filed the complaints against him, and talked to some witnesses
9 who heard him saying it and who witnessed his violent behavior
10 that he throws boxes or the merchandise towards the employee
11 who was complaining.
12 Q Did he also engage in other conduct, in terms of words
13 that he used?
14 A I can't recall.
15 Q So can you turn to page 11 of Employer Exhibit 82 and read
16 through that?
17 Does that refresh your recollection as to conduct he engaged in
18 other than just throwing boxes?
19 A Yes.
20 Q Okay. And can you tell me what it was that you determined
21 that he said or that he --
22 A I mean he called --
23 MS. PEREDA: Your Honor, I'm just going to ask that if she
24 is -- that she is remembering from memory, versus looking at
25 the document, that she not be looking at the document while

1 she's testifying.
2 JUDGE LAWS: Did the document refresh an independent
3 memory that you have?
4 THE WITNESS: A little bit.
5 JUDGE LAWS: Okay.
6 THE WITNESS: Yeah.
7 JUDGE LAWS: Talk about that.
8 THE WITNESS: Okay. Okay.
9 I remember getting a complaints from an employee and he
10 was African-American. He said that he heard N word from
11 another employee. And also -- I don't -- I can't really recall
12 what their conversation was. But there was violent behavior as
13 to -- like, he threw boxes towards the African-American
14 employee.
15 Q BY MR. WILSON: And did the employee who was
16 African-American indicate who used the N word?
17 MS. SANCHEZ: Objection. Leading.
18 JUDGE LAWS: Overruled.
19 THE WITNESS: What do you mean? I --
20 Q BY MR. WILSON: Well, you said the N word was used --
21 MS. SANCHEZ: Objection. Misstates her testimony.
22 JUDGE LAWS: Overruled.
23 MS. SANCHEZ: I don't believe she said that.
24 JUDGE LAWS: Yes, she did.
25 MR. WILSON: She did.

1 JUDGE LAWS: Overruled.
2 Q BY MR. WILSON: Did the African-American gentleman inform
3 you which employee used the N word?
4 A Yes.
5 Q Okay. And who was that employee?
6 A That was Cameron San Nicolas.
7 Q Okay. Now, did you report your findings -- excuse me,
8 let's go back to page 11. That document is signed by Lisa
9 Tanaka. Who is Lisa Tanaka?
10 A Lisa Tanaka then was the HR manager, human resources
11 manager.
12 Q Did you report to her?
13 A Yes.
14 Q Okay. And after you reviewed the incident involving
15 Mr. San Nicolas, did you report your findings to Ms. Tanaka?
16 A Yes.
17 Q Okay. And did you make a recommendation as to what action
18 should be taken regarding Cameron San Nicolas?
19 A Yes.
20 MS. PEREDA: Objection. Leading.
21 JUDGE LAWS: Overruled.
22 Q BY MR. WILSON: Okay. And what was that recommendation?
23 A Separation of employment.
24 Q Okay. And what was that recommendation based on?
25 A Verbal harassment towards an employee and the violent

1 behavior.
2 Q Okay. Now, page 11 says, "Employment termination notice."
3 Have you seen that document used in other cases besides Mr. San
4 Nicolas?
5 A Yes. Whenever there is a termination event happens, we
6 send this notice to the employee.
7 Q Okay. Now, can you turn to the very last page of this --
8 it's kind of on the back if you flip it over. Okay, yeah. Up
9 in the right-hand corner, it's page 66. Okay. Can you tell me
10 what this document is?
11 A So this is written by the supervisor. Isidro Garcia was
12 the supervisor back then. When there is event or behaviors
13 that the supervisor observe from the employee, they can have --
14 they can write down a verbal counseling record -- form, and
15 send it to -- submit it to HR and H -- HR can usually -- that's
16 me -- regarding the verbal rec- -- counseling forms. And then
17 I'll file it to the personnel file.
18 Q Okay. And where does the manager or the supervisor obtain
19 this document that says verbal counseling record?
20 A So usually when there's incident like this happens, the
21 supervisor will request a template to HR, which usually -- back
22 then it was me -- and they will send the form to them.
23 Q So looking at page 66, was that procedure followed, to the
24 best of your recollection, regarding this verbal counseling
25 record and Mr. San Nicolas?

1 A Yes.
2 Q Okay.
3 MR. WILSON: Okay. I'd move for admission of Employer
4 Exhibit 82.
5 JUDGE LAWS: Okay. Any objection?
6 MS. PEREDA: Your Honor, can I just voir dire?
7 JUDGE LAWS: Sure.
8 **VOIR DIRE**
9 Q BY MS. PEREDA: If I can direct, Ms. Baik, your attention
10 to page 11, the employment termination notice. Did you prepare
11 this letter?
12 A We do, yes.
13 Q Did you yourself prepare it?
14 A I will draft it and then send it to Lisa and she will make
15 the final revision.
16 MS. PEREDA: Your Honor, I'm just going to object on some
17 of these documents. I don't see how they're relevant. For
18 example, page 1, the EDD report, continuing on to page 2.
19 JUDGE LAWS: And I'm wondering -- yeah, why we need the
20 entire personnel file. I don't care that he received the
21 worker's compensation handout --
22 MR. WILSON: Your Honor --
23 JUDGE LAWS: -- or waived a meal break or acknowledged
24 various company policies. So same instruction I gave to Union
25 counsel. I, as a rule, don't want entire personnel files in

1 the record. Just the relevant portions of them.
2 MR. WILSON: Your Honor, Ms. Heath would soundly agree
3 with you, who had to make these copies, but I sent excerpts to
4 the General Counsel prior to her coming down here, saying we
5 are going to call this witness to discuss -- in keeping with
6 the subpoena request that they had, that their similar
7 misconduct with an employee that was terminated. And I asked
8 him to stipulate to that so she wouldn't even have to come, and
9 they wouldn't do it.
10 So obviously, they were going to object to this document.
11 So I had no choice but to bring down the entire document,
12 because if I didn't, I probably would've gotten an objection --
13 well, it's not the entire document, so we're not going to let
14 in the relevant parts. And so that's entirely on them.
15 JUDGE LAWS: Well, look, I'm not going to assign blame.
16 Is there any objection from the Union?
17 MS. SANCHEZ: The Union's objection would be relevance,
18 Your Honor.
19 JUDGE LAWS: Well, certainly the pages that the witness
20 testified about -- is the relevance objection to those pages,
21 as well, or just the pages she --
22 MS. SANCHEZ: No, the pages, for example, about the EDD.
23 JUDGE LAWS: All right. And I think similar to what I did
24 with regard to some of the Union's exhibits that included
25 extraneous pages because it's just simply a matter of time in

1 weeding out the ones that aren't relevant, I'm going to
2 consider the pages that Ms. Baik testified about -- if you want
3 me to look at any other pages in this document, I'd ask for you
4 to either question the witness about them or make that known to
5 counsel.
6 MR. WILSON: I do, and that's my fault. I should've asked
7 her.
8 MS. PEREDA: Your Honor, I have another comment to make.
9 This was, as Respondent pointed out to us, turned over to
10 General Counsel weeks ago.
11 JUDGE LAWS: I don't want to talk to anything that has to
12 do with subpoena and this document. I just want to rule on the
13 objections.
14 MS. PEREDA: Okay.
15 **DIRECT EXAMINATION (RESUMED)**
16 Q BY MR. WILSON: So Ms. Baik, can you turn to page 17 of
17 this document? And then now can you turn to page 18 of this
18 document? And on page 18, is your signature on that page?
19 A Yes.
20 Q Okay. And can you point out which letter paragraph your
21 signature is in?
22 A Section C.
23 Q Section C. Okay. And then up above that, where it says,
24 "Explanation for separation," did you -- is that your
25 handwriting?

1 A Yes.
2 Q Okay. And do you know what this document was used for?
3 A For EDD unemployment insurance claim.
4 Q Okay.
5 MR. WILSON: Okay. So those are the -- all of the pages
6 she's testified to, we wish to turn into -- we wish to
7 introduce into evidence.
8 JUDGE LAWS: All right. And I have heard the objections.
9 I will admit Employer Exhibit 82. I'm not going to be looking
10 at the pages that Ms. Baik did not testify about.
11 **(Employer Exhibit Number 82 Received into Evidence)**
12 MR. WILSON: Okay. I have no further questions for her.
13 JUDGE LAWS: Okay. And this is related to the C case, so
14 I'm first going to ask General Counsel if they have any cross.
15 MR. WILSON: Your Honor, I'm sorry. I made a --
16 JUDGE LAWS: You have one more question?
17 MR. WILSON: -- one -- no, one more document. I'm sorry.
18 JUDGE LAWS: Oh. All right.
19 MR. WILSON: And this is very not controversial, very
20 standard document here, so.
21 **(Employer Exhibit Number 83 Marked for Identification)**
22 Q BY MR. WILSON: Ms. Baik, I want to show you a document
23 that's been marked Employer 83 --
24 Q BY MR. WILSON: -- and ask if you recognize what Employer
25 83 is?

1 A Employee handbook.
2 Q Okay. And at the time you left the company in December of
3 2017, was this the employee handbook being used?
4 A I believe we had a updated version of this.
5 Q Okay. So if you look at the bottom of the first page, it
6 says revised December 2016; is Employer 83 the revised
7 document?
8 A Can you repeat the question?
9 JUDGE LAWS: Do you remember when the most recent revision
10 was, prior to the time you left?
11 THE WITNESS: I can't recall.
12 Q BY MR. WILSON: Okay. But to your recollection, was there
13 a revision of the handbook in December 2016?
14 A I believe there are two revisions during the time that I
15 was employed at Wismettac. I don't recall exact what time that
16 was.
17 Q Okay. And during the entire time you were at the company,
18 irrespective of what handbook was in effect, is there a policy
19 against harassment?
20 A Yes.
21 Q So whether it was Employer 83 or previous handbook, to
22 your recollection, was there a policy against that?
23 A Yes.
24 Q Okay. And can you turn to page 24 of Employer Exhibit 83?
25 A What page --

1 Q 24. Actually, I'm sorry. Can you go to page 23 first?
2 JUDGE LAWS: And are you referencing -- let's reference
3 the exhibit page, because there's an exhibit page and a
4 document page. So when he says page number, go to the top,
5 upper, right-hand corner of the page, and that's the page
6 number we're looking at.
7 Q BY MR. WILSON: Okay. Do you know -- where it says
8 Chapter 6, general company policies, what the purpose of that
9 section is?
10 MS. PEREDA: Objection. Relevance.
11 JUDGE LAWS: Overruled.
12 THE WITNESS: In this -- all the policies regarding the
13 employees' conducts.
14 Q BY MR. WILSON: Okay. And can you now go to page 24 and
15 look at subparagraph 5? Okay. Can you tell me what conduct
16 that covered?
17 MS. PEREDA: Objection. The document speaks for itself.
18 MR. WILSON: Okay. I withdraw the question. Okay.
19 Then I have no further questions. Move for the
20 introduction of Employer 83.
21 JUDGE LAWS: Okay. And I just want to ask one question
22 before I turn things over for objections.
23 Looking on page 24, Chapter 6, A-5, the prohibition on
24 sexual or other harassment towards another employee. Was that
25 in effect the entire time you worked at Wismettac?

1 THE WITNESS: Yes. Yes.

2 JUDGE LAWS: Okay. Any objection?

3 MS. PEREDA: I'm just going to object that this witness

4 has not established that this was the handbook in effect during

5 the relevant time period. She did not identify that this was,

6 again --

7 MR. WILSON: Then, Your Honor --

8 JUDGE LAWS: Hold on. Any objection from the Union?

9 MS. SANCHEZ: Same objection, Your Honor.

10 JUDGE LAWS: All right. And I'm looking at whether or not

11 there was a policy against harassment, and I think she

12 established that whether or not this was the exact version in

13 effect at the time, that prohibition was contained in the

14 handbook, so I will admit Employer Exhibit 83.

15 **(Employer Exhibit Number 83 Received into Evidence)**

16 MR. WILSON: Okay. I have no further questions.

17 JUDGE LAWS: All right.

18 Any cross from General Counsel? Do you want --

19 MS. PEREDA: We have affidavits from this witness, Your

20 Honor.

21 JUDGE LAWS: Oh. All right. Let's go off the record.

22 (Off the record at 9:33 a.m.)

23 JUDGE LAWS: So let's go back on the record, and I'll

24 start with any cross from General Counsel.

25 MS. PEREDA: Thank you, Your Honor.

1 **CROSS-EXAMINATION**

2 Q BY MS. PEREDA: Good morning, Ms. Baik. We've met before.
3 My name is Elvira Pereda, and I'm a attorney for the
4 government. I'm just going to be asking you some questions
5 regarding your testimony.
6 Ms. Baik, were you the employee relations specialist
7 during your entire time at Wismettac?
8 A That was -- that was my duties.
9 Q Okay.
10 A I was given another title.
11 Q What was your title?
12 A Assistant manager.
13 Q And when did you hold that title?
14 A I can't recall the exact date.
15 Q Were you the assistant manager during your entire time
16 with Wismettac?
17 A No. It was towards the end of the employment that I was
18 given that title.
19 Q But if I understand you correctly, during your entire time
20 at Wismettac, you worked in the HR department?
21 A Yes.
22 Q So during your entire employment with Wismettac, you were
23 involved with employee relations matters --
24 A Yes.
25 Q -- is that correct?

1 A Yes.
2 Q Thank you.
3 So Ms. Baik, regarding the termination of the employee
4 that you testified to this morning, Mr. San Nicolas -- in
5 investigating that incident, you spoke to Mr. San Nicolas'
6 supervisor, correct?
7 A Yes.
8 Q And you mentioned that you spoke to a number of witnesses.
9 How many other witnesses did you speak to?
10 A I can't recall how many.
11 Q If you can estimate -- was it one, two, five?
12 A Yeah, I can't recall.
13 Q And can you expand as to -- in addition to that, did any
14 of those witnesses that you spoke with, did any of them submit
15 any sort of employee statements?
16 A I don't recall any -- receiving any statements from the
17 witnesses.
18 Q You testified that you reported your findings to Ms. Lisa
19 Tanaka, the HR manager at the time; how did you do that? How
20 were your findings report -- how do you report your findings to
21 her?
22 A So I mean, with this case, it was probably done in verbal
23 and maybe written through email. It can be in a report format,
24 as well. I can't really recall what I did for this specific --
25 this case.

1 Q Ms. Baik --

2 MS. PEREDA: Mr. Court Reporter, can you please hand this

3 witness General Counsel Exhibit 2?

4 Q BY MS. PEREDA: If I could direct your attention to page

5 6, at the bottom right-hand corner, please.

6 MR. WILSON: Your Honor, I'm going to object. This goes

7 beyond the scope of direct. It deals with employee Ruben

8 Munoz, who we've already had testimony about in their case in

9 chief.

10 JUDGE LAWS: Well, if it's --

11 MR. WILSON: If they wanted to call Ms. Baik in their case

12 in chief, they could've subpoenaed her down there. They knew

13 she was involved in this, and to ask her about this now is

14 simply reopening their case in chief.

15 MS. PEREDA: It is not, Your Honor. This goes

16 specifically to Mr. Matheu's testimony that she was involved in

17 the investigation.

18 JUDGE LAWS: Okay. And it seems to be dealing with the

19 same subject matter, not the same person necessarily that was

20 questioned about on direct. So I will allow it.

21 Q BY MS. PEREDA: Ms. Baik, are you on page 6, so pertaining

22 to the canceling of -- canceling of employee application for

23 employee Ruben Munoz?

24 A What was the question, again?

25 Q Are you on page 6?

1 A Yes.
2 Q Okay. And that's employee Ruben Munoz at the top right --
3 at the top, correct?
4 A Uh-huh. Yes.
5 Q Now, Ms. Baik, you were involved in preparing this
6 particular document, correct? So it's page 6 and 7, correct,
7 of this exhibit?
8 A Yes.
9 Q Now, Ms. Baik, isn't it true --
10 JUDGE LAWS: Before you go on, I do want to -- in light of
11 the objection, I am going to give an instruction to limit it to
12 things that were asked about on direct, in terms of what types
13 of actions were taken, investigation, et cetera. We're not
14 going to -- this witness wasn't called to testify about the
15 underlying issue, with regard to Mr. Munoz.
16 MS. PEREDA: I'm sorry. I didn't understand your first
17 instruction, the first --
18 JUDGE LAWS: I'm allowing this as -- dealing with this
19 witness as another comparable. Let me rephrase that. I want
20 the cross limited to topics that were addressed on direct. It
21 can involve a different individual, but it's got to stay within
22 the confines of the types of questions counsel asked.
23 MS. PEREDA: Okay.
24 Q BY MS. PEREDA: So Ms. Baik, you did not meet with any of
25 the employees who filed a complaint against Ruben Munoz,

1 correct?
2 A I cannot recall.
3 Q Ms. Baik, you provided an affidavit to the Board doing the
4 investigation of this case, correct?
5 A I mean, we had meetings, but I'm not sure if that was one
6 of them.
7 MS. PEREDA: Your Honor, at this moment, I'm going to
8 approach the witness with her affidavit, and it's just for
9 purposes of recollection.
10 JUDGE LAWS: Okay.
11 MS. PEREDA: I just want to make sure I don't --
12 Q BY MS. PEREDA: Ms. Baik, I'm going to show you your board
13 affidavit -- so this is the affidavit that you provided, and if
14 I can direct your attention to page 2. If you can read to
15 yourself lines from 4 to 8, please, and let me know when you're
16 done.
17 A Okay.
18 Q Ms. Baik, isn't it true that in dealing with the matter of
19 Mr. Ruben Munoz, you did not speak to any of the complaining
20 employees, correct?
21 A I mean, that's what it says on the document, so I can't
22 really recall what -- if I did or not.
23 Q You did not speak with employee Ruben Munoz, correct?
24 A I'm not really sure, but it says on the document that I
25 didn't.

1 MS. PEREDA: Your Honor, I mean, if this is not refreshing
2 her recollection, then I would just move to introduce that
3 portion of her affidavit into the record.
4 JUDGE LAWS: Well, why don't we read it into the record?
5 We don't need the document.
6 MS. PEREDA: Oh, yeah. That's fine, Your Honor.
7 JUDGE LAWS: Okay. And identify the affidavit and the
8 date it was signed, please.
9 MS. PEREDA: And I'm just going to show her the date that
10 it was signed, just so that it's clear for her.
11 So this is -- your signature --
12 THE WITNESS: Uh-huh. Uh-huh.
13 JUDGE LAWS: Did you sign that document?
14 THE WITNESS: Yes.
15 JUDGE LAWS: What date?
16 MS. PEREDA: This is --
17 JUDGE LAWS: I'm asking the witness.
18 What date?
19 THE WITNESS: December 4th, 2017.
20 JUDGE LAWS: Okay. And when you signed it, had you
21 reviewed it?
22 THE WITNESS: Yes.
23 JUDGE LAWS: And were you permitted to make any changes to
24 it or given the opportunity to if you reviewed it and saw
25 something false?

1 THE WITNESS: I believe so.
2 JUDGE LAWS: Okay.
3 Q BY MS. PEREDA: Ms. Baik, and you also reviewed the
4 affidavit in the presence of the company's attorney, correct?
5 A Yes.
6 MS. PEREDA: Your Honor, the affidavit, the relevant
7 section --
8 "The only evidence I consider in drafting the written
9 warning was the evidence that I received from
10 Mr. Wilson. I did not speak with Ruben's immediate
11 supervisor, Isidro Garcia, about the employee
12 complaints."
13 I have nothing further, Your Honor.
14 JUDGE LAWS: Okay. Any additional cross from the Union?
15 MS. SANCHEZ: Yes, thank you, Your Honor.
16 **CROSS-EXAMINATION**
17 Q BY MS. SANCHEZ: Ms. Baik, good morning. My name is Renee
18 Sanchez. I am counsel for the Union. I'm going to ask you a
19 couple of additional clarifying questions.
20 With regard to the affidavit that you were just shown that was
21 read into the record -- I'm going to ask you some questions
22 about that. First of all, you testified that it's you and --
23 it was you when you were at Wismettac -- and Lisa Tanaka who
24 handled HR issues; is that correct?
25 A Yes.

1 Q And it was you and then you would take those to
2 Ms. Tanaka -- is that --
3 A Report it to her, yes.
4 Q -- how it worked?
5 JUDGE LAWS: Hold on, let's start over. One at a time.
6 THE WITNESS: Okay.
7 JUDGE LAWS: Please -- hold on. Please make sure the
8 question is finished before --
9 THE WITNESS: Okay.
10 JUDGE LAWS: Please make sure the question is finished
11 before you start answering.
12 THE WITNESS: Okay.
13 Q BY MS. SANCHEZ: It was you that would investigate, and
14 then, if I heard your testimony correctly, you would take that
15 investigation to Ms. Tanaka?
16 A Yes.
17 Q And was there anybody else besides you and Ms. Tanaka who
18 investigated these types of issues between employees?
19 A I mean, particularly this case? I mean, which case are
20 you referring --
21 Q No, generally.
22 A In general?
23 JUDGE LAWS: Hold on. Wait until she's finished with her
24 answer before you start with your question.
25 Please reiterate your answer.

1 THE WITNESS: Okay. Okay.
2 Are you referring to this particular case or in --
3 Q BY MS. SANCHEZ: I'm referring to general situations
4 between -- disputes between employees, really.
5 A It depends on -- I mean, we do review, case by case.
6 Sometimes the supervisor or the upper managements are involved,
7 in terms of investigation and looking into the matters. There
8 are times that the managers will do the interviews with the
9 witnesses and the employees.
10 Q Okay. It's not usual, though, that attorneys are involved
11 at the level of a dispute between an employee, correct?
12 MR. WILSON: Objection. Lack of foundation.
13 JUDGE LAWS: Overruled.
14 THE WITNESS: I mean, what do you mean by that?
15 Q BY MS. SANCHEZ: I'm asking you -- you've testified that
16 you and Ms. Tanaka generally handled disputes between
17 employees, and so my question is that it's not usual that an
18 attorney would be involved in a dispute amongst employees;
19 isn't that true?
20 A There are cases where we have to consult with the lawyers
21 and attorneys for the actions that we make towards the
22 employees.
23 Q Those are cases that involve litigation, for example,
24 correct?
25 A Not necessarily.

1 Q Okay.
2 A Yeah.
3 Q So --
4 A When it comes down to terminations, we usually talk to the
5 lawyers and attorneys for their advice.
6 Q Okay. But in the case that you were just reviewing, this
7 was not about a termination, correct?
8 MR. WILSON: Which case are you referring to?
9 MS. SANCHEZ: I'm referring to the affidavit that she
10 looked at.
11 JUDGE LAWS: Mr. Munoz.
12 THE WITNESS: Oh, okay. Okay.
13 For that case, that was demotion.
14 Q BY MS. SANCHEZ: That was a demotion?
15 A Yes.
16 Q So you typically wouldn't talk to attorneys about
17 demotions, correct?
18 A I mean, it's all -- you know, it's all case by case. if
19 there's any adverse action that we take -- we're about to take
20 and that's going to affect the employees, we -- you know,
21 sometimes we do talk to the lawyers and attorneys.
22 MS. SANCHEZ: I'd like to approach, Your Honor, and
23 provide a document that we are marking as Union Exhibit 40.
24 **(Union Exhibit Number 40 Marked for Identification)**
25 Q BY MS. SANCHEZ: Ms. Baik, this document was attached to

1 your affidavit that you just referred to, that you gave on
2 December 4th, 2017. This is a document --
3 MR. WILSON: Your Honor, I'm going to object. This is way
4 beyond the scope of direct.
5 MS. SANCHEZ: Your Honor, this witness has testified that
6 she is involved in these types of actions. I'm just responding
7 to the testimony that was provided on direct regarding the way
8 HR matters are handled.
9 MR. WILSON: But --
10 JUDGE LAWS: Well, let's let the questions happen. It
11 hasn't been offered yet, so I will allow counsel some leeway to
12 see where this is going.
13 Q BY MS. SANCHEZ: Ms. Baik, have you seen a document like
14 this before?
15 A Not really.
16 Q This is not a document that's used regularly during your
17 HR matters while you were in HR at Wismettac, correct?
18 A I'm not sure. This is first time seeing this.
19 Q Okay. This document was attached to your affidavit that
20 was dated December 4th, 2017, with regard to Mr. Munoz's
21 demotion. My question is, is this -- this document or any
22 document that looks like this is not typically used for
23 demotions, correct?
24 MR. WILSON: Objection. Argumentative.
25 JUDGE LAWS: Overruled.

1 MS. SANCHEZ: I'm just trying to understand if she uses
2 this document -- if she used this document on a regular basis
3 during her HR functions --
4 MR. WILSON: I'm also going to object, Your Honor. She
5 hasn't signed the document.
6 JUDGE LAWS: Yeah, I'm guess I'm confused as to her use of
7 this document. You haven't established that she used it.
8 MS. SANCHEZ: This document was attached to her affidavit
9 that she gave.
10 JUDGE LAWS: Does she know that? You haven't established
11 her knowledge of how this document was used and by whom.
12 MS. SANCHEZ: Okay.
13 Q BY MS. SANCHEZ: Is the witness affidavit still in front
14 of you?
15 MS. PEREDA: Oh, I can hand it to her.
16 MS. SANCHEZ: Thank you.
17 Q BY MS. SANCHEZ: Can you draw your attention to page 1 of
18 the affidavit I was referring to, line 7? Could you please
19 read lines 7 through 9?
20 MR. WILSON: Your Honor, can we have just a second to look
21 at it?
22 JUDGE LAWS: Sure.
23 Let counsel find the relevant place.
24 And just let us know when you're there.
25 MR. WILSON: So what page are we at?

1 MS. SANCHEZ: Page 1, lines 7 through 9.
2 May I proceed?
3 JUDGE LAWS: Yeah, I don't have a copy, though.
4 MS. SANCHEZ: Oh.
5 MS. PEREDA: I'm not sure I have extra copies, though.
6 Oh, actually, I do.
7 JUDGE LAWS: Okay. Thanks. Thank you.
8 THE WITNESS: Thank you.
9 MS. SANCHEZ: So Your Honor, I was referring to page 1 of
10 this affidavit, lines 7 through 9 and what looks like
11 Attachment A, which is the document I've just marked as Union
12 Exhibit 40.
13 JUDGE LAWS: Is there something on the affidavit that
14 denotes what Attachment A is? Because I'm not seeing --
15 MS. SANCHEZ: I believe it's at the bottom --
16 JUDGE LAWS: -- any --
17 MS. SANCHEZ: -- Your Honor, and it's been --
18 MS. PEREDA: Let me make sure you're not at the coach
19 (phonetic), Your Honor.
20 JUDGE LAWS: Yeah, I don't --
21 MS. PEREDA: I think that's -- I think that's the one
22 for --
23 (Counsel confer)
24 JUDGE LAWS: Okay. Okay. I see Exhibit A as something
25 that isn't in front of the witness.

1 MS. SANCHEZ: Exhibit A, I believe, is a multi-page
2 document, and I'm referring to --
3 JUDGE LAWS: It seems to -- Exhibit -- oh, okay -- 2 of 5.
4 It's cut off.
5 MS. SANCHEZ: It's cut off.
6 JUDGE LAWS: Understood.
7 MS. SANCHEZ: I apologize, Your Honor. That was the best
8 copy we could get. So --
9 JUDGE LAWS: All right. So I'm going to note that what
10 has been marked as Union 40 is marked on the affidavit as
11 Exhibit A, page 1 of 5.
12 MS. SANCHEZ: 2 of 5, Your Honor?
13 UNIDENTIFIED SPEAKER: 1 of 5.
14 JUDGE LAWS: 1 of 5.
15 MS. SANCHEZ: 1 of 5. Thank you. Thank you very much.
16 Q BY MS. SANCHEZ: Okay. Ms. Baik, you've had an
17 opportunity to review lines 7 through 9 of page 1 of the
18 affidavit that's in front of you. And so my question is that
19 you didn't provide your own notes regarding the investigation
20 of Mr. Munoz. You provided what has been marked as Union
21 Exhibit 40 regarding the investigation of Mr. Munoz.
22 And so back to my earlier question which is this. In your
23 function as an HR -- in your -- excuse me. In your function at
24 Wismettac within the HR department, you did not use documents
25 like what's been marked as Union Exhibit 40 on a regular basis

1 with regard to demotions, correct?
2 A The witness consent form --
3 Q This form, yes.
4 A -- is what you're -- okay.
5 Q Which is Exhibit 40.
6 A I mean, this is first time I'm seeing it, so.
7 Q Okay. So the answer is that you didn't usually use this
8 kind of document, correct?
9 A No.
10 Q Okay. No, you didn't use this document?
11 A I didn't.
12 Q Okay.
13 A Yeah. It's not the usual form that we have.
14 Q Okay. Thank you.
15 I'd like to ask you questions about what was marked as
16 Employer Exhibit 82. Do you still have that in front of you?
17 This is the packet with regard to employee San Nicolas; do you
18 have that in front of you?
19 A Thank you. Yes.
20 Q Okay. Thank you. I'd like to draw your attention to
21 pages 20 through 29. Let me know when you get there.
22 JUDGE LAWS: And I'm going to note, these are not pages
23 that are in evidence, because she didn't testify about these
24 pages when she was asked about this document on direct.
25 MS. SANCHEZ: Thank you, Your Honor. I was going to ask

1 her if these were documents that were kept in the regular
2 course of business.
3 JUDGE LAWS: I believe that was established yesterday --
4 MS. SANCHEZ: Okay.
5 JUDGE LAWS: -- through a different witness.
6 MS. SANCHEZ: I can withdraw that question, Your Honor.
7 I would like to move to admit Union Exhibit 40.
8 JUDGE LAWS: And go ahead and state any objection you
9 have.
10 MR. WILSON: Well, what --
11 JUDGE LAWS: That's this, the --
12 MR. WILSON: Oh, okay. I just want to make sure we're
13 talking about -- not about the affidavit.
14 JUDGE LAWS: -- consent form.
15 MR. WILSON: Just only the consent form.
16 JUDGE LAWS: No. I'm not admitting the affidavit.
17 MR. WILSON: Okay. Yeah, I won't object to that.
18 JUDGE LAWS: Okay. Union Exhibit 40 is admitted.
19 **(Union Exhibit Number 40 Received into Evidence)**
20 MS. SANCHEZ: Your Honor, I have no further questions for
21 this witness.
22 JUDGE LAWS: All right. Any redirect?
23 **REDIRECT EXAMINATION**
24 Q BY MR. WILSON: Ms. Baik, if you recall, did you speak to
25 Mr. San Nicolas prior to his termination in March of 2016 to

1 get his version of the allegations against him?
2 A I can't really recall, but in general -- I mean, there are
3 cases where we talk to the terminated employee before the
4 event, and there are cases that we don't talk to the terminated
5 employee before the event.
6 Q Okay. What kind of cases would you not talk to the
7 terminated employee?
8 A When we have enough evidence by the witnesses and the
9 supervisors that was presented to HR.
10 Q And just so I'm clear -- in the case of Mr. San Nicolas,
11 you don't recall one way or the other whether you spoke to him?
12 MS. PEREDA: Objection. Asked and answered. She doesn't
13 recall.
14 JUDGE LAWS: Yeah. She doesn't --
15 MR. WILSON: Okay. I just wanted to clarify.
16 Okay. I have no further questions.
17 JUDGE LAWS: Okay. Any recross from General Counsel?
18 MS. PEREDA: No, Your Honor.
19 JUDGE LAWS: And from the Union?
20 MS. SANCHEZ: No, thank you.
21 JUDGE LAWS: All right.
22 Well, thank you for providing your testimony. Please
23 don't discuss what you testified about here with any witness or
24 any potential witness. Thank you.
25 THE WITNESS: Thank you.

1 JUDGE LAWS: Off the record.
2 (Off the record at 10:06 a.m.)
3 JUDGE LAWS: We just had a brief, off-the-record
4 discussion -- well, it wasn't that brief. We had an
5 off-the-record discussion about subpoena issues that are
6 outstanding. And this is with regard to the subpoena that the
7 Union had served on the Employer. The items that are
8 outstanding are subpoena Request 16 and 19 through 25.
9 Without belaboring the record with what those entail,
10 specifically, I'm just going to summarize. With regard to 16,
11 the Employer and the Union did not agree on what was requested.
12 It's clear to me there wasn't a meeting of the minds on what
13 the documentation sought was. Unfortunately, now there is;
14 it's just kind of late in the game, but the Employer has agreed
15 to provide documentation regarding the work performed by the
16 two employees named in Request 16, including daily logs of what
17 actual work they performed.
18 With regard to Exhibits 19 through 25, the Union has said
19 that the time cards for the unit employees for the time period
20 requesting will satisfy all of those requests. The Employer
21 has agreed to provide those.
22 MR. WILSON: Your Honor, the only thing I would point out
23 is -- you've included 21 in there and that's not -- I mean, we
24 said there were no responsive documents in there.
25 JUDGE LAWS: You're right. So 19, 20, and 22 through 25

1 is what my notes say --

2 MR. WILSON: Right. Okay.

3 JUDGE LAWS: -- and I inadvertently lumped 21 into that.

4 Thank you.

5 MS. SANCHEZ: The only other thing, Your Honor, is that we

6 also discussed pay rates for both of the categories of

7 employees.

8 MR. WILSON: Well, those are on the time cards.

9 JUDGE LAWS: Yeah.

10 MS. SANCHEZ: Okay.

11 JUDGE LAWS: The pay can be deduced from the time cards.

12 MS. SANCHEZ: If they are, that's fine.

13 JUDGE LAWS: Okay. And with that, are we ready with the

14 witness?

15 MR. WILSON: Your Honor, and I apologize for raising my

16 voice.

17 JUDGE LAWS: Oh, that's all right. Both voices were

18 raised.

19 MR. WILSON: Well, like the people in the room next door

20 to you.

21 JUDGE LAWS: Yeah, off the record.

22 (Off the record at 10:40 a.m.)

23 JUDGE LAWS: Okay. Back on the record. I'm first going

24 to swear our interpreter.

25 Can you please raise your right hand?

1 **INTERPRETER SWORN**

2 JUDGE LAWS: Okay. Can you please raise your right hand?

3 Whereupon,

4 **LUIS ARMANDO LOPEZ FERNANDEZ**

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

6 examined and testified as follows:

7 JUDGE LAWS: Okay. Can you please state and spell your

8 name for the court reporter.

9 THE WITNESS: Luis, L-U-I-S, Armando, A-R-M-A-N-D-O,

10 Armando, Lopez, L-O-P-E-Z, Fernandez, F-E-R-N-A-N-D-E-Z.

11 JUDGE LAWS: Thank you, Mr. Fernandez.

12 THE WITNESS: You're welcome.

13 JUDGE LAWS: Just a couple of things before the lawyers

14 ask their questions. If you don't know the answer to a

15 question, please say, I don't know. If you don't understand a

16 question -- oh, scratch that. Only guess if you're asked to

17 guess. And if you don't understand a question, just say so,

18 and it will be rephrased for you. Okay.

19 MS. SANCHEZ: Thank you, Your Honor.

20 **DIRECT EXAMINATION**

21 Q BY MS. SANCHEZ: Good morning.

22 A Good morning.

23 Q Do you also go -- do you generally go by Luis Lopez?

24 A Yes, correct.

25 Q You previously testified in this hearing that you worked

1 for Wismettac, and that you've worked there for 11 years,
2 right?
3 A Correct.
4 Q And you work as a driver?
5 A Yes, I do.
6 Q Thank you. What kind of truck do you drive, Mr. Lopez?
7 A I drive a regular Class C truck, which takes a load of
8 26,000 pounds.
9 Q Is that also described as a bobtail?
10 A Yes, correct.
11 Q Thank you. And as a driver, are you required to take any
12 training at Wismettac?
13 A Yes, they do.
14 Q Can you describe what types of training you receive as a
15 driver?
16 A We are trained, for example, to back up with a truck.
17 Also within the warehouse, they train us on how to unload the
18 truck, how to use an electric pallet, because as a driver we
19 also utilize it to pole the pallet. They've also shown us
20 driver video for training. That's about it.
21 Q Thank you. And when you said pallets, are you referring
22 to pallet jacks?
23 A I know them as pallet -- electrical pallet jacks, yes.
24 Q Thank you.
25 A That one gets on them and you drive them or move them

1 around.
2 Q Okay. Thank you.
3 MS. SANCHEZ: I would like to approach and provide a
4 document, Your Honor.
5 **(Union Exhibit Number 41 Marked for Identification)**
6 Q BY MS. SANCHEZ: Mr. Lopez, can you look through this
7 document I've just put before you and let me know if it looks
8 familiar to you, generally?
9 A So I'll review it.
10 Q Once you've scanned through it and let me know if it looks
11 familiar to you, I have questions about specific pages.
12 A Yes, it is familiar.
13 Q Can you please look at page 5 for me, of this document?
14 A Yes.
15 Q Okay. Is this your name on line number 5 of this
16 document?
17 A Yes, correct.
18 Q And do you see the letters PJ next to your name?
19 A Yes, correct.
20 Q Do you know if those stand for pallet jack?
21 A Yes, it is.
22 Q And up on top I see "powered industrial truck" -- is that
23 another way of saying pallet jack?
24 A I'm not sure.
25 Q Okay. Can you look at pages 6 and 7? Do you know what

1 this document is?
2 A No, not this one.
3 Q Okay. At Wismettac, you testified, that you have to take
4 certain trainings. If you look at pages -- if you would please
5 turn to page 33 of this document?
6 THE INTERPRETER: 33?
7 MS. SANCHEZ: Yes, thank you.
8 Q BY MS. SANCHEZ: I believe you testified that you had
9 forklift training. Do you recall how often you had to have
10 forklift training at Wismettac?
11 A When I said that I had been given training -- for
12 forklift, we -- I didn't, but for pallet -- for pallet, the
13 electrical pallet, I had received it for that.
14 Q Okay. Is this your signature, located on page 34 of Union
15 41?
16 A Yes, it is. Correct.
17 Q So you did receive forklift training there?
18 A When I say training -- they did a test on us. And this
19 test was done on how to drive the forklift. So once you passed
20 this test is when they will give us the results. But to say
21 that someone came to us and said, this is how you drive this,
22 and this is how you do it -- we really didn't have that.
23 Q Okay. So you were given tests then?
24 A Correct. That's what I mean.
25 Q If you look at page 8 and also then 13 through 19 -- are

1 these the type of tests you're referring to?
2 A Yes, correct.
3 Q Please look at page 32 of this document. Do you know what
4 an assembler is at Wismettac?
5 MR. WILSON: Wait, what page are you on? I'm sorry.
6 JUDGE LAWS: 32.
7 MS. SANCHEZ: 32.
8 THE WITNESS: Yes, I do.
9 Q BY MS. SANCHEZ: Can you please tell us what an assembler
10 does?
11 A An assembler is the person who's in charge of putting
12 together the orders, to put the orders to us, to the drivers
13 that they're assigned.
14 But I want to clear something up here. When I submitted
15 my application to work at the company, I applied directly as a
16 driver. When the company accepted me as a driver, they first
17 sent me to be an assembler prior to working as a truck driver.
18 The reason behind this that they say is for me to understand
19 all the product of -- or the process within the company.
20 Q So how long did you work in the warehouse, then?
21 A For about a month.
22 Q What shift did you work?
23 A During the day -- day shift.
24 Q Did you ever work any overtime?
25 A Yes.

1 Q And did that overtime go into the night shift, on
2 occasion?
3 A Yes.
4 Q Was the work any different on the day versus the night?
5 A No, it was the same thing. Simply putting -- putting the
6 orders together and placing them in front of the door of each
7 driver.
8 Q Okay. Thank you. You've testified regarding the training
9 you've received as a driver; are there any trainings that both
10 drivers and warehouse employees receive?
11 A Yes.
12 Q What types of trainings would that be?
13 A How to lift heavy objects.
14 Q Anything else?
15 A I don't remember exactly.
16 Q Okay.
17 MS. SANCHEZ: The Union would like to offer Exhibit 41
18 into evidence.
19 JUDGE LAWS: Any objection?
20 MR. WILSON: Well, once again, are we putting the whole
21 document in, or just the pages that he testified with?
22 MS. SANCHEZ: I'd be happy, Your Honor, to go through the
23 rest of the remaining documents. I don't think that they're
24 objectionable. These are contained, normally in the personnel
25 file.

1 JUDGE LAWS: Understood. But as I have said --
2 MS. SANCHEZ: Okay.
3 JUDGE LAWS: -- I'm not going to be drawing my attention
4 to things in the personnel file like injury and illness
5 prevention program acknowledgement, unless you specifically
6 direct me to. That's the problem with these voluminous
7 exhibits is that I -- I need to know what the person offering
8 the exhibit is going to be relying upon within that exhibit and
9 what they deem relevant. And if you think that --
10 MS. SANCHEZ: I'd be happy to ask further questions.
11 JUDGE LAWS: -- his application for employment is -- I
12 mean, there are a lot of pages in here that haven't been
13 discussed that I don't know if they're being offered to prove
14 any part of the Union's case, so.
15 MS. SANCHEZ: Thank you, Your Honor. I'd like to ask
16 further questions about the document, if I may.
17 JUDGE LAWS: Okay.
18 Q BY MS. SANCHEZ: Mr. Lopez, please look at page 1 of Union
19 Exhibit 41.
20 JUDGE LAWS: And while he gets there, I do want to
21 instruct -- I mean, I don't want to mechanically go through and
22 authenticate each page if you don't think each page is
23 relevant. That's counsel's job is to figure out what's
24 relevant and to present that to me, not present a huge document
25 and have me try to discern what is relevant, so.

1 MS. SANCHEZ: Thank you, Your Honor. And I'll note that
2 this document was already redacted.
3 JUDGE LAWS: Okay.
4 MR. WILSON: All right. And we'll stipulate this document
5 is what they claim it is.
6 JUDGE LAWS: Okay.
7 MR. WILSON: I just have the same questions you do as to
8 what is going to be argued subsequently, in terms of if it's
9 relevant.
10 MS. SANCHEZ: That's fine. I said I had further
11 questions.
12 JUDGE LAWS: Okay. Go ahead.
13 Q BY MS. SANCHEZ: Can you please tell us what wage you made
14 when you first started working at Wismettac?
15 A I think I first began earning between 11.50 and 12.
16 Q And what is the wage that you currently make?
17 A 19.98, I think.
18 Q Can you look at pages 9 and 10 of this document?
19 Please -- are you there?
20 THE INTERPRETER: Uh-huh.
21 THE WITNESS: Sure.
22 Q BY MS. SANCHEZ: Please let me know if you see your name
23 listed on this document.
24 A Yes, I do, on page 10.
25 Q Line 2 of page 10?

1 A Yes, correct.
2 Q Is this your signature?
3 A Yes.
4 Q This document says training program for warehouse
5 employees; were you considered a driver or a warehouse employee
6 on October 15th, 2012?
7 A I don't remember, really.
8 Q When did you first start at Wismettac? Which year?
9 A 2007. Like about May or June, approximately. The company
10 hired me directly to work with them in about September 7th.
11 But I want to clarify something. When I applied with the
12 company, I applied directly with them, and by then the
13 manager -- told me that he was going to -- that he was going to
14 hire me, but that I had to go through an agency -- but they had
15 to hire me via an agency. So I went to the agency, filled
16 another process of documents, and is when I -- and is when I
17 began working with them, but I didn't directly start being
18 hired by them, although I did apply directly to them.
19 Q Okay. Thank you for that clarification. And that was in
20 2007, you said?
21 A Yes, around 2007.
22 Q And if I understood your previous testimony, you said you
23 worked in the warehouse for approximately six months?
24 A Yes, more or less.
25 Q Okay. So by 2012, were you a driver then?

1 A Yes, I was a driver.
2 Q So were drivers required to have warehouse training, then?
3 A Yes, because we had to learn -- as I said, to learn the
4 product.
5 Q Were you required to provide an application for employment
6 to Wismettac?
7 A Yes.
8 Q Were you required to provide a resume?
9 A No, they didn't ask me for my resume, just the
10 application.
11 Q Were you required to provide a CV?
12 A No, they didn't ask for it, but I gave it to them.
13 MS. SANCHEZ: I would like the record to reflect that this
14 witness asked what that means, Your Honor.
15 JUDGE LAWS: Uh-huh.
16 MS. SANCHEZ: Thank you.
17 Q BY MS. SANCHEZ: Can you please let us know if you were
18 required to attend any safety meetings at Wismettac?
19 A Yes.
20 Q And prior to the second -- strike that.
21 Are you aware that there was a Union election at
22 Wismettac?
23 A You mean the ones in August and in February?
24 Q Yes, I was referring to -- the second election occurred in
25 February, correct?

1 A Yes, correct.
2 Q And that was this year?
3 JUDGE LAWS: I'm just going to caution that this witness
4 did provide testimony about this already, so let's not repeat.
5 Let's move to things that haven't already been testified about
6 by this witness.
7 MS. SANCHEZ: Thank you, Your Honor. I wanted to provide
8 him a time period for the questioning.
9 JUDGE LAWS: Sure.
10 Q BY MS. SANCHEZ: So my question is, did you attend safety
11 meetings prior to the second election, which occurred on
12 February 6th, 2018?
13 THE INTERPRETER: 2018?
14 MS. SANCHEZ: Correct.
15 THE WITNESS: Prior to the February -- second elections, I
16 didn't assist -- I didn't have any kind of a meeting, safety
17 meeting, because I was hurt.
18 Q BY MS. SANCHEZ: Okay. How often do drivers -- prior to
19 the second election, how often did drivers, in your experience,
20 need to attend safety meetings?
21 A I think it varies, because when there's an accident,
22 should it be whether in LA, locally, or in another branch, then
23 that's when they called two of the meetings, and they let us
24 know what happened in the accident. But I would say on average
25 maybe -- maybe once a month or every two months.

1 Q Okay. Thank you.
2 MS. SANCHEZ: Your Honor, we would like to offer 41.
3 JUDGE LAWS: All right. Any objection? And I'll guess
4 I'll make the same comment as I did with regard to other
5 documents that I -- unless the witness was questioned about a
6 document or it doesn't require any sort of interpretation, I
7 won't be relying on it, even if -- the parties should not rely
8 on it, I guess, is a better way to put on it, in their briefs.
9 So with that --
10 MR. WILSON: Well, with that understanding, we have no
11 objection. We'll just refer to that as same understanding each
12 time.
13 JUDGE LAWS: The same understanding.
14 MR. WILSON: Okay.
15 JUDGE LAWS: With that, I will admit Union 41.
16 **(Union Exhibit Number 41 Received into Evidence)**
17 MS. SANCHEZ: Thank you, Your Honor.
18 Q BY MS. SANCHEZ: Prior to February 6th, 2018, who was your
19 supervisor at Wismettac?
20 THE INTERPRETER: 2016? Sorry, can --
21 MS. SANCHEZ: I'm sorry. 2018.
22 THE INTERPRETER: Okay. I thought so.
23 THE WITNESS: Anthony Vasquez, known as Jose Vasquez.
24 Q BY MS. SANCHEZ: And did Anthony -- or Jose -- Vasquez
25 supervise any other employees there?

1 A Yes.
2 Q Who would that be?
3 A Jose De La Rosas and John Kirby -- I can't pronounce his
4 name well.
5 Q Oh. My question wasn't who were the other supervisors; my
6 question was, who else did Mr. Vasquez supervise?
7 JUDGE LAWS: All right. By job title?
8 MS. SANCHEZ: By classification or job title.
9 JUDGE LAWS: Thank you.
10 MS. SANCHEZ: Thank you, Your Honor.
11 THE WITNESS: Jose Romero was one of them. The employees
12 under Anthony.
13 JUDGE LAWS: I'm going to ask a different question.
14 THE INTERPRETER: Sure.
15 JUDGE LAWS: What types of employees did Mr. Vasquez
16 supervise?
17 THE WITNESS: All of them -- warehouse and drivers.
18 Q BY MS. SANCHEZ: Thank you.
19 You, I believe, just mentioned a number of other
20 supervisors, including somebody by the name of Romero, somebody
21 by the name of De La Rosas, and --
22 MR. WILSON: Objection.
23 Q BY MS. SANCHEZ: -- and somebody by the name of Kirby.
24 MR. WILSON: Your Honor, that's stating her question, not
25 what he said.

1 MS. SANCHEZ: It was a clarifying question.
2 JUDGE LAWS: Yeah, he --
3 MS. SANCHEZ: I could ask it a different way.
4 JUDGE LAWS: Yeah, please do. Because he didn't -- he
5 said he couldn't remember someone's name who you just said. So
6 let's ask it a different way, without respect to what he
7 previously said.
8 MS. SANCHEZ: Sure, Your Honor.
9 JUDGE LAWS: Because that's unnecessary.
10 Q BY MS. SANCHEZ: Prior to February 6th, 2018, do you
11 recall the names of any other supervisors?
12 MR. WILSON: Objection. There's no foundation as to the
13 term supervisor.
14 JUDGE LAWS: Well, --
15 MS. SANCHEZ: We've been using that term --
16 JUDGE LAWS: Yeah.
17 MS. SANCHEZ: -- the entire proceeding.
18 MR. WILSON: And now it's becoming more significant, so
19 there should be a foundation laid as to how he defines a
20 supervisor.
21 JUDGE LAWS: Okay. We'll get there. Let's ask him who he
22 perceives as supervisor is what I will take this as, not
23 whether they're a statutory supervisor under the Act.
24 MS. SANCHEZ: Thank you. May he answer the question?
25 JUDGE LAWS: Yes.

1 THE INTERPRETER: What he perceives, correct, Your Honor?
2 JUDGE LAWS: Yes.
3 THE WITNESS: Jose De La Rosas and John Kirby.
4 Q BY MS. SANCHEZ: Does Jose De La Rosas also go by Jose
5 Rosas?
6 A I've only heard it as Jose De La Rosas. I don't know if
7 they actually call him Jose Rosas also.
8 Q How do you know Jose De La Rosas?
9 A He was a regular employee that worked at the freezer
10 department. He worked as an assembler, which is the same of
11 what I said before, which is to put the orders together, and
12 it's the way that I know him.
13 Q And how do you know him as a supervisor?
14 A I got -- I got to know him as a supervisor when all the
15 employees in the freezer would use some sort of uniform -- I
16 don't know if I would call it a uniform but it was -- but it
17 was a sort of clothing for cold in the freezer. Then he
18 stopped wearing that outfit, and he started walking all over
19 the warehouse -- the house -- with a laptop --
20 MR. WILSON: Your Honor, I'm going to object. Vague as to
21 time.
22 JUDGE LAWS: I --
23 MS. SANCHEZ: I asked prior to --
24 JUDGE LAWS: Follow up on that.
25 MS. SANCHEZ: Should I follow up now?

1 JUDGE LAWS: Let him finish and then --
2 MS. SANCHEZ: Okay.
3 JUDGE LAWS: -- ask what time period --
4 MS. SANCHEZ: Thank you.
5 JUDGE LAWS: -- he observed this specific activity in.
6 So go ahead and continue.
7 THE WITNESS: Helping us, the drivers, to see what -- what
8 we needed or what was missing and also us within the company --
9 we received cash or check and only managers or supervisors are
10 approved to receive them. And he was one of the ones that
11 received this.
12 MR. WILSON: Objection. Lack of foundation.
13 THE WITNESS: And he would sign a paper when he would
14 receive it.
15 MR. WILSON: Again, lack of foundation.
16 JUDGE LAWS: Did you observe this or --
17 THE WITNESS: Yes.
18 Q BY MS. SANCHEZ: did he personally sign the papers that
19 you brought back?
20 MR. WILSON: Objection. Leading question.
21 MS. SANCHEZ: Okay.
22 Q BY MS. SANCHEZ: You just testified that Jose Rosas signed
23 papers. How do you know he signed papers?
24 A In October 9, I stopped working, if I recall correctly,
25 and before I got out, he signed my papers. And not only he,

1 but also John Kirby.
2 Q Okay. October 9 of what year?
3 A Last year, 2017.
4 Q And when --
5 JUDGE LAWS: Okay. And then let's get the time period of
6 the other activities, walking around with the laptop --
7 MS. SANCHEZ: Yes.
8 JUDGE LAWS: -- change of the uniform, et cetera.
9 Q BY MS. SANCHEZ: Yeah, so you just also testified about
10 when you noticed Mr. Rosas was walking around with the laptop
11 and wearing the freezer gear, as you described it.
12 JUDGE LAWS: No.
13 Q BY MS. SANCHEZ: When was that?
14 MR. WILSON: No, I object to that. I don't believe that
15 was his --
16 JUDGE LAWS: Yeah, I don't --
17 MS. SANCHEZ: I'm sorry.
18 Q BY MS. SANCHEZ: Cold -- clothing for cold, I believe, is
19 how I was described --
20 THE INTERPRETER: He stopped wearing it for --
21 JUDGE LAWS: Yeah, I think you're saying the opposite.
22 THE INTERPRETER: Uh-huh.
23 JUDGE LAWS: -- of what the testimony was.
24 MS. SANCHEZ: He stopped wearing the clothing for cold.
25 JUDGE LAWS: Yes.

1 MS. SANCHEZ: Yes.
2 JUDGE LAWS: You said started.
3 MS. SANCHEZ: Thank you, Your Honor.
4 Q BY MS. SANCHEZ: Can you please let us know what time
5 period you were referring to when De La Rosas stopped wearing
6 the clothing for cold?
7 A I recall it was after the first election. Exactly the
8 month, I don't, but I know it happened after the first
9 election.
10 Q And --
11 JUDGE LAWS: Soon after or a long time after?
12 A Maybe one or two months after.
13 Q BY MS. SANCHEZ: So the first election you're referring to
14 was in September of 2017; is that correct?
15 A Yes, correct.
16 Q So when you say one to two months, was that before or
17 after the second election?
18 A No.
19 JUDGE LAWS: I think that's confusing the record. He
20 testified only in reference to the first election, so let's
21 move on. We all know that date.
22 Q BY MS. SANCHEZ: Was Jose Rosas a supervisor on February
23 6th, 2018, if you know?
24 MR. WILSON: I'm going to object to that term, Your Honor.
25 It's not --

1 MS. SANCHEZ: There's --
2 JUDGE LAWS: I will not --
3 MS. SANCHEZ: -- clarification --
4 JUDGE LAWS: I will not take this witness' testimony that
5 he was a supervisor as establishing that he was a statutory
6 supervisor.
7 MR. WILSON: But -- but Your Honor --
8 JUDGE LAWS: So let's just get to the duties. I think --
9 MR. WILSON: It calls for a conclusion.
10 MS. SANCHEZ: But he's allowed to testify about his --
11 JUDGE LAWS: To his perceptions.
12 MS. SANCHEZ: -- experience of --
13 JUDGE LAWS: Yes.
14 MS. SANCHEZ: -- as supervisor.
15 MR. WILSON: But that's not what you're asking.
16 JUDGE LAWS: Let's ask about his experience.
17 MS. SANCHEZ: Okay.
18 Q BY MS. SANCHEZ: In your experience as a driver at
19 Wismettac, was Jose Rosas as a supervisor on February 6th,
20 2018?
21 A Yes, I believe so.
22 JUDGE LAWS: Okay, and I want to go back, because we were
23 going to establish a time frame as to a couple things. And I
24 don't know if you were going there, but you seem to have moved
25 on.

1 When did you first start seeing Mr. De La Rosas walk
2 around with a laptop?
3 THE WITNESS: Before I got hurt, at the end of September.
4 JUDGE LAWS: 2017?
5 THE WITNESS: Yes, after the first election 2017.
6 JUDGE LAWS: Thank you.
7 MS. SANCHEZ: Did Your Honor have any other clarifying
8 questions?
9 JUDGE LAWS: Nope, that's fine.
10 Q BY MS. SANCHEZ: You testified about cash and checks a
11 moment ago. Do you recall that testimony?
12 A Yes.
13 Q I'd like to ask you questions about what you were
14 referring to. Why did you have cash and checks?
15 A Because we were instructed when we go make a delivery the
16 client -- they give us some paperwork that specifies whether or
17 not we're going to receive cash or check from them a specific
18 delivery.
19 Q Did Jose Rosas ever accept cash or checks from you prior
20 to the second election?
21 A I believe so.
22 Q I'd like to ask you about John Kirby. Do you know who
23 John Kirby is?
24 A Yes.
25 Q How do you know him?

1 A The same way; he was a freezer employee who used the same
2 outfit as De La Rosas, and he was also an assembler in that
3 same way. That's how I know him.
4 Q You also testified that he -- you identified him as a
5 supervisor. Why did you identify him as a supervisor?
6 A Because from the same way he would walk with a laptop,
7 would walk by all the drivers, checking that everything was
8 okay. And he would also receive checks or cash from the
9 drivers.
10 Q Can you please let us know what time period you saw
11 Mr. Kirby walking with the laptop?
12 A In the mornings, and then when we were back in the
13 afternoon from our rounds we would also see him.
14 Q Do you recall which months or years?
15 A After the first election in 2017. It was like end of
16 September and beginning of October.
17 Q Of which year?
18 A Last year.
19 Q And when did he receive the checks or cash from you; which
20 dates?
21 A I find that a little confusing, that question, because
22 when they say what dates you're referring after the first
23 election or before the second? Because what I want to clarify
24 is that I was out of the company from the 9 or 8th of October
25 of 2017. But I am very certain that he receive cash or checks,

1 but I don't remember exactly.
2 JUDGE LAWS: And before you continue, when did you return
3 following your injury?
4 THE WITNESS: February 23rd, around that.
5 JUDGE LAWS: 2018?
6 THE WITNESS: Yes, correct.
7 JUDGE LAWS: So you were not at the workplace between
8 October 9th, 2017 and February 23rd, 2018?
9 THE WITNESS: The 22nd; the 23rd I came back.
10 JUDGE LAWS: Thank you.
11 MR. WILSON: Wait, what date did he come back on?
12 JUDGE LAWS: 23rd of February.
13 MR. WILSON: Of 2018?
14 THE WITNESS: 2018.
15 Q BY MS. SANCHEZ: So you received the cash and the checks
16 prior to your leave, which would be in the fall of 2017?
17 A Correct.
18 Q Thank you.
19 JUDGE LAWS: And I saw that he also received that from
20 other drivers as well.
21 Q BY MS. SANCHEZ: Do leads -- Strike that.
22 As a driver, prior to your leave, did leads ever accept
23 cash or checks from you?
24 MR. WILSON: I'm going to object. The term leads is not
25 defined; there is no foundation for that.

1 JUDGE LAWS: Let's get his understanding of who the leads
2 were.
3 MS. SANCHEZ: Sure, preliminary question.
4 Q BY MS. SANCHEZ: Are you familiar with employees who have
5 the title of leads?
6 A Yes.
7 Q Who are they?
8 A The drivers.
9 Q Okay. Do leads accept checks and cash from drivers?
10 A No, they don't. Only supervisors and managers.
11 MR. WILSON: Objection, lack of foundation how he knows
12 that.
13 JUDGE LAWS: And how do you know that?
14 THE WITNESS: It's very simple for me. I have taken
15 checks and cash, and my leads have been there present, but they
16 sent me to the manager or to the supervisor present.
17 Q BY MS. SANCHEZ: Do you know who Ruben Munoz is?
18 A Yes.
19 Q Do you know what his position was prior to the second
20 election?
21 A I've known him as an assembler.
22 Q Did Ruben Munoz ever accept checks or cash from you?
23 A No.
24 Q I'd like to ask you about some -- I'm going to switch
25 subjects.

1 I'd like to ask you about some other classifications of
2 employees who work at Wismettac. As a driver over the course
3 of eleven years, prior to the second election, did you work
4 regularly with GPO distribution clerks?
5 MR. WILSON: Objection, leading question.
6 MS. SANCHEZ: I don't think it was.
7 JUDGE LAWS: Overruled. Let's say, did you work with.
8 Regularly is open to interpretation so let's get --
9 Q BY MS. SANCHEZ: Prior to February 6th, 2018, did you work
10 with GPO distribution clerks?
11 MR. WILSON: Objection again, no foundation whether he
12 knows what that job is.
13 JUDGE LAWS: Well --
14 MS. SANCHEZ: I'm asking him.
15 JUDGE LAWS: -- let's ask him.
16 THE WITNESS: I don't know what that is.
17 Q BY MS. SANCHEZ: Do you -- are you familiar with the
18 classification of GPO distribution coordinator?
19 A No, I don't know. No, I repeat, I don't know what that
20 is.
21 Q Are you familiar with the classification of GPO central
22 purchase clerk?
23 A I don't know, I don't know what that is.
24 Q Are you familiar with the classification of central
25 purchase clerk?

1 A No, I don't know.
2 Q And are you familiar with the classification of logistics
3 office clerk?
4 A No, I don't know what that is.
5 Q Are you generally familiar with names of employees that
6 you work with on a daily basis?
7 A Yes.
8 Q I'd like to ask you about names of certain employees.
9 Prior to the second election, did you work with somebody by the
10 name of Yukihiko Amanuma?
11 A No, but I would like to ask a question. When you talk
12 about the office I'm familiar with, it's the office warehouse,
13 like my leaders, my leads, and supervisors, and managers.
14 That's what I mean, office in the warehouse.
15 Q Okay. Are there -- how many offices are there at
16 Wismettac?
17 A I think there's more.
18 Q Okay. I'd like to ask you whether you've worked with an
19 employee by the name of Chiaki Mazlomi?
20 A No, I don't know who that person is.
21 Q Prior to the second election, did you work with somebody
22 by the name of Brian Noltensmeier?
23 A No, I don't know who that is.
24 MR. WILSON: Your Honor, I'm going to object as to
25 foundation here, because he said he was gone from October 9th

1 to February 29th, so --

2 JUDGE LAWS: And that's established, so I won't be

3 considering that period of time.

4 MR. WILSON: Okay.

5 Q BY MS. SANCHEZ: Prior to the second election, did you

6 work with somebody by the name of Ryan Prewitt?

7 A No.

8 Q That was Ryan with an R.

9 A No.

10 Q Prior to the second election, did you work with somebody

11 by the name of John Salzer, Jr.?

12 A No.

13 Q Prior to the second election, did you work with somebody

14 by the name of Hideki Takegahara?

15 A No.

16 Q Prior to the second election, did you work with somebody

17 by the name of Kazumi Kasai?

18 A No.

19 Q Prior to the second election, did you work with somebody

20 by the name of Joshua Fulkerson?

21 A No.

22 Q Prior to the second election, did you work with somebody

23 by the name of Senllacett Gonzalez Guardado?

24 A No.

25 Q Prior to the second election, did you work with somebody

1 by the name of Kaori Juichiya?
2 A No.
3 Q Prior to the second election, did you work with somebody
4 by the name of Kaipo Eda?
5 A No.
6 Q Prior to the second election, did you work with somebody
7 by the name of Rachel Lin?
8 A No.
9 Q Prior to the second election, did you work with somebody
10 by the name of Stephany Manjarrez?
11 A No.
12 Q Prior to the second election, did you work with somebody
13 by the name of Miwa Sassone?
14 A No.
15 Q Prior to the second election, did you work with somebody
16 by the name of Chizuko Sho?
17 A No.
18 Q Prior to the second election, did you work with somebody
19 by the name of Jenifer Tran?
20 A No.
21 Q Prior to the second election, did you work with somebody
22 by the name of Shun Man Yung?
23 A No.
24 Q Same question with regard to somebody by the name of
25 Wesley Chang?

1 A No.
2 Q Prior to the second election, did you work with somebody
3 by the name Thao Nguyen?
4 A No.
5 Q Prior to the second election, did you work with somebody
6 by the name of Kayoko Nishikawa?
7 A No.
8 Q Prior to the second election, did you work with somebody
9 by the name of Kumiko Estrada?
10 A No.
11 Q Prior to the second election, did you work with somebody
12 by the name of Cheryl Johnston?
13 JUDGE LAWS: Johnston.
14 MS. SANCHEZ: Thank you.
15 THE WITNESS: I do know a Cheryl, but I don't know her
16 last name.
17 Q BY MS. SANCHEZ: How do you know -- what Cheryl -- how do
18 you know the Cheryl you're referring to?
19 A Cheryl is in the warehouse office.
20 Q And is that how you know her?
21 A Yes.
22 Q And do you work with her regularly?
23 A No.
24 JUDGE LAWS: Do you work with her ever?
25 THE WITNESS: No.

1 Q BY MS. SANCHEZ: Prior to --
2 A I know her because she's there in the office.
3 Q Thank you.
4 Prior to the second election, did you work with somebody
5 by the name of Maho Kobayashi?
6 A No.
7 Q Prior to the second election, did you work with somebody
8 by the name of Sachie Liu?
9 A I know there's a Liu, but I don't know if it's Sachie.
10 Q And how do you know the person you're referring to as Liu?
11 A Because he is a supervisor too.
12 Q How do you know that person is a supervisor?
13 A Because he's also received checks and cash from us.
14 Q Was that prior to the second election?
15 A Way before, but I only know him as Mr. Liu.
16 Q Prior to the second election, did you work with somebody
17 by the name of Fumi Meza?
18 A No.
19 Q Prior to the second election, did you work with somebody
20 by the name of Kristie Mizobe?
21 A No.
22 Q Prior to the second election did you work with somebody by
23 the name of Steffanie Mizobe?
24 A No.
25 Q Prior to the second election did you work with somebody by

1 the name of Shuji Ohta?
2 A No.
3 Q Prior to the second election, did you work with somebody
4 by the name of Suguru Onaka?
5 A I do know Suguru.
6 Q Can you please tell me how you know Suguru?
7 A He's also in the warehouse office.
8 Q And do you work with Suguru Onaka?
9 A He is in the office, but I don't work directly with him.
10 Q Prior to the second election, did you work with somebody
11 by the name of Wakako Park?
12 A No.
13 Q Prior to the second election, did you work with somebody
14 by the name of Domingo Pliego?
15 A I also know about Domingo, but I'm not sure of his last
16 name.
17 Q How do you know the Domingo you're referring to?
18 A I know him because he's sort of charged of hygiene, or if
19 someone -- someone takes a part of -- well you have to mention
20 it to him; like a product is broken, I'm skipping the name of
21 it.
22 Q And did you work with that Domingo on a regular basis?
23 A Not regularly, just when something would happen we would
24 let him know.
25 JUDGE LAWS: And what time period was this?

1 THE WITNESS: It could've been before the first election,
2 yeah. He was also in charge of temperatures.
3 Q BY MS. SANCHEZ: What do you mean by temperatures?
4 A When I say temperatures because we are managing products
5 that are frozen, and I mean the temperature of the truck, of
6 the freezer where we put the product in. It has to have a
7 certain temperature.
8 Q And how was in charge of that?
9 A They mentioned that he would be in charge. I forget the
10 name of this specific description, but he was in charge of
11 checking the temperatures, that everything would be okay with
12 the products.
13 Q Was he in charge of food safety?
14 A Yes, yes.
15 Q Prior to the second election, did you work with somebody
16 by the name of Mamoru Tagai?
17 A No.
18 Q Prior to the second election, did you work with somebody
19 by the name of Keiko Takeda?
20 A No.
21 Q Prior to the second election, did you work with somebody
22 by the name of Stacy Umemoto?
23 A No.
24 Q Prior to the second election, did you work with somebody
25 by the name of Karen Yamamoto?

1 A No.
2 Q Prior to the second election, did you work with somebody
3 by the name of Chiaki Yamashita?
4 A No.
5 Q And prior to the second election, did you work with
6 somebody by the name of Yasuhiro Yamashita?
7 A No.
8 Q As a driver, prior to the second election, which other
9 classifications of employees did you work with on a regular
10 basis?
11 MR. WILSON: Objection, vagueness to time.
12 MS. SANCHEZ: I've mentioned time.
13 JUDGE LAWS: Prior to the second election.
14 MR. WILSON: Well I know, but he's worked there since
15 2017 -- all right, I would withdraw the objection.
16 MS. SANCHEZ: Thank you.
17 THE INTERPRETER: The second election's correct.
18 MR. WILSON: Correct.
19 THE WITNESS: We're only with the assemblers, drivers, and
20 the ones in charge of safety food.
21 Q BY MS. SANCHEZ: You mentioned that you were out on injury
22 in the late portion of 2017. Did you work between the first
23 and second election?
24 A Yes.
25 Q And during that time period, which other classifications

1 of employees did you work with on regular basis?
2 A With the warehouse assemblers, drivers, leads and
3 supervisors.
4 Q Thank you. Can you please describe the Wismettac
5 facility?
6 A You mean the -- what are you refer to exactly?
7 Q What is the physical layout of the facility?
8 JUDGE LAWS: I don't think we need this witness' testimony
9 to establish that. We have that several times on the record,
10 and we have a document.
11 MS. SANCHEZ: Okay.
12 JUDGE LAWS: So we can refer him to it, you can ask
13 questions about it, but we don't need to get what the physical
14 layout is through another witness.
15 MS. SANCHEZ: Okay.
16 Q BY MS. SANCHEZ: Are you familiar with the front office of
17 Wismettac?
18 MR. WILSON: Objection, lack of foundation as to the term
19 front which is a location.
20 JUDGE LAWS: Overruled.
21 THE WITNESS: There's an office within the warehouse, but
22 that's not the main entrance, and I don't go through the main
23 entrance. I only go through the warehouse.
24 Q BY MS. SANCHEZ: Who goes through the main entrance?
25 MR. WILSON: Objection, lack of foundation.

1 JUDGE LAWS: If you know.
2 Q BY MS. SANCHEZ: If you know?
3 A No, I don't know.
4 Q You use -- you use the warehouse entrance, you said?
5 A Yes, correct.
6 Q Do you know who else uses that entrance?
7 A All the employees that are assemblers, drivers, and
8 supervisors and leads. They're the only ones that I see that
9 go through that entrance.
10 Q Which supervisors and leads go through that entrance?
11 A Jose Vasquez, Tommy Ma, De La Rosas. And the leaders are
12 Alan Ho and -- Tommy is supervisor now.
13 Q Which classifications of employees do those supervisors
14 and managers supervise?
15 A Tommy Ma supervises us, the drivers. Jose Vasquez,
16 drivers and assemblers.
17 Q Do you know what is the bodega?
18 A Bodega is the place where we walk and there are like racks
19 where the products are. And that's where the assemblers pick
20 up their products. And they put the products in front where
21 the trucks are.
22 MS. SANCHEZ: May I have this witness look at Employer
23 Exhibit 4?
24 Q BY MS. SANCHEZ: Do you have Employer Exhibit 4 in front
25 of you?

1 JUDGE LAWS: He does.
2 Q BY MS. SANCHEZ: The gray section in the middle of this
3 document, are those the racks you're referring to?
4 A Yeah, so they look like Xs.
5 Q And is it -- what is this area of the facility?
6 A That's where all the products are.
7 Q Which areas do you work in, in the facility -- strike
8 that.
9 Are the areas you work in, in the facility depicted in
10 this document?
11 A Yes.
12 Q Can you describe where those areas are?
13 A The areas from door 1, door 30 and 33.
14 Q Are you referring to the numbers depicted on the top part
15 of the document?
16 A Yes, correct.
17 Q Did you call those doors?
18 A Yes.
19 Q What kind of doors are they?
20 A They're doors but they're really docks where you park the
21 trucks, the trucks are parked. And that's where we load the
22 product onto the trucks.
23 Q Do you see the red arrow on the left-hand side of this
24 document?
25 A Yes.

1 Q What is that area?
2 A That area takes us directly to the rest area where we eat.
3 Q Is that a hallway?
4 A Yes, there's a hallway there that takes us there.
5 Q This document says, first floor main office; do you see
6 where I'm referring to?
7 A Yes.
8 Q Do you spend any time on a day to day basis in that area?
9 A No.
10 Q Is there any other way to get to that area than through
11 the hallway you just described?
12 MR. WILSON: Objection, lack of foundation that he knows
13 that.
14 MS. SANCHEZ: If he knows.
15 JUDGE LAWS: If he knows. I mean, I can look and see that
16 there's a door depicted on the right-hand side.
17 MR. WILSON: But Your Honor, the question was, is there
18 any other way to get there.
19 JUDGE LAWS: Uh-huh.
20 MS. SANCHEZ: I'd like to --
21 MR. WILSON: I'm not sure he knows that.
22 MS. SANCHEZ: -- explore what his knowledge is of how to
23 get there.
24 JUDGE LAWS: Yup, that's fine. Go ahead.
25 THE WITNESS: No, I don't know.

1 Q BY MS. SANCHEZ: Are you allowed to use the door that's
2 depicted on the right-hand side of the first floor main
3 office?
4 MR. WILSON: Objection, foundation. Is this term allowed?
5 JUDGE LAWS: Do you ever use it? Yes or no; do you ever
6 use -- do you ever use this door?
7 THE WITNESS: No.
8 JUDGE LAWS: Are you prohibited from using it?
9 THE WITNESS: No. Nobody has ever told me anything.
10 Q BY MS. SANCHEZ: Do you need to use a key to get into the
11 back area of the facility that you described earlier?
12 THE INTERPRETER: Back area, you said, forgive me?
13 MS. SANCHEZ: Yes.
14 THE WITNESS: You mean back area where we go in?
15 JUDGE LAWS: The area -- are you referring to the middle
16 area where the Xs are that he previously talked about?
17 MS. SANCHEZ: I'm sorry, I'm not referring to this
18 document any longer.
19 JUDGE LAWS: Okay. All right. So put the document down.
20 MS. SANCHEZ: Sorry for that.
21 Q BY MS. SANCHEZ: You testified earlier that the way you
22 enter the facility is through the warehouse, correct?
23 A Yes.
24 Q Are there any gates prior to the entrance?
25 A Yes.

1 Q Do you need a key to get into that gate?
2 A Yes. It's a card, a key card.
3 Q Does that key card get to anywhere else in the facility?
4 A With that, I've only gone through the gate, the gate only
5 gets to the parking, the big door. It's like a big gate and
6 once you go in through there, there's a small door, which is
7 the one that takes us directly to the warehouse. And I also
8 need the key for that, to open that door.
9 Q Does that key card also get you into the front door of --
10 meaning, the first floor main office of the facility?
11 MR. WILSON: Objection. Lack of foundation.
12 JUDGE LAWS: If you know.
13 THE WITNESS: No, it just gives us access for the parking
14 and the warehouse door.
15 Q BY MS. SANCHEZ: Were you ever -- prior -- strike that.
16 Prior to the second election, were you ever told where to
17 park your personal car at the facility?
18 A Yes.
19 Q Where were you told that you were to park?
20 A In the parking that is directly in the warehouse.
21 Q Do you know who else was parking in those areas?
22 A All the employees. There are like drivers, assemblers,
23 supervisors, and managers.
24 Q The supervisors and managers that you referred to, are you
25 referring to warehouse supervisors and managers or all

1 supervisors and managers?
2 A No, just the warehouse. All the bodega.
3 Q When you say bodega, do you mean warehouse?
4 A Yes.
5 Q I would like to switch subjects again. While you were
6 still working at Wismettac, prior to the second election, did
7 you see any banners related to the warehouse, inside the
8 warehouse?
9 A When you mean to say banners, what are you referring to?
10 Q Sorry, that should've been more clear. Did you ever see
11 any banners related to the Union in the warehouse?
12 A I did see, before the first elections.
13 Q What banners did you see?
14 A So I saw "Vote no to the Union." I saw some photos with
15 Mr. Lou, which I think is the treasurer -- the local treasurer.
16 And more than anything, it was messages of no to the Union, no
17 to voting.
18 Q You mentioned somebody by the name of Lou. Are you
19 referring to Lou Villalvazo?
20 A Yes, correct.
21 Q That's a different "Lou" than the "Liu" you were referring
22 to earlier?
23 A Yes, correct.
24 Q Okay. Thank you, for the clarification.
25 MS. SANCHEZ: Your Honor, I'd like to approach the witness

1 with a document.

2 JUDGE LAWS: Okay.

3 **(Union Exhibit Number 42 Marked for Identification)**

4 Q BY MS. SANCHEZ: Mr. Lopez, if you would look at -- all

5 pages of this document.

6 A Yes, I saw them.

7 Q Do these look familiar to you?

8 A Yes.

9 Q How do they look familiar to you?

10 A Because they were there on the racks and on the walls.

11 Q Are these the banners you were referring to a moment ago?

12 A Yes, correct.

13 Q Did you vote during the second election?

14 A Yes.

15 Q Do you recall whether these were still hung on the day of

16 the election?

17 A Yes, they were.

18 Q How did the banners make you feel?

19 MR. WILSON: Objection. Irrelevant.

20 JUDGE LAWS: Overruled.

21 MR. WILSON: And speculative.

22 JUDGE LAWS: Overruled.

23 THE WITNESS: Well, they made me feel bad. And I want to

24 clear up something here.

25 MR. WILSON: Objection, Your Honor. He needs to respond

1 to the question.
2 JUDGE LAWS: Yes, just respond to the question, yes.
3 THE WITNESS: They made me feel bad.
4 Q BY MS. SANCHEZ: Why did they make you feel bad?
5 A Because from what I know during an election, this kind of
6 banner can't be present inside where the elections are going to
7 happen.
8 MR. WILSON: Objection. Lack of foundation as to his
9 legal knowledge.
10 MS. SANCHEZ: My question was --
11 JUDGE LAWS: And I'm only going to be -- I'm not referring
12 any legal meaning or definition to what this employee's --
13 MR. WILSON: Well, there's --
14 JUDGE LAWS: -- understanding is.
15 Why did you think that, that it was not permissible for
16 those to be hanging?
17 THE WITNESS: Because they taught us that we couldn't, at
18 any time, have any kind of banner on the election day.
19 JUDGE LAWS: Who are they?
20 THE WITNESS: Oh, because the Local 630 --
21 JUDGE LAWS: Thank you.
22 THE WITNESS: -- were the ones who told us.
23 JUDGE LAWS: Thank you.
24 THE WITNESS: And that that was the law.
25 JUDGE LAWS: That's enough. Go ahead.

1 Q BY MS. SANCHEZ: I'm not sure my question was answered a
2 moment ago. You said that these banners made you feel bad and
3 my question was, why did they make you feel bad?
4 A It made me feel bad, because if they couldn't be there I
5 felt that then the company could do whatever they wanted, even
6 overstepping the law, and that then they could come after us.
7 That's why I felt bad.
8 Q Thank you.
9 I'd like to switch gears and ask you whether you
10 participated in a march with the Union on August 21st, 2017?
11 A Yes, correct.
12 Q Who else, if you know, participated in that march?
13 A All the drivers and all the assemblers in the warehouse.
14 Q And what was the purpose of that march?
15 A The purpose was to let the person in charge of the company
16 know that we wanted to organize ourselves as a union.
17 Q And what was the general feeling of that march?
18 MR. WILSON: Objection, Your Honor. That's completely
19 speculative. He's talking about --
20 MS. SANCHEZ: I'll ask another --
21 MR. WILSON: -- whether his feelings or other peoples'
22 feelings.
23 MS. SANCHEZ: Okay.
24 JUDGE LAWS: This witness is --
25 MS. SANCHEZ: I can rephrase the question, Your Honor.

1 Q BY MS. SANCHEZ: How did you feel about that march?
2 A Very happy, very happy.
3 Q How would you -- would you describe the march as peaceful?
4 A Yes.
5 Q Was there any threats or violence made towards anyone
6 during the delegation?
7 MR. WILSON: Objection. Lack of foundation as to what he
8 knows.
9 JUDGE LAWS: What he perceived. Yes, that's all I'm going
10 to take. Anything he answers will be based on his perception
11 unless it's otherwise noted.
12 MS. SANCHEZ: Thank you, Your Honor.
13 Q BY MS. SANCHEZ: Were there any threats or violence made
14 towards any during that delegation?
15 A No, none.
16 Q Were you saying anything during that march?
17 A Yes, we were singing.
18 Q Did you ever see any fliers -- Wismettac fliers on the
19 wall after that march?
20 MR. WILSON: Your Honor, objection, vague as to the time.
21 I mean --
22 JUDGE LAWS: After the march, anytime.
23 THE WITNESS: I don't remember.
24 JUDGE LAWS: Okay. He said he didn't remember, so we can
25 move on.

1 MS. SANCHEZ: Your Honor, I would like to provide a
2 document. It's marked out of order and I apologize.
3 JUDGE LAWS: Okay, before we consider another document,
4 are you --
5 MS. SANCHEZ: Oh, I would like to move that into evidence,
6 Your Honor.
7 JUDGE LAWS: Okay. Any objection to Union 42?
8 MR. WILSON: No objection, Your Honor.
9 JUDGE LAWS: Okay. Union 42 is admitted.
10 **(Union Exhibit Number 42 Received into Evidence)**
11 Q BY MS. SANCHEZ: Mr. Lopez, does this document look
12 familiar to you?
13 MR. WILSON: Your Honor, can we have just a second to
14 read --
15 MS. SANCHEZ: Oh, sure.
16 JUDGE LAWS: Sure, take your time. Just let counsel know
17 when you're ready.
18 MR. WILSON: Okay.
19 Okay, I'm fine, I've read it.
20 JUDGE LAWS: Okay.
21 Q BY MS. SANCHEZ: Does this document look familiar to you?
22 A Yes.
23 Q How is this document familiar to you?
24 A Because I saw this on the wall, a mural.
25 Q Do you recall if there was also a Spanish translation of

1 this document?
2 MR. WILSON: Objection, vague as to the time.
3 JUDGE LAWS: Yeah, when did you see this?
4 THE WITNESS: After I came back for work, I saw this.
5 Q BY MS. SANCHEZ: When was that?
6 JUDGE LAWS: So in February 2018?
7 THE WITNESS: Yes.
8 Q BY MS. SANCHEZ: Did you see this prior to the second
9 election or after?
10 A I saw it after I got back.
11 Q After you got back?
12 A Uh-huh.
13 Q Which was when?
14 JUDGE LAWS: We already have that.
15 MS. SANCHEZ: Okay.
16 Q BY MS. SANCHEZ: Do you see that this flier is dated
17 December 1, 2017?
18 A Yes, correct.
19 Q Do you know if that was posted around that time?
20 MR. WILSON: Objection. Lack of foundation. He wasn't
21 working.
22 JUDGE LAWS: He said -- do you know or not?
23 THE WITNESS: No, I don't know.
24 Q BY MS. SANCHEZ: How did this document make you feel?
25 MR. WILSON: Objection. Irrelevant.

1 JUDGE LAWS: Yeah, I guess if he didn't see it --
2 MS. SANCHEZ: Okay.
3 JUDGE LAWS: -- until after the election, I'm wondering
4 where we're going here.
5 Q BY MS. SANCHEZ: Mr. Lopez, did you see this before the
6 second election?
7 A Yes, yes I saw it.
8 Q Do you see the --
9 JUDGE LAWS: When did you see it?
10 THE WITNESS: By end of September.
11 Q BY MS. SANCHEZ: The third paragraph there --
12 JUDGE LAWS: He said he saw it at the end of September and
13 it's dated December. I don't think we've established that he
14 saw it during the relevant time period. He first said he saw
15 it in February 2018 and then September, so either we need to
16 clarify or get this in through another witness.
17 MS. SANCHEZ: Sure.
18 Q BY MS. SANCHEZ: Mr. Lopez, do you recall if you saw this
19 between the first and the second election?
20 A Really, I don't remember. I know that when I came back to
21 work, this was still up on the wall in work.
22 Q That's fine.
23 A They put so many that I really don't remember well.
24 MR. WILSON: Objection. Nonresponsive.
25 JUDGE LAWS: Yeah.

1 Q BY MS. SANCHEZ: Were you aware, Mr. Lopez, that the
2 company threatened to file a law suit against the Union for the
3 march you just described?
4 A Yes.
5 Q How were you aware of that?
6 JUDGE LAWS: And go ahead and set that document down,
7 please. Thanks.
8 Q BY MS. SANCHEZ: How were you aware of that?
9 A Because at one of the meetings at the local, they said
10 that they were being sued by the company.
11 Q How did that make you feel, if anything?
12 MR. WILSON: Objection. Irrelevant.
13 JUDGE LAWS: Overruled.
14 THE WITNESS: I felt bad.
15 Q BY MS. SANCHEZ: Why?
16 A Because, practically, it's like they're suing us too. We
17 were the ones that walked.
18 Q I'd like to switch gears and ask you a question about a
19 different document.
20 MR. WILSON: Your Honor, are we going to move this into
21 evidence?
22 JUDGE LAWS: I don't think, based on --
23 MS. SANCHEZ: I'll reserve it at this point.
24 JUDGE LAWS: Yeah.
25 MR. WILSON: Okay.

1 Q BY MS. SANCHEZ: Actually, before you look at that
2 document, let me ask you a couple of questions.
3 JUDGE LAWS: So set it down.
4 Q BY MS. SANCHEZ: During your 11 years at Wismettac, did
5 the company ever have guards at the facility?
6 A No.
7 Q At any point prior to the second election, were there any
8 guards there?
9 A Yes.
10 Q Were they inside or outside of the facility or both?
11 A In both.
12 Q And where were they stationed?
13 A At the gate to the entrance -- to the entrance to the
14 parking of the warehouse, at the gate.
15 Q Do you know if those guards carried weapons?
16 A Yes.
17 MR. WILSON: Objection. Lack of foundation.
18 JUDGE LAWS: Overruled.
19 Q BY MS. SANCHEZ: How do you know that?
20 A Because you could see it, they had it on them, on the side
21 of their pants.
22 **(Union Exhibit Number 43 Marked for Identification)**
23 Q Can you please take a look at Union Exhibit 43? Please
24 look at all page and let me know when you're done.
25 A Yes.

1 Q Do these pictures look familiar to you?
2 A Yes.
3 Q Why?
4 A Yes, because a coworker of mine, a chauffeur -- a driver,
5 took these photos.
6 Q What do these photos depict?
7 MR. WILSON: Objection, Your Honor. Lack of foundation.
8 He didn't take the photos. I don't see how he can testify
9 what's in a photograph that he just said a coworker took.
10 JUDGE LAWS: Yeah, let's get foundation as to when,
11 because I'm going to need to know what time period these
12 reflected, either through this witness or through another.
13 Q BY MS. SANCHEZ: You said that -- strike that. When did
14 the guards first show up at Wismettac?
15 A The day we walked August 21st, 2017, the day we walked was
16 the day that we took action and took the walk.
17 JUDGE LAWS: Okay. So what I was asking, and I think you
18 may have misunderstood me, as we need foundations for these
19 documents when they were taken, how they were transmitted to
20 them, how -- this needs to be authenticated, basically, is --
21 was -- is what I think counsel's objection was.
22 MR. WILSON: Right.
23 MS. SANCHEZ: Sure. Thank you, Your Honor.
24 Q BY MS. SANCHEZ: Do you know what this document is that I
25 placed in front of you?

1 A Yes.
2 Q How do you know what it is?
3 A Because you could see the security guards.
4 MR. WILSON: Objection. Lack of foundation.
5 Q BY MS. SANCHEZ: Who took these photographs?
6 A Ronald Mena.
7 Q And does this document depict the guards that you were
8 describing earlier?
9 MR. WILSON: Objection, leading question and lack of
10 foundation. There's nothing in this photograph that indicates
11 A, that they're guards or B, that they're armed.
12 JUDGE LAWS: Well, with regard to the lack of foundation,
13 I'll allow the question. If you're trying to authenticate this
14 document through this witness, I need the nitty-gritty of when
15 was the photograph taken, how was it transmitted, what date,
16 information like that.
17 Q BY MS. SANCHEZ: Do you know when this document -- these
18 pictures were taken?
19 A No, I don't know exactly.
20 Q Can you describe what kind of weapons the guards had?
21 A Like a small gun. I don't know much about guns, but you
22 could see -- yes, you could see a gun on him.
23 Q Did all of the guards you described have guns?
24 A Yes.
25 Q What impact, if any, did the guards with guns have on you?

1 MR. WILSON: Objection, Your Honor, completely
2 speculative.
3 MS. SANCHEZ: It's his --
4 JUDGE LAWS: It's his --
5 MS. SANCHEZ: -- experience.
6 JUDGE LAWS: Absolutely, I'll allow that.
7 THE INTERPRETER: Sorry, could you repeat the question,
8 counselor?
9 Q BY MS. SANCHEZ: What impact, if any, did the guards
10 having the guns have on you?
11 THE INTERPRETER: Thank you.
12 MR. WILSON: I would also object to term impact as not
13 defined.
14 JUDGE LAWS: How did it make you feel?
15 THE WITNESS: It made me feel like a criminal. I come
16 from a country that's in a lot of war.
17 MR. WILSON: Objection, nonresponsive.
18 JUDGE LAWS: Overruled.
19 MS. SANCHEZ: He's describing how it makes him feel.
20 JUDGE LAWS: I'll allow it. Go ahead.
21 THE WITNESS: The country has been a lot of war and I come
22 to this country thinking there is a lot of democracy. And when
23 I started working with the company, after everything that
24 happened when we got together so we could have a union --
25 MR. WILSON: Objection, nonresponsive.

1 JUDGE LAWS: Again, I will allow it. He's giving
2 background as to why he felt as he felt presumably. Let's go
3 ahead.
4 THE WITNESS: And when I saw that the company put armed
5 guards for us, I felt like a criminal, so they're accusing me
6 of something. And that's the way that I felt.
7 Q BY MS. SANCHEZ: You said you come from a country. Which
8 country are you referring to?
9 A Nicaragua.
10 MS. SANCHEZ: No further questions, Your Honor.
11 JUDGE LAWS: All right. It is 12:04. Why don't we take a
12 lunch break?
13 MR. WILSON: So this document is not going to be moved
14 into evidence -- exhibit?
15 JUDGE LAWS: Not through this witness.
16 MS. SANCHEZ: We're going to reserve at this point.
17 JUDGE LAWS: Okay.
18 MR. WILSON: Okay, all right.
19 JUDGE LAWS: Why don't we come back at 1:05 for me to go
20 on the record?
21 MR. WILSON: Your Honor, I was going -- Mr. Fujimoto is
22 returning tomorrow. Should he come first thing in the morning,
23 or how do you want to do that?
24 JUDGE LAWS: Let's go off the record --
25 MR. WILSON: Oh, I'm sorry.

1 JUDGE LAWS: -- and we can sort that out. Off the record.
2 (Off the record at 12:04 p.m.)
3 JUDGE LAWS: Okay, let's go back on the record. We've
4 returned following a lunch break, and we briefly discussed
5 tomorrow and that timing might be tight. So we discussed,
6 potentially, starting earlier, but I think all parties agreed
7 we should be okay as long as we start right at 9 and take
8 shorter breaks, maybe five, six minutes instead of ten, and
9 perhaps a half-hour lunch. So we will proceed accordingly.
10 Counsel for the Union indicated she did have one
11 additional question to ask Mr. Lopez, so please go ahead.
12 MS. SANCHEZ: Thank you, Your Honor.
13 **DIRECT EXAMINATION (CONTINUED)**
14 Q BY MS. SANCHEZ: Mr. Lopez, do you work with somebody by
15 the name of Atsushi Fujimoto?
16 A No.
17 Q Do you know who that person is?
18 A No, I don't know.
19 MS. SANCHEZ: No further questions.
20 JUDGE LAWS: All right.
21 Let's proceed with cross, whenever you're ready.
22 MR. WILSON: Can the court reporter show Mr. Lopez
23 Employer Exhibit number 4? It might be up there. It was the
24 chart of the warehouse.
25 ///

1 **CROSS-EXAMINATION**

2 Q BY MR. WILSON: Okay. Good afternoon, Mr. Lopez. My name
3 is Scott Wilson. I'm an attorney for Wismettac Asian Foods.
4 THE INTERPRETER: Excuse me, attorney for?
5 MR. WILSON: I'm attorney for Wismettac Asian Foods.
6 Q BY MR. WILSON: Okay. I just have a couple of questions
7 about your testimony. And you have in front of you Employer
8 Exhibit 4, correct?
9 A Yes, correct.
10 Q Okay. So let's first talk about the year of 2017, before
11 you went on your break. And by break, I mean your leave of
12 absence from your employer.
13 A Okay.
14 Q As I understand you left due to a work-related injury on
15 October 9th, 2017?
16 A Correct.
17 Q And you returned on -- it was February 23rd, 2018?
18 A Correct.
19 Q Okay. Now, before you went on the break -- or excuse me,
20 the injury break, you were a driver, correct?
21 A Correct.
22 Q Okay. And what time in 2017 did you report to work?
23 A In 2017, you're talking about which month? I don't
24 understand the question.
25 Q No. Okay, just each month of 2017, before you left, did

1 you have -- did you report to work at about the same time?
2 A I left on 9th, on the 20th.
3 JUDGE LAWS: Let me ask a different way. Did your work
4 shift ever change in 2017?
5 THE WITNESS: No, it's always been the same.
6 Q BY MR. WILSON: And what time did that work shift start in
7 2017?
8 A 6 a.m.
9 Q Okay. And looking at Employer Exhibit 4, when you
10 reported to work at 6 a.m., can you point on that diagram where
11 you clocked in?
12 A It's right here close to the office of the warehouse.
13 Q Okay.
14 JUDGE LAWS: And can you describe where that is on the
15 diagram using words?
16 THE WITNESS: Here in this part, there's the entrance to
17 the hall, that comes to the lunchroom, and before continuing
18 the hall, there's a bathroom and there's a warehouse office.
19 It's on the wall of the bathroom.
20 Q BY MR. WILSON: Okay. And after you clocked in, looking
21 at Employer Exhibit 4, where would you go then?
22 A I would go to the office and then they gave us the
23 invoices ready. I would review my invoices and get ready for
24 my route.
25 JUDGE LAWS: And when you say office, is that the

1 warehouse office or the first floor main office?
2 THE WITNESS: The warehouse office.
3 JUDGE LAWS: Thank you.
4 Q BY MR. WILSON: Okay. And when you refer to your route,
5 you're meaning the route that you use as a truck driver,
6 correct?
7 A Correct. Yes, the one we do as a driver.
8 Q And looking at there, at the top of the diagram where
9 there's numbers, can you indicate which number your truck was
10 parked at?
11 MS. SANCHEZ: Objection, assumes facts not in evidence,
12 Your Honor.
13 JUDGE LAWS: Overruled.
14 MR. WILSON: He testified that --
15 JUDGE LAWS: Go ahead. You can answer.
16 THE WITNESS: They always change the doors for us or the
17 gate for us. They always change them.
18 Q BY MR. WILSON: Okay.
19 A We never use the same one.
20 Q Okay. But before you went on your route, you would report
21 to a truck that's at one of these numbered doors, correct?
22 A Yes, correct.
23 Q Okay. And what time did you normally leave to go out on
24 your route during 2017?
25 A It's sort of an average, because it depends. Sometimes we

1 would get additional orders. Could be between 8:30, 9:30 or
2 10 --
3 Q Okay. So sometime --
4 A -- in the morning.
5 Q Okay. So I'm sorry. So during 2017, you left the
6 warehouse anytime between 8:30 in the morning and 10 a.m. in
7 the morning; is that correct?
8 A Yes, correct.
9 Q Okay. And when you went to the doors to appear at the top
10 to begin your route, was merchandise loaded already on the
11 truck?
12 A No.
13 Q Okay. Did you have to load the merchandise on the truck?
14 A Yes, correct.
15 Q Okay. And where was the merchandise stored for you to
16 load it on the truck?
17 A In front of the dock when we would park the driver on the
18 floor.
19 Q Okay. So it's on the floor near the doors at the top of
20 the warehouse?
21 A Yes, correct.
22 Q And how long did it normally take to load the truck?
23 MS. SANCHEZ: I'm going to object, Your Honor, to the
24 relevance. And I don't -- I think it goes beyond the scope of
25 direct.

1 MR. WILSON: Your Honor, he testified about going to these
2 doors and what time -- in driving his truck. And it certainly
3 goes to what he was testifying about as to how he encountered
4 people in the warehouse.
5 JUDGE LAWS: I will allow some, if it's going to who he
6 encountered and when.
7 MR. WILSON: Right. And that's the purpose of this.
8 Okay.
9 Q BY MR. WILSON: So how long would it normally take you to
10 load the warehouse -- the merchandise on the truck?
11 A I can't give you an exact time, because it depends.
12 Q Okay. But --
13 JUDGE LAWS: We have what we need, I think, there.
14 MR. WILSON: Okay. That's fine.
15 Q BY MR. WILSON: Now, after you got on the truck, where did
16 you go?
17 A I will go and deliver your route.
18 Q Okay. And what time would you normally return in 2017?
19 A That also depended on the route.
20 Q Okay. But can you give me an average during 2017 of what
21 time you would return?
22 A Between 4:00 or 7 --
23 Q Okay.
24 A -- in the afternoon.
25 Q Okay. And when you got back from your route, did you

1 clock out?
2 A Yes, correct.
3 Q Okay. And when you went on the route, were you out the
4 entire day?
5 A When you say out all day, what do you mean?
6 Q Mean, were you out on the truck all day once you started
7 your route?
8 A When I had to drive, I would be in the truck, when I would
9 have to deliver, I would go out of the truck.
10 Q Okay.
11 JUDGE LAWS: Did you come back to the warehouse during
12 your route?
13 THE WITNESS: No.
14 Q BY MR. WILSON: Okay. Now, you also testified as to --
15 strike that before we go any further. So you testified about
16 your schedule during 2000 -- never mind, we'll just stay with
17 2017.
18 Now, in your testimony, you referred to people that you
19 identified as leads; do you recall that?
20 A Yes, correct.
21 Q Okay. So to the best your recollection, who were the
22 leads in the warehouse during 2017?
23 A It was Alan.
24 Q Do you know Alan's last name?
25 A Ho, H-O, I think it is. I don't remember too well. I

1 think that's his last name, H-O.
2 Q Okay. Any other leads besides Alan Ho?
3 A No, I only remember Alan.
4 MR. WILSON: Okay. I have no further questions.
5 JUDGE LAWS: Okay. Any redirect?
6 MS. SANCHEZ: No, thank you, Your Honor.
7 JUDGE LAWS: Okay. Well, thank you for providing your
8 testimony. Again, as I instructed you the first time, please
9 don't discuss your testimony with any other witnesses or any
10 potential witnesses. Thank you.
11 Off the record.
12 (Off the record at 1:22 p.m.)
13 JUDGE LAWS: Okay, let's go back on, just let me know.
14 Raise your right hand.
15 Whereupon,
16 **CARLOS KATAYAMA**
17 having been duly sworn, was called as a witness herein and was
18 examined and testified as follows:
19 JUDGE LAWS: Have a seat. And can you please state your
20 name.
21 THE WITNESS: Carlos Katayama.
22 JUDGE LAWS: And can you spell your last name?
23 THE WITNESS: K-A-T-A-Y-A-M-A
24 JUDGE LAWS: Thank you. Just a couple of instructions.
25 If you're asking a question and you don't know the answer, just

1 say I don't know. Only guess if you're asked to guess. Okay.
2 And then if you don't understand a question, just go ahead and
3 say I don't understand and it will be re-asked. Thank you.
4 MR. GARCIA: May we proceed, Your Honor?
5 JUDGE LAWS: Yes.
6 MR. GARCIA: Great, thank you.
7 **DIRECT EXAMINATION**
8 Q BY MR. GARCIA: Good afternoon, Mr. Katayama.
9 Mr. Katayama, where do you work?
10 A In the warehouse in Wismettac.
11 Q And how long have you worked at the Wismettac warehouse?
12 A More than 20 years.
13 Q What is your position?
14 A I am a stocker. I work on a machine.
15 Q What department is -- the position of stocker, in what
16 department is it located in Wismettac?
17 A In the warehouse.
18 Q Can you please share with us what your duties are as a
19 warehouse stocker?
20 A Yes. We get products from the international delivery from
21 the product and the containers and also what comes from the
22 U.S. as well. It's received and it's put on pallets. I put
23 them on the top and I also put them in the location.
24 Q In your position as stocker, do you use any sort of
25 equipment?

1 A Lately, we've been using a gun.
2 Q What kind of gun?
3 A It's one that you scan to know the number, and to know
4 where the location, the description of the item.
5 Q Are these like bar codes?
6 A Correct.
7 Q Any other type of equipment that you use in your position
8 as a stocker?
9 A No. Just my machine and the gun.
10 Q What shift do you work?
11 A Normally, I start at 7 a.m. and I'm out by 6 in the
12 afternoon.
13 Q What days of the week?
14 A Monday through Friday.
15 Q How long have you maintained this shift?
16 A Really, for almost 20 years in that shift.
17 Q Earlier you mentioned your machine, you said -- the exact
18 words were "my machine." What machine are you referring to?
19 A It's a forklift machine that goes up, and the difference
20 is that a forklift doesn't turn around; this one does turn
21 around.
22 JUDGE LAWS: And I didn't catch the word. What's the
23 machine called?
24 THE WITNESS: I call it forkler (sic).
25 JUDGE LAWS: Forklift?

1 MS. SANCHEZ: Yeah.
2 Q BY MR. GARCIA: Do you mean forklift?
3 A Yes, but this one advances and goes back. It has an
4 extension. It has an extension to put in things and it's
5 higher than a normal forklift.
6 Q Does the extension look like a pair of scissors?
7 A Yes, like scissors, that engage the pallet, pick it up,
8 take it up and put it back in and put it back out.
9 Q Have you ever worked the night shift?
10 A No.
11 Q How about overtime?
12 A Normally, I do two hours. About six or seven months ago,
13 we have problems that they took off my overtime and then they
14 normalized me to my normal schedule. And a week ago, I'm
15 coming in at 8 and leaving at 7 so they moved me an hour.
16 Q How long have you been in the stocker position for?
17 A Twenty years.
18 Q Is it fair to say that for the entirety of your career at
19 Wismettac, you've been in the stocker position?
20 A Yes.
21 Q Who was your supervisor on February 6, 2018?
22 A We really don't have supervisors. We have a manager who
23 was Jose Vasquez.
24 Q When you say, was Jose Vasquez, what do you mean by that?
25 A Because on the 18th, I find out that he wasn't a manager

1 anymore.
2 Q 18 of what month?
3 A Of this month. I mean, October, not this month, not
4 November.
5 Q Of 2018?
6 A Yes.
7 Q Where do you take your breaks?
8 A Inside the warehouse on the side, or I go to the parking
9 lot.
10 Q Do other employees take their break there with you?
11 A Yes.
12 Q What kind of workers take the break with you in that
13 location?
14 A Janitors, some assemblers, others at work in a section I
15 can't recall, but they work for Arizona, San Diego.
16 Q Where do you use the restroom?
17 A On the side of the warehouse, we have a restroom.
18 Q Do you use the bathrooms that are in the front office area
19 of the facility?
20 A No.
21 Q Do you know who else uses the restrooms in the warehouse?
22 A All of us at work in the warehouse.
23 Q If you know, who uses the restroom in the front office?
24 MR. WILSON: Objection. Lack of foundation.
25 JUDGE LAWS: If he knows, so.

1 THE WITNESS: No, I don't know really.
2 Q BY MR. GARCIA: In your classification of stocker worker,
3 do you have interaction or exchange with other classifications
4 of workers at Wismettac?
5 A No.
6 Q Besides the other stocker employees in your area, do you
7 work alongside any other workers in the warehouse?
8 A No, we just coordinate with the assemblers.
9 Q Do you have any connection with the drivers?
10 A When I come in at 7 a.m., they ask for my help to help
11 them put the pallets in.
12 Q Are there any office workers that are there helping you
13 with the pallets?
14 MR. WILSON: Objection, lack of foundation as to the term
15 office worker.
16 JUDGE LAWS: Are you referring to the people in the first
17 floor main office --
18 MR. GARCIA: Yes.
19 JUDGE LAWS: -- or the warehouse office?
20 MR. GARCIA: In the first floor office -- main office.
21 JUDGE LAWS: All right. So let's ask again, so it can be
22 translated correctly.
23 MR. GARCIA: Absolutely.
24 Q BY MR. GARCIA: Mr. Katayama, you just described that
25 sometimes you have -- you interact with the drivers during the

1 morning period. You help to load up the trucks, right?
2 A Yes.
3 Q During that time period, are there ever any workers from
4 the first floor main office, right there alongside with you --
5 MR. WILSON: Objection.
6 Q BY MR. GARCIA: -- helping you do your work?
7 MR. WILSON: Objection. There is no foundation as to how
8 he would know they're front office workers.
9 MR. WILSON: If he knows.
10 JUDGE LAWS: If you know.
11 Q BY MR. GARCIA: If you know.
12 A No. We just work us. Not from the office. The office
13 people have nothing to do with us.
14 Q And is it fair to say that you would know, because you're
15 right there?
16 MR. WILSON: Objection. Leading question.
17 JUDGE LAWS: Yeah, that is leading. Just ask how he
18 knows.
19 Q BY MR. GARCIA: How do you know?
20 A Because I only obey orders from my supervisor and I work
21 with the ones that put the orders together and with the
22 drivers.
23 Q Are assemblers warehouse workers?
24 A Yes.
25 Q Do you have exchange or connection with the front house

1 employees?

2 MR. WILSON: Objection, vague as to the term of front

3 house.

4 JUDGE LAWS: Yeah. I'm not sure what that's referring to

5 either.

6 MR. GARCIA: I can rephrase that.

7 JUDGE LAWS: Okay, thanks.

8 MR. GARCIA: Thank you.

9 Q BY MR. GARCIA: Do you have any exchange or connection

10 with front office employees?

11 A In regards to my work, no. In regard with time, I know

12 several of the employees who have been working as long as I

13 have.

14 Q Can you please explain that to us what you mean by, in the

15 time that you've been working there that you know some of those

16 employees?

17 A Before the company was called Nishimoto, we were working

18 in Commerce, and in Commerce we would all have lunch together,

19 and we would all mix with the office talk. When we moved to

20 Santa Fe Springs, it was all separated. And we just see each

21 other and we greet each other and we say hi.

22 Q Do you recall when you moved to Santa Fe Springs?

23 A Almost over ten years ago. Yeah, more than ten years.

24 JUDGE LAWS: That's okay.

25 THE WITNESS: I can't remember exactly.

1 Q BY MR. GARCIA: So Mr. Katayama, so for the past -- so for
2 the approximately past ten years, the workers have been
3 separated; is that correct?
4 A Yes.
5 Q Do you know whether there was a Union election in
6 September 2017?
7 A Yes.
8 Q Do you know whether there was a second election in
9 February '18?
10 A Yes.
11 Q As a warehouse worker over the course of -- over 20 years,
12 and leading up to the second union election, did you ever work
13 regularly with GPO distribution clerks?
14 A No.
15 Q How about GPO distribution coordinators?
16 A No.
17 Q GPO central purchase clerks?
18 A No, neither.
19 Q Central purchase clerks?
20 A No.
21 Q Logistic office clerks?
22 A No.
23 Q In your time there at Wismettac, do you have frequent
24 contact with someone by the name of Yukihiko Amanuma?
25 A No, I don't know them.

1 Q How about Chiaki Mazlomi?
2 A No, neither.
3 Q Brian Noltensmeier? Ryan Prewitt?
4 JUDGE LAWS: You have to answer fully.
5 Q BY MR. GARCIA: Yeah, could you please answer --
6 A Sorry.
7 JUDGE LAWS: That's okay.
8 THE WITNESS: No, I don't know them.
9 MR. GARCIA: I'm not sure whether we got -- and this is
10 solely for clarification purpose. I'm not sure whether we got
11 my question as to whether Mr. Katayama knows or has interaction
12 with -- or contact rather with Chiaki Mazlomi, so I'm just
13 going to re-ask that question.
14 MR. WILSON: Your Honor, that's a compound question.
15 JUDGE LAWS: Let's just proceed with questions.
16 MR. GARCIA: Thank you.
17 Q BY MR. GARCIA: Mr. Katayama, do you have frequent contact
18 with someone by the name of Chiaki Mazlomi?
19 A No.
20 JUDGE LAWS: And before we go forward, I want -- the term
21 frequent can be considered ambiguous, so I would like that to
22 be given some objective definition, so that I'm not going back
23 on the record and determining what you meant by frequent and
24 what this employee possibly meant by the word frequent.
25 MR. GARCIA: I would suggest regular. Is that acceptable?

1 JUDGE LAWS: I guess that's open to -- regular could be
2 weekly, regular could be monthly. That's suggest -- just a set
3 pattern is regular.
4 MR. GARCIA: I guess what I'd like is for the trier of
5 fact, where a term would be synonymous or where the trier of
6 fact would be comfortable or understand what the underlying
7 purpose is. So I guess that's really --
8 JUDGE LAWS: Why don't you lay out a definition and then
9 the witness can answer with a definition that everybody is on
10 the same page with.
11 MR. GARCIA: Absolutely.
12 Q BY MR. GARCIA: Mr. Katayama, have you -- in your
13 position, in your time at Wismettac Warehouse, have you had
14 contact with somebody on a regular basis by the name of John
15 Salzer, Jr.?
16 A No, never.
17 JUDGE LAWS: Did you ever work with John Salzer, Jr.?
18 THE WITNESS: No.
19 JUDGE LAWS: Do you know him?
20 THE WITNESS: No.
21 Q BY MR. GARCIA: How about Hideki Takegahara?
22 A No, no, I don't know them.
23 Q Did you ever know who -- or have you ever known who this
24 Hideki Takegahara is?
25 A No.

1 Q How about Kazumi Kasai?
2 A No, neither.
3 Q Do you know who that person may be?
4 A No.
5 Q Have you ever worked with a Joshua Fulkerson?
6 A No.
7 Q Do you know who Joshua Fulkerson is?
8 A No, I don't know.
9 Q Have you worked with Senllacett Gonzalez Guardado?
10 A No, neither.
11 Q Do you know who that person is?
12 A No, I don't know them.
13 Q How about Kaori Juichiya?
14 A No, I don't know them.
15 Q Have you ever worked with that person?
16 A No.
17 Q How about Kaipo Eda?
18 A No.
19 Q Never worked with that person?
20 A No.
21 Q How about Rachel Lin? Have you ever worked with that
22 person?
23 A No, I haven't.
24 Q do you know who that person is?
25 A No.

1 Q Have you ever worked with Stephany Manjarrez?
2 A No, I haven't.
3 Q Do you know who Stephany Manjarrez is?
4 A No, I don't know who they are.
5 Q Have you ever worked with Miwa Sassone?
6 A No, I haven't.
7 Q Do you know who Miwa Sassone is?
8 A No, I don't know who they are.
9 JUDGE LAWS: And maybe going down the line he can just
10 respond whether he knows them or has worked with them to avoid
11 having to ask two questions. It'll just save some time.
12 MR. GARCIA: Thank you.
13 Q BY MR. GARCIA: Mr. Katayama -- Kata --
14 A Katayama.
15 Q Katayama. Thank you. Have you ever worked or known who
16 Chizuko Sho is?
17 A No.
18 Q Do you know or have you worked with Jenifer Tran?
19 A No, I haven't.
20 Q Do you know or have you worked with Shun Man Yung?
21 A No.
22 Q Do you know or have you worked with Wesley Chang?
23 A No.
24 Q Do you know or have you worked with Thao Nguyen?
25 INTERPRETER: Excuse me. Could you repeat which one the

1 name is?

2 MR. GARCIA: Sure. It's Thao Nguyen.

3 INTERPRETER: Uh-huh.

4 THE WITNESS: No.

5 Q BY MR. GARCIA: Do you know or have you worked with Kayoko

6 Nishikawa?

7 A No, I haven't.

8 Q Do you know or have you worked with Kumiko Estrada?

9 A No.

10 Q Do you know or have you worked with Cheryl Johnston?

11 A No.

12 Q Do you know or have you worked with Maho Kobayashi?

13 A No, I'm not -- I haven't worked -- I don't know them.

14 Q Do you know or have you worked with Sachie Liu?

15 A No, I don't know them.

16 Q Do you or have you worked with Fumi Meza?

17 A I know them, but I don't work with her.

18 Q How do you know Ms. Meza?

19 A I know Fumi because she finds -- she gets us fruit and I

20 buy from her fruit.

21 Q Separate apart from purchasing fruit from Ms. Meza, do you

22 know her in any other way?

23 A No, just in that.

24 Q Do you purchase fruit from Ms. Meza for your personal

25 consumption?

1 A Yes, it's personal.
2 Q Do you know or have you worked with Kristie Mizobe?
3 A No.
4 Q Do you know or have you worked with Steffanie Mizobe?
5 A No.
6 Q Do you know or have you worked with Shuji Ohta?
7 A No, I don't know them.
8 Q Do you know or have you worked with Suguru Onaka?
9 A I do know them. I know he works at the office, but we
10 don't work together. But I -- I know he's at the office of the
11 warehouse.
12 Q How do you know that he's in the office in the warehouse?
13 A Because I see him.
14 Q Other than you've seen him in the office, do you have any
15 other reason to know why he's in that office?
16 A No.
17 Q Do you know or have you worked with Wakako Park?
18 A No.
19 Q Do you know or have you worked with Domingo Pliego?
20 A Domingo used to work at the office, but he no longer works
21 there. I know he -- he's in charge -- safety or preventive
22 care or safety. And he only lasted two or three months in that
23 capacity.
24 Q How do you know that he was in the office?
25 A Because he replaced one of our colleagues who had been

1 there for a long time.
2 JUDGE LAWS: And I'm going to ask a couple of clarifying
3 questions. When you refer to the office, is that the warehouse
4 office or the first floor main office?
5 THE WITNESS: The warehouse office.
6 JUDGE LAWS: And you said he only lasted two or three
7 months. Do you remember approximately when that was?
8 THE WITNESS: Let me see. It was before the first
9 election and after the second election he was gone.
10 JUDGE LAWS: Okay. Thank you.
11 Q BY MR. GARCIA: Mr. Katayama, do you know or have you
12 worked with Mamoru Tagai?
13 A I know him, but I don't work with him. He works in the
14 warehouse office.
15 Q How do you know that he is located in the warehouse
16 office?
17 A Because I see that he gives orders to the guys who do
18 orders and we say hello, but with me he has no work to -- to do
19 with me.
20 Q Do you know or have you worked with Keiko Takeda?
21 A No.
22 Q Do you know or have you worked with Stacy Umemoto?
23 A No.
24 Q Do you know or have you worked with Karen Yamamoto?
25 A No.

1 Q Do you know or have you worked with Chiaki Yamashita?
2 A I know a David Yamashita, but I don't know if that's the
3 one. I know him, but I don't work with him.
4 JUDGE LAWS: And I think that's the next one. I think
5 that's previously been identified in the record. So let's move
6 on to the last one and he can maybe --
7 MR. GARCIA: Absolutely.
8 JUDGE LAWS: -- clarify whether it's Chiaki or Yasuhiro
9 who goes by David.
10 Q BY MR. GARCIA: Do you know whether David Yamashita goes
11 by any other name in the warehouse?
12 A No, he doesn't work in the warehouse. He works at the
13 office.
14 Q Thank you. Do you know a Yasuhiro Yamashita?
15 A No.
16 Q Any of the people that we just went through, do they work
17 with you or with anybody in the warehouse?
18 MR. WILSON: Objection. Ask and answer.
19 JUDGE LAWS: Yeah, it's been asked and answered with
20 regard to each individual.
21 MR. GARCIA: Understood.
22 Q BY MR. GARCIA: Do you know who conducted inventory
23 control in the warehouse at the time of the last election?
24 MR. WILSON: Objection. The term inventory control is not
25 defined.

1 JUDGE LAWS: Yeah, let's get this witness' perception of
2 what that term means.
3 MR. GARCIA: Understood.
4 Q BY MR. GARCIA: What is inventory control, if you know?
5 A Or was it -- time that I've been there more or less five
6 or six years ago an inventory department was created. There
7 were three people. With a new system that was implemented with
8 the guns supposedly things were going to improve. That is why
9 the -- the category that they had us inventory. I know it
10 because when they told me I am in charge of inventory so we had
11 to coordinate where things are.
12 Q You just mentioned the term gun again. Are you referring
13 to the gun device that you described earlier, in your
14 testimony?
15 A Yes, correct.
16 Q Thank you. Moving forward, at the time of the last
17 election who conducted the inventory control in the warehouse?
18 MR. WILSON: Okay, we're going to object to that term
19 other than the extent as he understands it.
20 JUDGE LAWS: And I will only take the testimony to go to
21 this witness' understanding of what that term means.
22 So go ahead.
23 INTERPRETER: So can you repeat the question?
24 MR. GARCIA: Absolutely.
25 INTERPRETER: Uh-huh.

1 MR. GARCIA: Actually, can we have the question read back
2 if Mr. Court Reporter does not mind?
3 (Previous question played back)
4 THE WITNESS: They had three people. Mr. Justin, who now
5 I think is in Seattle. The other one Mr. Alex. And the other
6 is Alfredo Flores.
7 Q BY MR. GARCIA: How do you know?
8 A They work with me. We work together.
9 Q Do employees in the first floor main office, do they
10 perform inventory control work?
11 MR. WILSON: Once again, objection -- as long as it's
12 limited to his understanding of that.
13 JUDGE LAWS: And it definitely will be limited to his
14 understanding.
15 INTERPRETER: Should I proceed?
16 JUDGE LAWS: Yes.
17 THE WITNESS: Inventory control is done by us in the
18 warehouse. They do it two days, Fridays and Saturdays. We
19 need people to help us count. So they help count, but not --
20 not every one of -- so, for example, the salespeople would give
21 them the easiest things to count because they don't even want
22 to do it.
23 In fact, on the next day we even have to redo and check
24 what they've done. So they're only there to count.
25 Q BY MR. GARCIA: Does that happen very often?

1 MR. WILSON: Objection. Vague.
2 BY MR. GARCIA: Yes.
3 JUDGE LAWS: Does what happen? That the people from the
4 front office come out to help count or that they recount it
5 themselves? That was unclear what "that" referred to.
6 MR. GARCIA: I'll withdraw the question.
7 Q BY MR. GARCIA: Mr. Katayama, does Alfredo Flores also go
8 by the name Alfredo Ponce?
9 A No. When Mr. Justin left, they moved him to Seattle,
10 Alfredo Ponce was the one who replaced him. And Alfredo Flores
11 went out to do orders. And I think there's a new guy I think
12 called Alvaro. There's always three.
13 Q At the time of the last election, do you know who had the
14 classification of labeler?
15 A Receiving puts the labels, really. If there's a problem,
16 the warehouse office, then we decide what label to put.
17 Q Do you know who Beatriz Gonzalez is?
18 A Yes.
19 Q Who is Beatriz Gonzalez?
20 A She's a lady who's been working for us for a while. She
21 works with someone else -- try to recall the name -- Razo. And
22 they put labels back and forth. When something is sold for
23 overseas, they do the stickers in another language and they put
24 it. In each bottle they put the label.
25 Q By Razo, do you mean Jose Razo?

1 A Yes, Jose Razo.
2 Q Do you know who Atsushi Fujimoto is?
3 A No.
4 Q Are you familiar with the work of GPO distribution clerks?
5 A No.
6 Q Are you familiar with the work of a GPO distribution
7 coordinator?
8 A No. I really -- this is the first time I hear that.
9 Q Are you familiar with the work of GPO central purchase
10 clerks?
11 A No, definitely no.
12 Q How about central purchase clerks?
13 A No, neither.
14 Q Are you familiar with the work of logistics office clerks?
15 A No.
16 Q Moving forward, Mr. Katayama, did you serve as the Union's
17 election observer at the second election?
18 A Yes.
19 Q How many voting sessions were there?
20 A One in the morning, one in the afternoon.
21 Q Did you serve at both sessions?
22 A No, just in the morning.
23 Q Did you protest or object to any of the voters?
24 A Yes.
25 Q Do you recall who you objected to?

1 A Well, the people when they came to vote, the
2 representatives from the voting, when they came they said that
3 that vote was already taken or observed. And they would -- the
4 person would vote. They would put it in an envelope and they
5 would ask them their name. And they would ask them what --
6 what is your job description. Ninety percent of them they
7 didn't know.
8 Q Do you remem- --
9 A Yes.
10 Q Go ahead. I didn't know if you were finished. I'm sorry
11 if I may have cut you off.
12 A So much so, that the representative of this looked at me
13 and asked me, do you know where he works. And I go yes, I work
14 as a stocker and I work in the warehouse.
15 And he said no like he was surprised that these people
16 don't even know what their job title was. And I didn't know
17 why.
18 Q Do you recall seeing employees from the first floor main
19 office attempting to vote?
20 A What do you mean first floor office?
21 Q The first floor main office.
22 A Yes, yes. They were the ones there.
23 Q Were they the same people or some of the same people that
24 you just mentioned a few minutes ago that didn't know what
25 their job titles were?

1 A Yes, correct.
2 Q So if they didn't work in the warehouse, where did they
3 work?
4 A Supposedly in the main office in the front.
5 MR. GARCIA: Can the court reporter please show Employer
6 Exhibit number 4 to the witness? Thank you.
7 Q BY MR. GARCIA: Mr. Katayama, can you please take a moment
8 and review the document before you and let me know when you're
9 ready to proceed?
10 A Ready.
11 Q Do you have any idea what this may be?
12 A Yes. It's supposedly the plan -- the -- the -- it's the
13 warehouse diagram.
14 Q Can you lift up the document --
15 JUDGE LAWS: Let's have him describe in words because
16 otherwise it's meaningless on the transcript.
17 MR. GARCIA: What I was going to ask him was to do both.
18 Describe it, to walk it through for us if --
19 JUDGE LAWS: Okay, that's fine.
20 MR. GARCIA: Thank you.
21 JUDGE LAWS: It's just harder probably for him to -- he
22 can't be facing all of us at once.
23 MR. GARCIA: Sure. And that --
24 JUDGE LAWS: He's either facing me or all of you. So
25 that's why verbal is probably just easiest.

1 MR. GARCIA: Sure, that's not a problem.
2 Q BY MR. GARCIA: What I wanted you to describe which area
3 of this floor plan is the area that you work in?
4 A Practically everything in the center.
5 Q Are you referring to the big blocks -- the biggest block
6 in the document?
7 A Yes, exactly, in the center.
8 Q Do you ever go beyond that big block in the middle of the
9 document?
10 A Very few times. I go here where the frozer (sic) -- the
11 freezer in the deli. And very few times do I go to the
12 warehouse office, that little one over here.
13 Q I want you to focus your attention on the first floor main
14 office, which is on the left-hand side -- left bottom -- or
15 corner pocket. Do you ever go into that space?
16 A For work, no. Personal, yes.
17 Q In your experience, have you ever seen employees from that
18 first floor main office come into your big block where you work
19 at?
20 A When they go, they go, but they don't work with us.
21 Q You can place the document down. Thank you. Where do you
22 park your vehicle? Actually, let me back up a bit.
23 Do you drive to work?
24 A Yes.
25 Q Okay. And when you drive, where do you park your vehicle?

1 A Normally I park over here where it says warehouse. And
2 when there's no parking, because now we have a lot of cars, I
3 park over here to the left.
4 Q When you say -- first you said that you park up on top.
5 Do you mean -- just so that we have it clear on the record, are
6 you referring to where the gates -- on the side of the where
7 the gates are located?
8 A Yes, on the top, where it says warehouse exactly.
9 Q Okay. Were you ever told where to park your vehicle?
10 A When we moved to this new warehouse, supposedly the whole
11 parking that's indicated by warehouse is what's for us. And
12 that we couldn't take this parking -- the area outside because
13 supposedly the outside was going to be for clients. But since
14 there's no parking, we have to find a place over here or see
15 what we can do.
16 Q Do you need a key to get into the building?
17 A We have a card that opens the doors.
18 Q Do you clock in with a time clock?
19 A Yes, with my card.
20 Q Are you issued any other types of keys for any reason?
21 A No.
22 Q Does the key card provide you with access to anything
23 other than the time clocks?
24 A Just gives access to the garage if it's closed -- gate if
25 it's closed and to over here where it says warehouse and

1 nothing else.
2 Q And, what you were referring to was the diagram in
3 Employer Exhibit 4, the documents that I put in front of you,
4 correct?
5 A Yes, right here.
6 Q Does that key card provide you with access to the first
7 floor main office?
8 MR. WILSON: Objection. Lack of foundation.
9 JUDGE LAWS: Have you tried using it to get in the main
10 office?
11 MR. GARCIA: Okay.
12 THE WITNESS: Yes.
13 Q BY MR. GARCIA: Do you have an office or cubicle in the
14 front office?
15 A No.
16 Q Do you the company celebrating its 100-year anniversary?
17 A Yes, I remember --
18 Q Why --
19 A -- very well.
20 Q Why do you remember it so well?
21 A Because we were celebrating 100 years --
22 MR. WILSON: Objection. Vague as to time.
23 THE WITNESS: -- and the week before they told us we're
24 going to celebrate 100 years, yeah, we should be very proud.
25 And then they put, like, a calendar saying Friday. Back then I

1 was -- like, start working at 4:00 on Fridays. And they said
2 there was going to be a dinner for the warehouse employees in
3 the warehouse cafeteria. Oh -- I said great, everybody.
4 Then we found out that the people from the office, they
5 were going to a hotel. And then at that time I went and talked
6 to my supervisor -- oh, let me see -- George. And I said
7 George, what's the matter? No. He said Carlos, you know,
8 we're a lot of people.
9 One, we're close to the hotel and another one over here.
10 Not together. It's, like, together or together (sic). No,
11 your guys work Fridays. So Saturday, Sunday it's fine. Why do
12 we separate us? And that was the end of the conversation.
13 On Friday he said -- the supervisor said to me Carlos, and
14 you're coming back after 6, right? I go no. I'm not coming
15 back. It's -- it's disrespectful. Come on, you're one of the
16 ones that's been here the longest. You have to be here.
17 And I said come on. You're disrespecting me by dividing
18 us. What difference is one company other? Why don't we get
19 together? I'm not coming. I'm not going to attend.
20 He says well, we're going to -- we're going to have to
21 write you up on that. And he said well, do whatever you want.
22 You already did it. So I didn't go.
23 JUDGE LAWS: All right --
24 MR. WILSON: Your Honor, I'm --
25 JUDGE LAWS: -- I'm going to get some background on this.

1 When do you remember was the 100-year anniversary exactly?
2 THE WITNESS: Exactly, no.
3 JUDGE LAWS: What year?
4 THE WITNESS: Five, six years ago.
5 JUDGE LAWS: Okay. And when did the conversation you just
6 described take place? How close to the planned dinner? A week
7 before, a month before?
8 THE WITNESS: When I found out it was a week prior. And
9 when they went to write me up it was the day Friday of because
10 I said I wasn't going to attend. So they said Carlos, you have
11 to be there.
12 JUDGE LAWS: Okay. All right. And since this was five or
13 six years ago, we don't need to really explore this much
14 further, unless it's more directly tied to something --
15 MR. GARCIA: That --
16 JUDGE LAWS: -- that's current.
17 MR. GARCIA: That's fine. We will move on.
18 Q BY MR. GARCIA: In your experience, do warehouse employees
19 eat lunch at the same time as the office employees?
20 A In normal times, yes. But about three years ago when
21 there was a celebration, the company wanted to invite us for
22 lunch, and then the ones from the office to go a half hour
23 before, and then a half hour later the warehouse people would
24 attend.
25 Q Do you know why that is?

1 A I think it's because there wasn't any space, but --
2 JUDGE LAWS: And, again, I want to move things a little
3 bit more to the time frame we're looking at. I'm not concerned
4 with where people ate lunch four years ago.
5 MR. GARCIA: Understood.
6 JUDGE LAWS: So let's get to something more germane.
7 MR. GARCIA: Understood.
8 Q BY MR. GARCIA: Did you attend the meeting prior to the
9 second election where the owner of Wismettac was present?
10 A Yes.
11 Q Throughout your entire tenure at the company at Wismettac,
12 did the owner ever come to any of the meetings?
13 A No, first time. And the first time they do a meeting
14 where they give us this device that translates to Spanish, to
15 Vietnamese, Korean, Chinese. And I felt very surprised for
16 that.
17 Q On the day of the election --
18 MR. WILSON: Objection. Vague as to which election we're
19 talking about.
20 JUDGE LAWS: The second. Or is it the --
21 MR. GARCIA: We --
22 (Counsel confer)
23 Q BY MR. GARCIA: On the day of the second election, did you
24 see any banners in the warehouse?
25 A Yes.

1 Q Do you recall what those banners had?
2 A Yes, to vote no on the Union. It was about two days or a
3 day before the elections that they put them up.
4 Q When you saw those banners, what did you think?
5 A I really felt bad. I feel like if you don't vote, you're
6 going to have problems. Like the meeting we had with the
7 business owner. They gave us a piece of paper that was
8 notarized that he made a commitment that nothing would happen
9 to us if the Union did not come into the company.
10 So we understand that if the Union does happen we would
11 have problems. And we had problems. Without union there were
12 not. And many people don't work with us anymore.
13 Q Is it fair to say that you felt intimidated at that point
14 in time?
15 MR. WILSON: Objection. Leading question.
16 JUDGE LAWS: Overruled. It's summarizing basically what
17 he said.
18 THE WITNESS: Yes.
19 (Counsel confer)
20 Q BY MR. GARCIA: Going back to the meeting that you shared
21 with us a couple of minutes ago, was that a typical meeting?
22 A No, because the first time Mr. Frank was there, the first
23 thing they said was just listen. I don't say anything.
24 Mr. Frank said that he -- under no condition, would he allow
25 for the Union to come into the company. When the owner spoke,

1 he said that he wanted to answer questions, but the lawyer had
2 recommended not to say anything, because he could make
3 mistakes.
4 MR. WILSON: Objection. Lack of foundation. Move to
5 strike.
6 JUDGE LAWS: Overruled.
7 Q BY MR. GARCIA: Did you participate in a march at
8 Wismettac in August 2017?
9 A Yes.
10 Q What was the purpose of that march?
11 A To present a letter that they would accept us, the
12 employees, that we have talked to the Union and to please
13 represent us because we had seen many things that should not
14 have been happening.
15 MR. WILSON: Objection, Your Honor. I'll withdraw.
16 Q BY MR. GARCIA: How would you describe the march?
17 A Normal. It was two or three people from the Union were
18 there. The rest of us were all employees. And we got together
19 and we walked towards the main offices in here, and we tried to
20 find the representative --
21 Q Is it fair to say --
22 A -- so that he would sign the document.
23 Q Is it fair to say that this was a peaceful march?
24 MR. WILSON: Objection. Leading.
25 JUDGE LAWS: Yeah, let's just try to be less leading.

1 MR. GARCIA: Understood.
2 JUDGE LAWS: Okay?
3 Q BY MR. GARCIA: Did you see anyone threaten anyone?
4 A No, definitely not.
5 Q Did you hear any threats of any kind?
6 A No.
7 Q Did you see anyone assault anyone?
8 A In that meeting?
9 Q In the march.
10 A No.
11 Q Did you hear anyone assault anyone?
12 A No.
13 Q Did anyone in the group appear to be intimidating towards
14 anyone else?
15 A No.
16 Q How long was the march, time-wise?
17 A No more than 20, 25 minutes.
18 Q Do you recall the having received a flyer or a memo of
19 some kind about a lawsuit against the Union?
20 A Yes. They put on the board that there was a lawsuit that
21 the company had found. Something about the -- the syndicate
22 people. And they said something that the president of the
23 syndicate was a (Spanish spoken) -- or a criminal, and that
24 they were denouncing it.
25 Q Does (Spanish spoken) mean union? Is that same thing?

1 A Yes.
2 MR. GARCIA: I'd like for this witness to take a look at
3 what's been introduced, but not yet into evidence, Union
4 Exhibit 44. It's before --
5 JUDGE LAWS: It's right there.
6 MR. GARCIA: Oh, great. I believe it's right on top.
7 MS. SANCHEZ: You had me take it back, Your Honor.
8 JUDGE LAWS: Yeah, but he has it.
9 MS. SANCHEZ: Okay, thank you.
10 Q BY MR. GARCIA: Mr. Katayama, can you please take a moment
11 and review the document and let me know when you're ready to
12 proceed?
13 A Ready.
14 Q Do you read English?
15 A No, but remember that document because we had it in
16 Spanish. I mean, I know a little bit of English. I can defend
17 myself.
18 Q What is this document?
19 A Back then supposedly in another state they were presenting
20 a union and there was voting for that. And it seems that the
21 same thing happened, but in the second election they lost.
22 So they were letting us know that in the same way it's
23 going to happen with us. In fact, before this document came
24 out, some men started showing up and they call them union
25 buster.

1 MR. WILSON: Objection. Nonresponsive.
2 JUDGE LAWS: Let's get him to answer sort of more what
3 this document is. I think that was the question. And he
4 described what happened elsewhere, which is part of this
5 document, but I think you were probably getting toward more of
6 where was it. And so --
7 MR. GARCIA: I --
8 JUDGE LAWS: -- let's try to --
9 MR. GARCIA: Under- --
10 JUDGE LAWS: -- redirect him a little bit.
11 MR. GARCIA: Absolutely, yeah.
12 Q BY MR. GARCIA: Mr. Katayama, do you recall having
13 received this document in both English and Spanish or was it
14 just simply in English?
15 A All the documents were in English and Spanish.
16 Q So you received what's been marked and has been identified
17 as Union Exhibit 44 as being in Spanish also?
18 A Yes.
19 Q And this is --
20 JUDGE LAWS: Hang on. I'm going to jump in. You were
21 asked if you received it. How did you receive it?
22 THE WITNESS: First, they put it in the blackboard. And
23 then they put it on the table. And then we got it by mail to
24 my home. And then they send it to me on the cell phone.
25 JUDGE LAWS: Okay. And you remember when? And if it's

1 different times for each of those things, specify.
2 THE WITNESS: Yes. It was before the elections, before
3 both elections.
4 JUDGE LAWS: Okay. Thank you.
5 Q BY MR. GARCIA: Is this also the --
6 MR. GARCIA: Well, I guess the document speaks for itself.
7 The Union would like to offer Exhibit 44 into evidence.
8 JUDGE LAWS: Okay. Any objection?
9 MR. WILSON: No, we won't object to that.
10 JUDGE LAWS: All right. Union Exhibit 44 is admitted.
11 **(Union Exhibit Number 44 Received into Evidence)**
12 Q BY MR. GARCIA: Going back to your participation in the
13 march at Wismettac in August 2017, and then having received
14 what's been identified as Union Exhibit 44, and that you find
15 out that the Union is being sued, what were your thoughts on
16 that?
17 A All the information the company sent I spoke to the Union
18 representatives. And I asked them what happens with this? And
19 they were explain to me that they were doing it to scare us.
20 Q What did you feel?
21 A If I recall correctly, in this document it says that we
22 don't need a union to fix our problems. All the problems that
23 we have, they don't resolve it. So starting with this
24 document, they're lying. And if they're lying once, then
25 they're lying on everything.

1 I don't understand why they tell us so many things and
2 that we know are not true, they know it's a lie, but they tell
3 us that no, it's true what they're saying.
4 Q And when you say "they," are you referring to the company,
5 to Wismettac, or somebody else?
6 A No, referring to the company.
7 (Counsel confer)
8 MR. GARCIA: I'd like to introduce and mark what will be
9 known as Union Exhibit 45, which should be entitled the
10 personnel file of Carlos Katayama.
11 **(Union Exhibit Number 45 Marked for Identification)**
12 MR. GARCIA: Provide copies to counsel.
13 MR. WILSON: Thank you.
14 MR. GARCIA: May I enter the well --
15 JUDGE LAWS: Thank you.
16 MR. GARCIA: -- and approach the witness?
17 Q BY MR. GARCIA: Mr. Katayama, can you take a moment and
18 just kind of briefly thumb through what has been identified as
19 Union Exhibit 45? Just give it a brief gloss and let me know
20 when you're ready to proceed.
21 MR. WILSON: Your Honor, this was represented as the
22 personnel file --
23 JUDGE LAWS: No, it's the training documents --
24 MR. WILSON: Okay.
25 JUDGE LAWS: -- it looks like.

1 MR. WILSON: That's fine. I just wanted to make sure.
2 Okay. Excerpts from the personnel file.
3 MR. GARCIA: Excerpts from --
4 JUDGE LAWS: And it doesn't really matter because our
5 court reporter doesn't give names to exhibits, so it's just
6 going to be Union Exhibit 45.
7 MR. WILSON: Okay. That's fine.
8 MR. GARCIA: That's fine.
9 (Counsel confer)
10 THE WITNESS: It's okay. Ready.
11 JUDGE LAWS: Okay.
12 Q BY MR. GARCIA: Great. So turning to page 1, the first
13 page, what is that document?
14 A This we did a lecture of how to operate the machine. And
15 normally we get this every two to three years, only the ma --
16 the forklift operators.
17 Q Is there anyone from the first floor main office that
18 participate in that meeting with you?
19 A No.
20 Q And the date of December 19th, 2011, that's an accurate
21 date of when this training took place?
22 A Yes.
23 Q Can you please turn to page 2? What is this document?
24 A This supposedly is a test that they gave us to see if we
25 could ma -- drive the machinery, use the machinery.

1 Q When you say "we," who are you talking about?
2 A All the stockers.
3 Q As part of -- actually, let me back up a bit. The date
4 that's on that document, November 5th, 2014, is that
5 approximately when that exam took place?
6 A Yes.
7 Q Was there anyone other than --
8 JUDGE LAWS: Do you specifically remember taking this
9 exam?
10 THE WITNESS: Really, this is routine for us. So they
11 call us, they get us together, don't go out. And, in fact,
12 they don't even use the machines -- and they know that we use
13 the ma -- we know that we just take the test. And that's it.
14 Q BY MR. GARCIA: As part of these routine meetings, are
15 there any employees form the first floor main office that are
16 in these routine meetings?
17 A No.
18 Q Can you please turn to page 3? Is this also just another
19 forklift driving test that you took in your classification?
20 A Yes, exactly.
21 Q Any employees from the first floor main office that took
22 this same exam?
23 MR. WILSON: I'm going to object, Your Honor. There's no
24 date on the document.
25 JUDGE LAWS: Since he's kind of generalized them, I'm not

1 sure if we need to go through one by one. You asked if they
2 were ever present and he said no.
3 MR. GARCIA: Okay.
4 JUDGE LAWS: Okay. Thank you.
5 MR. GARCIA: Thank you.
6 Q BY MR. GARCIA: Moving on to page 4, this is another
7 operators' written test that you took, right?
8 A Yeah.
9 Q And, again, no one from the first floor main office takes
10 the exact same exams?
11 A Yes, no one.
12 Q Can you please turn to pages 5 through 12? This is a
13 written evaluation that you took, right?
14 A Yes.
15 Q And who takes this type of an exam?
16 A Normally people from outside come and they -- they -- they
17 train three or four people in the warehouse to conduct these
18 tests on those.
19 Q Does anyone from the first floor main office take this
20 type of exam?
21 A No.
22 Q Can you please turn to page 13? Do you know what GHS
23 training is?
24 A Normally GHS -- I don't know how to describe it. But
25 normally they call us all together, they put a video on. And

1 when we finish they video, they make us sign. Normally they
2 say how to -- you know, how to pick up a box, to use the shoes,
3 close all the doors, you got to make me safe. It's more for
4 safety.
5 Q When you say "they call us all," who is the "all" that
6 you're talking about?
7 A All the warehouse. The assemblers, the stockers,
8 receiving.
9 Q Is anyone from the first floor main office part of
10 these --
11 A No.
12 Q Can you please turn to pages 14 and 15? 14 and 15, as
13 you'll notice up at the top, it says attendance sheet.
14 A Uh-huh.
15 Q Do you recall what this -- you know, what you were
16 attending in this case?
17 JUDGE LAWS: And, again, I don't think he needs to go
18 through the first one, two, three, four categories are -- well,
19 probably and five. What does GMP mean; do you know?
20 THE WITNESS: No.
21 JUDGE LAWS: No? Okay. And HACCP?
22 THE WITNESS: No, neither.
23 Q BY MR. GARCIA: Taking a look at the -- go ahead.
24 A Can I -- this page is only one or is it two together?
25 Q It's two pages.

1 A No, I don't remember.
2 Q Okay. Moving forward to pages -- we'll skip 16 and 17.
3 If you can take a look at page 18, it's entitled
4 assemblers daily activity guideline. If you scroll down to the
5 bottom, you'll notice what appears to be your name. Is that
6 your name and signature?
7 A Yes, it is.
8 Q And does the date look accurate, if you recall? Okay.
9 A Yes.
10 MR. WILSON: Your Honor, can we state what that date is?
11 I can't read it.
12 JUDGE LAWS: Sure. It's 9/10/09.
13 MR. WILSON: That's a nine?
14 THE WITNESS: Yes.
15 Q BY MR. GARCIA: And can you explain to us what -- why do
16 you sign off on this daily activity guideline?
17 A Because here they're explaining to us the way to protect
18 ourselves with our with our shoes. When we work in the
19 warehouse, we have to use safety -- metal tip shoes.
20 If I don't have the type of shoe, I can't go -- step into
21 the warehouse. That's my obligation. They see me that I don't
22 have the shoe, they get me out -- they kick me out because no
23 one can go in without it.
24 Q Do you know whether employees from the first floor main
25 office sign this type of document?

1 A No.
2 Q How do you know that?
3 JUDGE LAWS: Well, you asked do you know whether they do
4 and he said no, he doesn't know whether they do. So let's get
5 to the next question.
6 MR. GARCIA: Understood.
7 JUDGE LAWS: So you don't know whether or not they sign
8 this?
9 THE WITNESS: No.
10 Q BY MR. GARCIA: We can skip 19.
11 Moving on to page 20, if you notice, one, two, three,
12 four -- fourth box down it says forklift safety training,
13 trainer from Sysco would show up with a date of October 12th,
14 2006.
15 Is the trainer box and the training completed date in the
16 box because that's a training that you attended, if you can
17 recall?
18 A If I recall, when they train me I always sign a document.
19 And really I don't see my --
20 Q Okay. Do you recall whether if you take a -- you go down
21 one box, office ergonomics training, do you recall ever taking
22 an office ergonomics training?
23 A No.
24 Q Going down to the next box, office safety training, do you
25 recall ever taking a training on office safety?

1 A No.
2 Q You can turn to the next -- to pages 21 through 23. Up at
3 the top, as you'll notice, it says forklift operation
4 evaluation. Do you know whether anyone from the first floor
5 main office would have this same type of evaluation?
6 MR. WILSON: Objection. Lack of foundation.
7 JUDGE LAWS: Well, he's asking whether or not he knows.
8 So depending on how he answers, we can go there.
9 THE WITNESS: Pages of 20, 21, 22 and 23?
10 Q BY MR. GARCIA: Yes. I want your attention on 21 through
11 23 only. And I can repeat the question to you if you'd like.
12 A Yes.
13 Q Yes what?
14 A Yes.
15 A Yes, it's fine.
16 Q Okay. So it's yours.
17 Now, do you know whether any employee from the first floor
18 main office ever takes any sort of forklift operation
19 evaluation like the same one that you took here?
20 A Definitely not.
21 JUDGE LAWS: Definitely they don't take it, or definitely
22 you don't know?
23 THE WITNESS: They definitely do not take it.
24 MR. WILSON: Objection, Your Honor. There's still no
25 foundation --

1 JUDGE LAWS: Foundation.
2 MR. WILSON: -- as to how he knows they don't take it.
3 THE WITNESS: I say definitely they don't take it because
4 they don't use the machines.
5 MR. GARCIA: They're --
6 THE WITNESS: They don't pick up pallets. They don't have
7 the shoes with the metal tips. They can't even do a job
8 starting -- because of safety.
9 JUDGE LAWS: Yeah, I mean, I wonder if they can speed
10 things up a little bit. Is there any contention that the front
11 office staff goes through forklift operation evaluation
12 training and gets tested on it and --
13 MR. WILSON: Well, some of the people in the challenge
14 category has got forklift training. It's in their files.
15 JUDGE LAWS: Okay. All right. Then --
16 MR. WILSON: Now, the problem is this goes back 10
17 years --
18 JUDGE LAWS: No, I understood this is 10 years old. And
19 that is what it is. But I was thinking maybe we could
20 stipulate that the people who work in the first floor main
21 office don't go through forklift operation evaluation training.
22 But if we can't, we'll just -- it's --
23 MR. WILSON: Your Honor --
24 JUDGE LAWS: -- it's --
25 MR. WILSON: -- we may be able to --

1 JUDGE LAWS: -- most efficient to just --
2 MR. WILSON: -- do that --
3 JUDGE LAWS: -- move forward.
4 MR. WILSON: -- for Mr. Fujimoto tomorrow. I'm not
5 willing to say that today.
6 JUDGE LAWS: Okay. All right. Let's move forward then.
7 Q BY MR. GARCIA: Pages 24 and 25, Mr. Katayama, appear to
8 be another attendance sheet for another meeting that you
9 appeared related to your work, correct?
10 A Yes.
11 Q Do you notice any of the names on the attendance sheet
12 that are employees from the first floor main office?
13 A No.
14 Q Can you please move on to page 26, what appears to be a
15 safety training course? We may be able to skip this one
16 because I believe there's somewhat of a stipulation that --
17 well --
18 JUDGE LAWS: Well, we don't have a stipulation --
19 MR. GARCIA: Okay.
20 JUDGE LAWS: -- but this document isn't going to tell me
21 anything other than that he went through this training 12 years
22 ago.
23 MR. GARCIA: That's fine.
24 Q BY MR. GARCIA: And then, finally, 27 through 30 appear to
25 be an operator's written test that you took --

1 A Uh-huh.
2 Q -- correct? And to your knowledge, no employee from the
3 first floor main office takes this type of operator's written
4 test, right?
5 A No, they don't take it.
6 MR. GARCIA: Your Honor, I just need a quick 30 seconds.
7 JUDGE LAWS: Sure.
8 (Counsel confer)
9 MR. GARCIA: I have no further questions.
10 JUDGE LAWS: Okay. Did the Union want to move to admit
11 45?
12 MR. GARCIA: Oh, yes. The Union offers into evidence
13 Union Exhibit 45.
14 JUDGE LAWS: Okay. Any objection?
15 MR. WILSON: No.
16 JUDGE LAWS: All right.
17 MR. WILSON: With the understanding we had with all the
18 personnel --
19 JUDGE LAWS: Yes.
20 MR. WILSON: -- files. Okay.
21 JUDGE LAWS: Well, we had a name for it and now I've
22 forgotten. The usual understanding --
23 MR. WILSON: The usual understanding --
24 JUDGE LAWS: -- or the normal understanding?
25 MR. WILSON: That's fine.

1 JUDGE LAWS: I will admit Union Exhibit 45.

2 **(Union Exhibit Number 45 Received into Evidence)**

3 JUDGE LAWS: So why don't we take a break and proceed with

4 cross. And I'll determine the length when we go off the record

5 based on how much more we have today.

6 Off the record.

7 (Off the record at 2:42 p.m.)

8 JUDGE LAWS: Okay. Let's go back on the record.

9 All right.

10 **CROSS-EXAMINATION**

11 Q BY MR. WILSON: Mr. Katayama, this afternoon -- or good

12 afternoon. I'm sorry. May name is Scott Wilson. I'm attorney

13 for Wismettac. Yeah, I just have a couple of questions for

14 you.

15 You mentioned in your testimony that sometimes on Fridays

16 and Saturdays, that the front office people will assist the

17 warehouse workers in conducting inventory?

18 A They help to count.

19 Q Okay. And how often do they do that?

20 A Supposedly almost every three months.

21 Q Okay. Thanks.

22 And you mentioned a gun that you use to do your work with.

23 Do you know if that's also referred as a scanner?

24 A Yes, I know it's called scanner, but we in the warehouse

25 call it a gun. It's easier for us to say. If you say to one

1 employee at the warehouse, pass me the scanner, they won't
2 give it to you. If you say pass me the gun, he will give it to
3 you.
4 Q So how does the gun work?
5 A We scan. We use it to scan. And if it doesn't have that,
6 we input the number of the item of the merchandise. And it's
7 also how many there are.
8 Q Okay. And do you have to turn the scanner on?
9 A Yes.
10 Q And when you turn it in, do you log into the company
11 computer system?
12 A What's the question?
13 Q Okay. So when you turn the scanner on, you have to, like,
14 log into the company system to work the scanner?
15 A When I turn on the gun, I put my name and my pin, and just
16 all the information pops up.
17 Q Okay. And what information shows on the scanner?
18 A In my work, in regards to my work, we see what's in
19 reserve on the top area, what's in the location of the lower
20 end, and the location of all the merchandise.
21 Q Okay. Thank you. And you also mentioned a person, and I
22 think you described him as Jose Razo?
23 A Yes.
24 Q Okay. And you described him as a labeler?
25 A Really, he works MU. NBU are the ones that do the orders

1 to the foreign orders overseas. For example, you're a sales
2 person. You say I'm selling "X" quantity of merchandise for
3 overseas. Put this sticker that is translated to the language.
4 So Mr. Razo makes the order and he puts the labels, the
5 stickers.
6 Q Okay. To your knowledge, does Mr. Razo speak Spanish?
7 Okay, excuse me -- Japanese?
8 A No.
9 Q Okay.
10 MR. WILSON: All right. I have no further questions.
11 JUDGE LAWS: Okay. Any redirect?
12 THE WITNESS: May I say something?
13 JUDGE LAWS: Not unless you're asked a question
14 unfortunately.
15 **REDIRECT EXAMINATION**
16 Q BY MR. GARCIA: Mr. -- just very briefly.
17 Mr. Katayama, do you speak --
18 (Counsel confer)
19 MR. GARCIA: I'll withdraw the question.
20 JUDGE LAWS: Anything else, sir? No? All right.
21 MR. GARCIA: No further questions.
22 JUDGE LAWS: All right. Well, thank you very much for
23 your testimony.
24 Please don't discuss what you talked about here today with
25 any other witnesses or any potential witnesses.

1 Thank you.

2 THE WITNESS: Thank you.

3 JUDGE LAWS: All right. Off the record.

4 (Off the record at 2:58 p.m.)

5 JUDGE LAWS: On the record.

6 I'm going to swear you in.

7 Whereupon,

8 **ROLANDO LOPEZ**

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

10 examined and testified as follows:

11 JUDGE LAWS: Have a seat. And please state your name for

12 the record.

13 THE WITNESS: Rolando Lopez.

14 JUDGE LAWS: Thank you, Mr. Lopez.

15 Just a reminder of some instructions. If you're asked a

16 question and you don't know the answer, just say I don't know.

17 Only guess if you're asked to guess.

18 And if you don't understand a question, just say so, and

19 it will be asked and clarified for you.

20 THE WITNESS: Okay.

21 JUDGE LAWS: Thank you.

22 **DIRECT EXAMINATION**

23 Q BY MS. SANCHEZ: Good afternoon, Mr. Lopez. You

24 previously testified in this hearing that you work for

25 Wismettac.

1 A Yes.
2 Q And if I have it correct, that you worked for nine years
3 and have been a driver for seven years?
4 A Yes.
5 Q Prior to becoming a driver, what was your position?
6 A I worked in the warehouse as an assembler.
7 Q Okay. And what shift did you work when you were an
8 assembler?
9 A I worked two shifts, the first one in the morning and then
10 at night.
11 Q Was your -- excuse me -- were your tasks any different in
12 the morning verses at night?
13 A No.
14 Q Did you use any different equipment in the day versus the
15 night as a warehouse worker?
16 A No.
17 Q Did you use what are called scanners on the day and the
18 night?
19 A Yes.
20 Q As a driver, what kind of truck do you drive?
21 A It's a bobtail truck. Yes.
22 Q Besides driving bobtail trucks, do you drive anything
23 else?
24 A No.
25 Q And do you use any type of equipment?

1 A Yes.
2 Q What types of equipment do you use?
3 A A manual pallet jack.
4 Q Do warehouse workers also use manual pallet jacks?
5 A Yes.
6 **(Union Exhibit Number 46 Marked for Identification)**
7 MS. SANCHEZ: I would like to introduce a document that's
8 been marked as Union Exhibit 46.
9 Q BY MS. SANCHEZ: Mr. Lopez, I've just put in front of you
10 what we've marked as Union Exhibit 46. If you could get that
11 document and take a look it at, scan through the pages for me?
12 (Witness reviews document)
13 Q BY MS. SANCHEZ: Have you had a chance to scan through the
14 document?
15 A Yes.
16 Q Do you recognize your name on this document?
17 A Yes.
18 Q Can you skip to page 11, please? I see "powered
19 industrial truck" on top; do you see that?
20 A Yes.
21 Q Is "powered industrial truck" the same thing as pallet
22 jack?
23 A Yes.
24 Q And if you skip to page 17, 18 and 19. Are pages 11, 17,
25 18 and 19 all related to pallet jacks?

1 A Yes.
2 Q What types of training did you have at the warehouse?
3 A The type of training that we received was how to use the
4 pallets, how to operate the forklift, how to take the orders,
5 how to assemble a pallet, and the safety that we have to
6 prevent accidents.
7 Q And did you get all of that training as a warehouse worker
8 or as a driver?
9 A As a warehouse, and then afterwards as a driver.
10 Q So I'd like to draw your attention to page 2 of this
11 document. I guess it's page 2 and 3.
12 Do you see your name on this document?
13 A Yes.
14 Q Is it on page 3?
15 A Yes.
16 Q And that's your signature there?
17 A Yes.
18 Q This document is titled "Program for warehouse employees,"
19 and dated October 14th, 2013. What was your position in 2013?
20 A I was a driver.
21 Q Were drivers also considered warehouse employees?
22 A Yes.
23 Q And do you recognize the names of any other of the folks
24 who have signed this document?
25 A Yes.

1 Q What classifications do they work in, if you know?
2 MR. WILSON: Objection, Your Honor. There is like
3 20-something names on there. Is he going to go through them
4 one by one?
5 MS. SANCHEZ: I'm asking of the ones he's recognized.
6 And he can identify those if you'd like.
7 JUDGE LAWS: Okay. Go ahead.
8 MS. SANCHEZ: Okay.
9 Q BY MS. SANCHEZ: What classifications of the names you
10 recognize are the employees?
11 A A driver.
12 Q What driver?
13 MR. WILSON: Your Honor, we don't know which person he's
14 referring to.
15 MS. SANCHEZ: If I can ask the questions, I'll ask him.
16 MR. WILSON: Okay.
17 Q BY MS. SANCHEZ: Which drivers are you referring to?
18 A Freddy, John, Jose Reynoso, Boo (phonetic), Enrique, Yader
19 Alvarado, Jose Centeno, Justin, Felipe Gomez, Luis Lopez,
20 Billy, Raphael, Jose Pina. All of them are drivers.
21 Q Do you recognize any other classifications of employees
22 who've signed this document?
23 A No.
24 Q So drivers all signed this document then?
25 A Yes, only drivers.

1 Q Okay. Can you go to the next page, 4 and 5? What was
2 your classification in 2012?
3 A Just in -- I was still in the bodega in the warehouse.
4 Q Okay. And do you recognize any of the other people who
5 have signed this document?
6 A Yes.
7 Q What classifications of employees do you recognize who've
8 signed this document?
9 A I recognize some people from the warehouse. And the
10 second name I see is the manager of the bodega. He's the
11 name -- he was the boss.
12 Q Are you referring to page 4, Tadashi Domem?
13 A Yes.
14 Q And you said he was the manager of the warehouse at the
15 time?
16 A Yes.
17 Q And what warehouse workers do you recognize who have
18 signed this document?
19 A Hector Ramundo, Tadao, Frank. I know Alfredo Ponce,
20 Rinko. Isidro Garcia, he was my supervisor in the freezer.
21 Jorge Cruz, Cesar Ayala. Nguyen Phan, I know him too. Jose
22 Centeno. Those are the ones that I know from the bodega.
23 Q Do you know if -- on the previous document, pages 2 and 3,
24 or on this document -- whether any front office employees
25 participated in these trainings?

1 MR. WILSON: Objection. Lack of foundation as to how he
2 would know that.
3 MS. SANCHEZ: I'm asking if he knows.
4 JUDGE LAWS: If you know?
5 THE WITNESS: No.
6 Q BY MS. SANCHEZ: You don't know, or they didn't
7 participate?
8 A I don't know. There's no one here from that office.
9 MR. WILSON: Objection again, Your Honor. There's no
10 foundation as to how he knows who the front office employees
11 are.
12 JUDGE LAWS: Well, I think he's said he knows who the
13 people who signed it are.
14 MR. WILSON: Okay. And that's fine.
15 Q BY MS. SANCHEZ: If you look at the next page, page 6, can
16 you tell us what your starting wage was?
17 A $13.
18 Q And what is your current wage?
19 A About $18.75 right now. I'm not at the $19 yet.
20 Q And how many -- strike that.
21 Can you turn to page 10, please? Did you have to take
22 forklift safety training?
23 A Yes.
24 Q And you took that training as a driver or as a warehouse?
25 A I did it in the warehouse.

1 Q Do you also have to take that kind of training as a
2 driver?
3 A Yes, I do.
4 Q Okay. Can you turn to page 13, please? Do you recognize
5 this document?
6 A Yes.
7 Q What is this document?
8 A It's the training they gave us.
9 Q And what kind of training?
10 A I think it's the forklift training they gave us.
11 Q And similar to the other question I asked you, do you
12 recognize any of the others who took this training?
13 A Yes.
14 Q And what classifications of employees were they?
15 A There are drivers.
16 Q Are there any other classifications that you recognize?
17 A No.
18 Q Can you please turn to pages 14 and 15?
19 MS. SANCHEZ: Your Honor, I apologize. This appears to be
20 a duplicate, so I want to ask about these, 14 or 15.
21 Q BY MS. SANCHEZ: Did you have to take any tests as a
22 forklift driver -- excuse me -- as a driver?
23 A Yes.
24 Q And what about when you were a warehouse employee?
25 A Yes, also.

1 Q What types of tests did you take?
2 A How to operate a forklift, how to operate a pallet jack.
3 And when I went to became a driver, I did another forklift test
4 again, another pallet jack, and the driving of the truck.
5 Q Do pages 22, 27 and 29 through 36, are those pages
6 identified -- are those pages tests of the -- excuse me -- are
7 those pages are the tests that you were referring to?
8 A Yes.
9 Q If you would skip to page 47? Does this state when you
10 were originally hired as Wismettac?
11 A Yes.
12 Q And if you would look at page 52 and 53 pages? Is this
13 your application for employment at Wismettac?
14 A Yes.
15 Q And you signed this document on page 53?
16 A Yes.
17 MS. SANCHEZ: The Union would like to offer Exhibit 46
18 into the record, Your Honor.
19 JUDGE LAWS: All right. Before I ask if there are
20 objections, I appear to have a different document than the
21 witness.
22 MS. SANCHEZ: Oh.
23 JUDGE LAWS: So I just want to make sure. What -- how
24 many pages are in the document the Union is offering?
25 MS. SANCHEZ: Fifty-four.

1 JUDGE LAWS: Okay. And is that consistent with -- I have
2 a 66-page document.
3 So I just want to make sure, is the last page 54?
4 THE WITNESS: Yes.
5 JUDGE LAWS: Okay. And in the court reporter's copy, if
6 we can take a quick look? Oh, you don't have one. Okay.
7 Well, we'll give you the witness' since it's the same.
8 All right. Any objection from the Employer with the same
9 qualifications as have previously been articulated?
10 MR. WILSON: In light of that, no objection.
11 JUDGE LAWS: All right. I will admit Union Exhibit 46.
12 **(Union Exhibit Number 46 Received into Evidence)**
13 MS. SANCHEZ: Thank you, Your Honor.
14 Sorry about the mix-up. We tried to exclude some pages
15 that we tried to be helpful.
16 Q BY MS. SANCHEZ: Do you recall that a union election took
17 place on September 19th, 2017?
18 A What date?
19 Q September 19th, 2017.
20 A Yes.
21 Q And do you know that the second election took place in
22 February of 2018?
23 A Yes.
24 Q Do you know the exact date that it took place in February?
25 A Yes.

1 Q What was that date?
2 A February 6, 2018.
3 Q Thank you. I'd like to ask you questions that relate to
4 prior to that date.
5 A Okay.
6 Q Who was your supervisor?
7 A Jose Vasquez.
8 Q Does Jose Vasquez also go by Anthony Vasquez?
9 A Yes.
10 Q And if you know, did Anthony Vasquez supervise any other
11 classification of employees?
12 A Yes.
13 Q Let me back up. You were a driver at that time, correct?
14 A Yes.
15 Q So when I say other -- any other classifications, I mean
16 other than drivers?
17 A Yes.
18 Q Which other classifications of employees did he supervise?
19 A The warehouse workers.
20 Q Anybody else?
21 A In the receiving, and they come from the warehouse or the
22 assemblers, the ones who stack the racks in receiving, and also
23 drivers.
24 Q As a driver at Wismettac, which other classifications of
25 employees do you work with on a frequent or regular basis?

1 A With the bodega employees.
2 Q And was that the case on and before February 6th, 2018?
3 A Before February 6, 2018.
4 Q That was the case then as well?
5 A Yes.
6 Q Okay. I'd like to ask you about some other
7 classifications of employees.
8 Do you know who GPO distribution clerks are?
9 A No.
10 Q Do you know who GPO distribution coordinators are?
11 A No.
12 Q Do you know who central purchase clerks are -- excuse
13 me -- GPO central purchase clerks?
14 A No.
15 Q What about central purchase clerks?
16 A No.
17 Q And what about logistics office clerks?
18 A No.
19 Q Are you familiar with any of those classifications of
20 employees?
21 A No.
22 Q Do you know -- or have you ever worked with Yukihiko
23 Amanuma?
24 A No.
25 Q Do you know or have you ever worked with Chiaki Mazlomi?

1 A No.
2 Q Do you know or have you ever worked with Brian
3 Noltensmeier?
4 A No.
5 Q Do you know or have you ever worked with Ryan Prewitt?
6 A No.
7 Q Do you know or have you ever worked with John Salzer, Jr.?
8 A No.
9 Q And what about Hideki Takegahara?
10 A No.
11 Q Do you ever know -- do you know or have you ever worked
12 with Kazumi Kasai?
13 A No.
14 Q Do you know or have you ever worked with Joshua Fulkerson?
15 A No.
16 Q What about Senllacett Gonzalez Guardado?
17 A No.
18 Q Do you know or have you ever worked with Kaori Juichiya?
19 A No.
20 Q Do you know or have you ever worked with Kaipo Eda?
21 A No.
22 Q Do you know or have you ever worked with Rachel Lin?
23 A No.
24 Q What about somebody by the name of Stephany Manjarrez?
25 A No.

1 Q Or somebody named Miwa Sassone?
2 A No.
3 Q Do you know or have you ever worked with Chizuko Sho?
4 A No.
5 Q What about Jenifer Tran?
6 A No.
7 Q Do you know or have you ever worked with Shun Man Yung?
8 A No.
9 Q Have you -- do you know or have you ever worked with
10 Wesley Chang?
11 A No.
12 Q What about Thao Nguyen?
13 A No.
14 Q Do you know or have you ever worked with Kayoko Nishikawa?
15 A No.
16 Q Do you know or have you ever worked with Kumiko Estrada?
17 A No.
18 Q Do you know or have you worked with Cheryl Johnston?
19 A No.
20 Q Do you know or have you ever worked with Maho Kobayashi?
21 A No.
22 Q What about Sachie Liu?
23 A No.
24 Q Do you know or have you ever worked with Fumi Meza?
25 A No.

1 Q What about Kristie Mizobe?
2 A No.
3 Q Or Steffanie Mizobe?
4 A No.
5 Q Do you know or have you ever worked with Shuji Ohta?
6 A No.
7 Q Do you know or have you ever worked with Suguru Onaka?
8 A No.
9 Q Do you know or have you ever worked with Wakako Park?
10 A No.
11 Q What about Domingo Pliego?
12 A No.
13 Q Do you know or have you ever worked with Mamoru Tagai?
14 A No.
15 Q Do you know or have you ever worked with Keiko Takeda?
16 A No.
17 Q Do you know or have you ever worked with Stacy Umemoto?
18 A No.
19 Q What about Karen Yamamoto?
20 A No.
21 Q What about Chiaki Yamashita?
22 A No.
23 Q And what about --
24 (Counsel confer)
25 Q BY MS. SANCHEZ: What about Yasuhiro Yamashita?

1 A No.
2 Q I believe that person also goes by David Yamashita. Do
3 you know or have you ever worked with somebody named David
4 Yamashita?
5 A No.
6 Q As far as you know, do any of those people have any
7 exchange with drivers or warehouse workers?
8 A No.
9 MR. WILSON: Your Honor, I'm going to object.
10 JUDGE LAWS: And she asked as far as he knows, so
11 that's -- I'm just going to take it as his knowledge, not as
12 ultimate fact.
13 MR. WILSON: Well, first, it's vague as to time. What --
14 I mean he's worked there ten years. What time period are we
15 talking about?
16 MS. SANCHEZ: I can clarify that, Your Honor.
17 JUDGE LAWS: Okay. Go ahead.
18 Q BY MS. SANCHEZ: Prior to the second election -- or let me
19 make it even more specific. Between the first and the second
20 election, did any of those people have exchange with drivers or
21 warehouse workers?
22 MR. WILSON: Objection, Your Honor. Compound question.
23 There's --
24 JUDGE LAWS: To your knowledge.
25 That's okay.

1 MR. WILSON: It's still a compound question. There's two
2 classifications: drivers, which he was, and warehouse worker,
3 which --
4 JUDGE LAWS: Which he was not.
5 MR. WILSON: -- prior to the second election, he was not.
6 MS. SANCHEZ: But who he testified he worked with.
7 I'd be happy to separate the questions.
8 JUDGE LAWS: Okay. Good.
9 MS. SANCHEZ: I think it's a pretty easy question, and I'm
10 trying to save time. But let me do that again.
11 Q BY MS. SANCHEZ: Between the first and the second
12 election, did -- if you know -- any warehouse workers have any
13 exchange with those people I just discussed?
14 A No.
15 Q Between the first and the second election, did any of
16 those people have any exchange with drivers?
17 A No.
18 Q Where in the Wismettac facility do you work?
19 A In the warehouse.
20 MS. SANCHEZ: Can I have the witness take a look at
21 Employer Exhibit 4?
22 Q BY MS. SANCHEZ: Does this document look familiar to you?
23 A Yes.
24 Q Would you describe with words where on this document you
25 work?

1 MR. WILSON: Your Honor, I'm going to object. Vague as to
2 time. Again, is he talking about when he's a warehouse worker
3 or a driver?
4 JUDGE LAWS: I think -- or can we assume between the first
5 and second elections?
6 MS. SANCHEZ: Yes, Your Honor.
7 JUDGE LAWS: Okay.
8 MS. SANCHEZ: I'll say that every time if I need to.
9 JUDGE LAWS: Okay.
10 Q BY MS. SANCHEZ: So I'll repeat the question. Between the
11 first and the second election, where in the Wismettac facility
12 did you work?
13 Using your words, can you describe it by looking at
14 Employer Exhibit 4?
15 A Yes, of course. When I started in the warehouse --
16 JUDGE LAWS: No. Well, we're only dealing with the time
17 period between September 2017 and February 2018.
18 THE WITNESS: Okay.
19 Q BY MS. SANCHEZ: Which areas?
20 A In the top -- the deck, on the top, where we lower the
21 trucks.
22 Q Did you refer to the dock?
23 A Yes.
24 Q Okay, and do you spend any time anywhere else at the
25 facility?

1 A Only here in the bodega area of the warehouse.
2 Q What about the first floor main office? Do you spend any
3 time there?
4 A No.
5 Q Do you see this red arrow on the left-hand side of this
6 document?
7 A Si (sic).
8 Q Can you describe what area that is?
9 A This here is the hole that goes to the bathrooms that are
10 in the warehouse.
11 Q Are you referring to where there's an X towards the top
12 left of the document?
13 When you're referring to bathrooms?
14 JUDGE LAWS: Well, it says restroom.
15 THE WITNESS: Yes.
16 MS. SANCHEZ: Yeah, I wanted to --
17 THE WITNESS: Yes, that's the entrance to the bathrooms.
18 Q BY MS. SANCHEZ: Are those the restrooms that you use?
19 A Yes.
20 Q Do you know which other classifications of employees use
21 that restroom?
22 A The ones that work in the warehouse and the drivers.
23 Q Thank you. You can put that document down.
24 Were you ever told where to park your personal car at the
25 facility?

1 A Yes.
2 Q Where were you told to park?
3 A They told me to park in the parking of the back of the
4 company. That's where the trucks are parked, too.
5 Q Do you know which other classifications of employees
6 parked there?
7 A The drivers and the ones that work -- or else that work at
8 the warehouse.
9 Q Do GPO distribution clerks park there?
10 MR. WILSON: Objection. Lack of foundation.
11 Q BY MS. SANCHEZ: If you know?
12 JUDGE LAWS: Well, he says he doesn't know.
13 THE WITNESS: I don't know.
14 JUDGE LAWS: He said he doesn't know what they are, so I
15 don't think he's going to know where they park if he doesn't
16 know who they are.
17 MS. SANCHEZ: That's fine.
18 Q BY MS. SANCHEZ: Which entrance do you use to enter the
19 Wismettac facility?
20 A I use the back where there's a big gate that goes to the
21 warehouse.
22 Q Do you know if other workers use that entrance?
23 A The ones that work in the warehouse.
24 Q And do other drivers use that entrance, as well?
25 A Yes, all drivers.

1 Q Do office people use that entrance?
2 Excuse me, front office people.
3 A Do I use that office entrance?
4 Q No, do the front office --
5 JUDGE LAWS: Have you seen front office people use that
6 entrance?
7 THE WITNESS: No.
8 Q BY MS. SANCHEZ: Do you use the front office entrance?
9 A No.
10 Q I think you just referred to a gate. Is there a gate that
11 you have to go through?
12 A Yes.
13 Q Prior to the first election, was that gate locked?
14 A No.
15 Q At some point after the first election, did that gate
16 become locked?
17 A Yes.
18 Q Was that prior to the second election?
19 A They closed it before the second election and before the
20 first election. I want to be specific. They started locking
21 it after we took an action on August 21st.
22 Q Are you referring to the march on August 21st, 2017?
23 A Yes.
24 Q That's when the gate started to become locked?
25 A Yes.

1 Q And when it was locked, how did you thereafter get through
2 the locked gate?
3 A Because they had guards -- security guards -- that had the
4 control, and they're the ones who opened the doors for us.
5 Q When you first started at Wismettac, were there security
6 guards?
7 A No.
8 Q When was the first time you noticed security guards?
9 A August 21st, 2017.
10 Q Did those security guards carry any weapons?
11 A Yes.
12 Q How do you know that?
13 A Because I saw them.
14 Q What did you see?
15 A Security at the beginning of the entrance or the gate, in
16 the afternoon once I arrived from doing my delivery on that
17 day, August 21st, 2017 -- he had a gun.
18 Q Where were the guards stationed?
19 A They're at the gate at the entrance to the part of the
20 warehouse.
21 Q Were they there prior to the second election?
22 A Yes.
23 Q Did they have guns prior to the second election?
24 A No.
25 Q When did they start having guns?

1 A August 21st, 2017.
2 Q Did you notice guards on the day of the second election?
3 A Yes.
4 Q How did the guards with the guns make you feel?
5 A Honestly, very intimidated, because they would walk
6 throughout the warehouse in a hostile way. I don't know if I
7 can express something that I felt -- something before -- for
8 the first election.
9 When we had a meeting that was mandatory, Mr. Frank Matheu
10 was present, and Mr. Robert was present as well, and
11 Mr. Narimoto, the lawyer present here -- I think there's
12 another lawyer that works with him.
13 When I arrived to the warehouse at 5 a.m., this happened
14 September 18th of 2017. My supervisor, Jose Vasquez, tells us
15 we had a mandatory meeting in the kitchen area, the cafeteria.
16 When we walked towards the cafeteria, the three security guards
17 were there with their guns waiting for us. Once we went in,
18 they closed the door, and they stand there custoding (sic) in
19 front of the door.
20 At that moment, my feeling was, I'm being treated like a
21 gang member, and I say this because of people -- the unit
22 busters -- when they would do the meetings would tell us that
23 the members of the Local 630 were gang members.
24 JUDGE LAWS: Okay, and I'm going to interrupt here because
25 I --

1 Did you say junior ambassador, or was it union buster?
2 THE WITNESS: Union busters.
3 Yes, the break -- ones who break the unions.
4 JUDGE LAWS: Thank you.
5 Q BY MS. SANCHEZ: Were you done? Or I'm not sure if you
6 were finished.
7 A Well, that's the part that it was intimidating, and that
8 we saw that the boss was there, the lawyers were there, and the
9 union busters.
10 Q When you said the boss, you also mentioned somebody by the
11 name of Robert. Is that the owner?
12 As far as you know?
13 A Yes. Yes.
14 Q A moment ago, I asked you a question about the gate. Is
15 the gate still locked now?
16 A Sometimes they do lock it, and sometimes they don't.
17 Q I'd like to switch subjects a bit. As a driver, do you
18 have to complete any paperwork during your shift?
19 A Yes.
20 Q What types of paperwork?
21 A I have to fill a daily report, which shows the whole
22 routes. That means the name of the restaurants, the time we
23 arrived. I have to fill out adjustments, which is when we give
24 credit to the client. And sometimes I fill out receipts, when
25 the client pays us in cash. And that's all that we fill out.

1 Q Did you use those same documents between the first and the
2 second election?
3 A Yes.
4 Q When you have the checks and the cash -- a moment ago you
5 testified about receipts. When you have the checks and the
6 cash, do you give it to somebody when you return?
7 A Yes.
8 Q Who do you give it to you?
9 A To Jose De La Rosa, and before we give it to Isidro
10 Garcia.
11 Q And did you give it to Jose De La Rosa prior to the second
12 election?
13 A Yes.
14 Q And also to Isidro Garcia?
15 A Yes.
16 Q Do you know if Jose De La Rosa also goes by Jose Rosas?
17 A Yes.
18 Q Do you know somebody by the name of John Kirby?
19 A Yes.
20 Q Please tell us how you know that person.
21 A I know him because I know he's a supervisor.
22 MR. WILSON: Objection. Lack of foundation, and we object
23 to the legal basis of it being a legal conclusion.
24 JUDGE LAWS: I will not take the witness' testimony as in
25 any way establishing supervisory status under the Act, but I

1 will take it as to his perception.
2 Q BY MS. SANCHEZ: Why do you say that John Kirby is a
3 supervisor?
4 A Because January 8th, 2018 I finished doing my route. It
5 was almost 7, 7:30 at night. I was talking to Alberto -- he's
6 a warehouse employee -- and Mr. Chris or Christian came towards
7 us to ask Alberto if he had finished his break. Alberto said
8 no, and Chris said that he needed him because he wanted to
9 introduce Mr. John as a supervisor.
10 And I witness -- but they didn't call me, but I was
11 there -- when Chris and Mr. Gerber called all the assemblers at
12 the night shift, and they presented Mr. John as a supervisor.
13 Q When you referenced somebody by the name of Alberto, was
14 that Alberto Rodriguez?
15 A Yes.
16 Q And you mentioned somebody by the name of Christian. Are
17 you referring to Christian McCormick?
18 A Yes.
19 Q Do you know employees by the classifications of leads?
20 A Yes.
21 Q Have you ever given your checks or cash to an employee in
22 a lead position?
23 A No.
24 Q I'd like to switch subjects a bit.
25 MS. SANCHEZ: If I could have the witness look at Union

1 Exhibit 42, please.
2 Q BY MS. SANCHEZ: Will you look at each of the three pages
3 of this document?
4 Do these pictures look familiar to you?
5 A Yes.
6 Q Why?
7 A It's the propaganda that the company put so that we would
8 vote no to the Union.
9 Q Can you describe how big the banners were?
10 A I wouldn't know exactly, but I know they were big -- very
11 big.
12 Q Do you know how many there were in the warehouse?
13 A No, but there were a lot.
14 Q Do you know where they were located?
15 A Yes.
16 Q Where were they located?
17 A In the racks, in the wall where the decks are -- the docks
18 are, in the freezer area, and in the area towards the restroom
19 of the warehouse.
20 Q And were they still there on the day of the second
21 election?
22 A Yes.
23 Q And how did the banners make you feel?
24 A That they were taking my right to be -- be a union.
25 Q You mentioned the march on August 21st, 2017 earlier.

1 A Si (sic).
2 Q I'd like to ask you some questions about that march.
3 If you know, who else attended that march with you?
4 A The drivers were there, and all the employees of the
5 warehouse.
6 Q And how would you describe that delegation?
7 MR. WILSON: Objection. Vague.
8 Q BY MS. SANCHEZ: How would you describe that march?
9 A We were all very happy, because we were being represented
10 legally, we were making ourselves heard towards our boss -- it
11 was not Mr. Narimoto. We were happy.
12 Q Did you see anyone in that march make any threats or act
13 violently towards anybody else?
14 A No.
15 Q Were you saying anything?
16 A No, we were singing.
17 Q You were singing. Thank you.
18 Were you aware of any flyers that were put up on the wall
19 regarding the march at Wismettac?
20 A Yes.
21 Q Can you describe what you're referring to?
22 A They put a flyer where it said that they were going to
23 file a lawsuit against Local 630, because they trespassed,
24 because what we had done was something illegal.
25 Q How did flyer make you feel?

1 A I felt really low, thinking that I was also being accused,
2 or that they were going to file a lawsuit against me for having
3 participated in a march as an employee.
4 Q Can you please --
5 MS. SANCHEZ: Can I have the witness please take a look at
6 Union Exhibit 44?
7 Q BY MS. SANCHEZ: Is this the flyer you were just
8 describing?
9 A Yes, but this flyer had a Spanish translation.
10 Q So there was flyers in both English and Spanish?
11 A Yes.
12 MS. SANCHEZ: No further questions, Your Honor.
13 JUDGE LAWS: All right.
14 Do you want a little time before cross, or are you ready?
15 MR. WILSON: No, I just have a --
16 JUDGE LAWS: Okay.
17 MR. WILSON: -- couple of questions. Thanks, Your Honor.
18 **CROSS-EXAMINATION**
19 Q BY MR. WILSON: Mr. Lopez, good afternoon. My name is
20 Scott Wilson, attorney for the Employer.
21 So between the first election and the second election,
22 what time would you report to work?
23 A 6:30.
24 Q Okay, and what would you do when you reported?
25 A Go to the kitchen.

1 Q Okay, and what --
2 A And wait until 6:30.
3 Q Okay, and is that where you clock in?
4 A Where?
5 Q Well, do you clock in, in the kitchen?
6 A No.
7 Q Okay, so where do you clock in?
8 A In the bodega. By the entrance to the bathroom, there's a
9 pla- -- the machine is there to punch in.
10 Q Okay, thank you. I understand.
11 And after you clock in, where did you go?
12 A Then I would go to work.
13 Q Okay, but --
14 MR. WILSON: Can you show the witness Employer Exhibit 4?
15 Q BY MR. WILSON: Okay, so can you take a look at Employer
16 Exhibit 4?
17 Okay, and so after you clocked in, you said you went to
18 work. Can you tell us on this diagram where it was that you
19 began working?
20 A In the dock. Normally mine is dock 10.
21 Q Okay. Why did you go to the dock?
22 A To load the truck.
23 Q Okay, and was your truck normally parked at dock 10?
24 A Yes, because of the truck -- the truck I use daily.
25 Q Okay, and how -- okay, so you went to dock 10 where your

1 truck was. Okay, and what did you do when you got there?
2 A There's two things I do. First of all, I go to the
3 freezer area first to take out my merchandise, and then the
4 deli to take out the deli. And then I go to dock 10, and I
5 start separating the merchandise from the deli and the freezer.
6 Q Okay, and after you separate the merchandise, what do you
7 do with it?
8 A I load the truck.
9 Q Okay, and after you load the truck do you go on your
10 route?
11 A Yes.
12 Q Okay, and, between the first and the second election,
13 about what time of day would you normally go out on your route?
14 A In the morning I would leave between 9 and 10 a.m.,
15 depending on any additional orders.
16 Q Okay, and what time would you normally return after the
17 route?
18 A Between 7 -- or between 7:30 at night or 6:00 in the
19 afternoon.
20 Q Okay, and, once you went on your route, did you return to
21 the warehouse during the route?
22 A Only after I -- after I finish my route.
23 Q Okay.
24 MR. WILSON: No further questions.
25 JUDGE LAWS: All right. Any redirect?

1 MS. SANCHEZ: No, thank you, Your Honor.
2 JUDGE LAWS: All right.
3 Well, thank you very much for coming back. Please don't
4 discuss your testimony with any other witnesses or any
5 potential witnesses.
6 THE WITNESS: Okay.
7 JUDGE LAWS: Off the record.
8 (Off the record at 3:49 p.m.)
9 JUDGE LAWS: There is a document that's been placed in
10 front of me and the parties, labeled General Counsel 65.
11 **(General Counsel Exhibit Number 65 Marked for Identification)**
12 JUDGE LAWS: I will turn things over to counsel for the
13 General Counsel to describe what it is and the stipulation that
14 has been reached.
15 MR. RIMBACH: Counsel for the General Counsel would like
16 to offer GC Exhibit 65 into evidence. The parties have
17 stipulated that this document is a true and correct copy of
18 Laura Garza's notes that she took during her investigation that
19 led to the termination of John Kirby.
20 JUDGE LAWS: Okay, thank you. And she did testify on that
21 and testified that she took notes, so these are those notes.
22 I will, absent any objection -- and since there's been a
23 stipulation I would assume there is no objection, unless it's
24 from the Union who's not a party to the stipulation --
25 MS. SANCHEZ: No objection from us.

1 JUDGE LAWS: Okay. Then I will admit General Counsel 65.
2 **(General Counsel Exhibit Number 65 Received into Evidence)**
3 MR. RIMBACH: Thank you, Your Honor.
4 JUDGE LAWS: All right, and with that we are finished with
5 the witnesses who are scheduled to testify today.
6 It has been represented that the interpreter is no longer
7 needed, so she has been excused.
8 We will begin tomorrow with the Union witness who's
9 testifying first thing, because they are working the night
10 shift, and then we will wrap up Mr. Fujimoto's redirect and
11 recross. And then there's one more Union witness, and then
12 there may be some -- there probably is some rebuttal from the
13 Employer, but we'll figure out how and when to deal with that
14 tomorrow.
15 MR. WILSON: Your Honor, the only thing we have
16 tomorrow -- and it would simply be based on the election
17 objections we filed -- there's an election objection 1, where
18 we object to not having enough time for the second election.
19 We'd indicated we'd put on testimony to that. We will
20 not.
21 JUDGE LAWS: Okay.
22 MR. WILSON: In lieu of that, there is a document that was
23 a request for review to the Board about the decision of the
24 Region not to allow us that much time. And we'll put that in
25 evidence in lieu of any testimony.

1 JUDGE LAWS: Okay, and I would assume that won't be
2 objectionable by any party if it's something they did indeed
3 submit to the Board.
4 MR. RIMBACH: I don't believe so.
5 JUDGE LAWS: Okay. All right, that should be doable then,
6 and I wouldn't think that particular objection would be the
7 topic really of testimony. It would just be --
8 MR. WILSON: No, we did -- it's all in the document.
9 JUDGE LAWS: It's all in writing. Okay.
10 All right, sounds good. We will be ready to go on the
11 record then at 9 a.m. tomorrow.
12 MR. RIMBACH: Thank you.
13 JUDGE LAWS: Thanks. Off the record.
14 **(Whereupon, the hearing in the above-entitled matter was**
15 **recessed at 3:55 p.m. until Friday, November 2, 2018 at 9:00**
16 **a.m.)**
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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Thursday, November 1, 2018, 9:04 a.m., was
11 held according to the record, and that this is the original,
12 complete, and true and accurate transcript that has been
13 compared to the reporting or recording, accomplished at the
14 hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
18
19
20
21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759

Union,

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

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_____

Place: Los Angeles, California

Dates: November 2, 2018

Pages: 1575 through 1695

Volume: 12

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(602) 263-0885

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of: WISMETTAC ASIAN FOODS, INC., Employer, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union, and ROLANDO LOPEZ, An Individual, and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, Region 21, 888 South Figueroa Street, Room 902, Los Angeles, California 90017, on **Friday, November 2, 2018, 9:03 a.m.**

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5 Atsushi Fujimoto			1600		
6 Carlos Quinonez	1607				

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1 **EXHIBITS**

2

3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 **Employer:**		
5 E-84	1605	1605
6 E-85	1605	1605
7 **Union:**		
8 U-47	1593	1596
9 U-48	1579	1579
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1 **PROCEEDINGS**

2 JUDGE LAWS: All right. Let's go on the record. We're
3 waiting for the first witness to arrive here. She is
4 apparently close, but while we're waiting, we're going to enter
5 some exhibits that have been stipulated to the parties. So
6 I'll turn things over to the parties.
7 MS. SANCHEZ: Thank you, Your Honor. The Petitioner and
8 the Respondent have stipulated to Union Exhibits 48 and 49. I
9 will submit that they are the personnel employment files for
10 employee Gustavo Linares is 48 and the same for Alberto
11 Rodriguez is 49.
12 JUDGE LAWS: Okay. Thank you.
13 MS. SANCHEZ: I just handed you 48 and I'm now handing you
14 49.
15 JUDGE LAWS: Thank you.
16 MS. SANCHEZ: Thank you, Your Honor.
17 JUDGE LAWS: All right. And as these have been stipulated
18 to with the understanding that there are certain parts of these
19 that may not be material to the case, I will admit Union
20 Exhibits 48 and 49.
21 **(Union Exhibits Number 48 and 49 Received into Evidence)**
22 MS. SANCHEZ: Thank you, Your Honor.
23 JUDGE LAWS: All right. Let's go off the record.
24 (Off the record at 9:05 a.m.)
25 Whereupon,

1 **LOU VILLALVAZO**

2 having been duly sworn, was called as a witness herein and was
3 examined and testified as follows:
4 JUDGE LAWS: Okay. Please have a seat. And can you state
5 your name for the record?
6 THE WITNESS: My name is Lou Villalvazo.
7 JUDGE LAWS: Can you spell that please?
8 THE WITNESS: L-O-U, V-I-L-L-A-L-V-A-Z-O.
9 JUDGE LAWS: Thank you.
10 THE WITNESS: Uh-huh.
11 JUDGE LAWS: A couple of instructions before the attorneys
12 start asking you questions. Just, if you don't know the
13 answer, you're not sure, just say I don't know. Only guess if
14 you're asked to take your best guess.
15 And second, if you don't understand a question just say, I
16 don't understand what you're asking me and it will be rephrased
17 for you.
18 And then finally, to your left is our court reporter. He
19 has to take down everything you say while we're on the record.
20 So just try to make sure you don't start answering your
21 question until it's finished being asked because he can't
22 record two voices at once.
23 THE WITNESS: Understood.
24 JUDGE LAWS: Thanks.
25 MS. SANCHEZ: Thank you, Your Honor.

1 **DIRECT EXAMINATION**

2 Q BY MS. SANCHEZ: Good morning Mr. Villalvazo.

3 A Good morning.

4 Q Can you tell us where you are employed?

5 A I'm employed with Teamsters Local Union 630.

6 Q And what is your position with Local 630?

7 A My position with the Local, I am the principal officer,

8 secretary-treasurer.

9 Q And how long have you been the principal officer,

10 secretary-treasurer there?

11 A I've been the principal officer since 2016.

12 Q What are your general functions as a secretary-treasurer?

13 A As the secretary-treasurer I have a staff of about 20 to

14 22 representatives office personnel. And also the chairman of

15 the executive board. And I basically oversee the finances

16 along with being the chief negotiator for the Local Union,

17 along with providing some training and representation of the

18 members.

19 Q So do you have direct contact with the membership then?

20 A Actually I do. And I apologize if I'm a little slow.

21 I've been up since 2:00 in the morning visiting members at some

22 of my facilities.

23 Q Is that part of your normal function as a

24 secretary-treasurer?

25 A Yes, it is. We have 7,000 members and a lot of the

1 facilities operate 24 hours, seven days a week. So we've got
2 people working on all sorts of shifts. So it's visiting them
3 at wee hours in the morning or late hours at night, all over
4 the place.
5 Q Thank you. You also said representatives. Do you mean
6 business representatives?
7 A Yes. I have a total of nine representatives including
8 myself. So I also represent several companies myself.
9 Q And you mentioned the -- I think you said E-board. Is
10 that the executive board?
11 A That's the executive board for the Local itself.
12 Q And what is your function with the executive board?
13 A I chair the meetings for the executive board and we report
14 everything from our finances to the commissions of the Local to
15 our general membership once a month.
16 Q And what kind of training do you provide to the
17 membership? You just mentioned you provided trainings.
18 A We provide all sorts of different training. Everything
19 from safety training to educational training in regards to not
20 just for them understanding their contracts, company policies,
21 all sorts of different stuff. But most of the time it's
22 educating them on their contract and I would say political
23 training as far as for the members regarding candidates or
24 things like that.
25 Q Okay. And do you also oversee shop stewards?

1 A Yes, we do. We have about roughly between 80 and 120 shop
2 stewards. And we provide them training as well. Everything
3 from, like I said, we have topics on conflict resolution,
4 safety at work, you know, understanding their contract.
5 Various different reasons, different topics regarding their
6 jobs.
7 Q Are shop stewards employees of Local 630?
8 A No, they're not.
9 Q Are they volunteers?
10 A Shop stewards are volunteers.
11 Q Do you hold any other positions in the larger Teamsters
12 organization?
13 A Actually, I do. I'm also the secretary-treasurer for the
14 Southern California Teamsters Hispanic Caucus, which is a
15 combination of several other secretary-treasurers. And we
16 provide several scholarships for our membership.
17 So we have several events that we put together to raise
18 money for them. I'm also a trustee on two different
19 Taft-Hartley funds. So I sit on two executive boards where we
20 actually -- it's a joint union and management group of
21 trustees. And together -- well, one of them that I oversee has
22 over 12,000 members with different local unions. And we
23 negotiate medical rates and benefits for all the members.
24 Obviously, on the opposite side you have the equal amount
25 of labor trustees representing -- I mean, management and

1 combined is how we do these negotiations. And there's another
2 trust fund that I sit. It's a little smaller, but I would say
3 combined roughly about 14 to 16,000 members in Southern
4 California.
5 Q Is the smaller trust fund similar in the setup, meaning
6 there's both employers and union at the table?
7 A That's correct.
8 Q And --
9 A Both trust funds have equal amount of company
10 representatives and labor representatives.
11 Q So you work cooperatively with the Employer
12 representatives on those trusts?
13 A Absolutely. That's how we're able to get the great
14 benefits for these members. Also I am part of an executive
15 board within the Los Angeles County Federation of Labor. And
16 that is a much bigger organization that represents over 300
17 locals in Southern California. Everything from public sector
18 and private sector and is -- overlooks over a combined 800,000
19 members in Southern California.
20 Q The Los Angeles County Labor Fed represents other
21 non-Teamster Locals as well as Teamster Locals; isn't that
22 true?
23 A That's correct. Teachers, policemen, firemen, private
24 sector, all over the place. I'm also part of the executive
25 board within our joint council 42 and a delegate to the

1 International Brotherhood of Teamsters. And within our joint
2 council there is roughly 23 Locals that cover Southern
3 California.
4 Q And as somebody who participates on that board and as a
5 delegate to the International Brotherhood of Teamsters, what
6 are your duties?
7 A Well, obviously we represent about 160,000 members, active
8 members and about another 20,000 retirees in Southern
9 California. And we meet quarterly and obviously go over
10 various things on how to make sure that we protect our members
11 and their working families.
12 Q Prior to becoming an employee -- strike that.
13 Prior to your position as secretary-treasurer, did you
14 hold any other positions at Local 630?
15 A Yes. I was a shop steward prior to becoming a business
16 agent. So I was actually a member myself back in the days.
17 Q Where were you a member?
18 A Well, I started with the Teamsters back in 1994 and
19 started with UPS. And then later went on to work for the
20 dairies in -- in Southern California.
21 Q Your last position prior to becoming a business agent at
22 Local 630 was where?
23 A I worked at a company called WhiteWave Foods. What was
24 Morning Star, then WhiteWave Foods in City of Industry. And
25 it's a nice size dairy.

1 Q What did you do at Morning Star WhiteWave Foods?
2 A I was a maintenance engineer for the company so.
3 Q In your role as secretary-treasurer for Local 630 are you
4 familiar with Wismettac Asian Foods, Inc.?
5 A Yes, I am.
6 Q How are you familiar with that company?
7 A A couple years back the employees for Wismettac came to
8 Local 630 asking to be represented by us. And then from there
9 got to know several of the workers and basically started an
10 organizing drive.
11 Q As the secretary-treasurer were you involved in that
12 organizing drive?
13 A Yes. I have organizers along with my representatives that
14 I oversee, but yes.
15 Q What has been your specific involvement with the Wismettac
16 campaign?
17 A Specifically we've had several meetings with the employees
18 where they come in and let us know what their issues are and
19 what we can do for them and how to -- how we can try to help
20 them out. So we've conducted several meetings with them.
21 Obviously my organizers had a lot more meetings than myself
22 but.
23 Q But you've had direct meetings with employees at
24 Wismettac?
25 A That's correct.

1 Q Regarding the campaign?
2 A That's correct.
3 Q You mentioned your organizers. Who are you speaking of
4 when you say "your organizers"?
5 A I have two organizers, Carlos Quinonez who's sitting to
6 the left and Oscar Ruiz.
7 Q And did both of those organizers also work on the
8 Wismettac campaign?
9 A That's correct.
10 Q And was that at your direction?
11 A That's correct.
12 Q Did the Union ever seek voluntary recognition from
13 Wismettac?
14 A Yes, we did.
15 Q And are you familiar with a delegation that happened at
16 the facility, meaning Wismettac on August 21st, 2017?
17 A That's correct.
18 Q How are you familiar with that delegation?
19 A Well, like I was stating earlier the employees had come to
20 us requesting some help and assistance. And after several
21 meetings, you know, the employees wanted us to talk to the
22 company to see if we could get recognition. The easiest thing
23 is to go in there and obviously talk to the management team.
24 So what ended up happening was on or about August of 2017
25 a delegation of workers and myself and my organizers went in

1 with these workers to introduce myself to the company
2 representative and ask for recognition. Obviously, with the
3 intentions of being able to come to the table and negotiate a
4 contract for them that with them having representatives amongst
5 themselves there at the table to really work out some of the
6 issues that they had.
7 I've done this in the past and it's usually a lot smoother
8 where the employees, us as their representatives and the
9 company sit down together and try to work things out and you
10 know, get recognition and then move to a step of negotiating a
11 contract for these employees.
12 Q A lot smoother than what?
13 A Well, sometimes what happens is employers, rather than
14 building a relationship they tend to bring in labor
15 consultants. And what ends up happening is obviously that
16 costs the Employers a lot of money. Money that could be used
17 to obviously negotiate a contract. But not only that, usually
18 what ends up happening is these consultants come from outside,
19 they don't know these employees, they don't know their issues.
20 And they really come in and disrupt the whole purpose of what
21 we're trying to do.
22 As I stated earlier, I sit on several boards of trustees
23 that negotiate benefits for thousands of workers and families.
24 That is a joint venture between myself on the labor side and
25 corporate people representing the Employers. We both come to

1 the table with a common good of trying to get the best for both
2 sides and we're pretty successful at it. So usually I've --
3 even all the companies that I represent in Southern California,
4 obviously we don't agree all the time but we're able to find a
5 common good and build relationships because that's how we're
6 able to be around for so long.
7 At the end of the day they're employees and our members
8 provide a service. And both people have to have a relationship
9 in order for this to work.
10 Q So what was your purpose at the delegation then?
11 A My purpose was to number one, introduce myself, get to
12 know who the representative is for the company. And to let
13 them know that we had several meetings with their employees and
14 we would ask for recognition. That was basically it.
15 Q Were there any delegations or marches after that?
16 A No.
17 Q And that was on August 21st, 2017?
18 A Yes.
19 Q And did you, yourself, ever return to the Wismettac
20 facility after that?
21 A No.
22 Q Who participated in the delegation?
23 A Myself, my organizers and employees from Wismettac.
24 Q How do you know that they were Wismettac employees?
25 A Because I've had several meetings with them before.

1 Q During that delegation did you threaten any Wismettac
2 employees?
3 A No.
4 Q Did you assault any Wismettac employees?
5 A No.
6 Q Did you see anybody threaten Wismettac employees?
7 A No.
8 Q Did you see anybody else assault Wismettac employees?
9 A No.
10 Q Did you see any threats or assaults to anybody?
11 A No.
12 Q Did anyone from Wismettac come and speak with you during
13 that delegation?
14 A Yes. It was -- I forget his name, but I want to say
15 Mr. Narimoto. I don't know if I'm saying that right. And he's
16 the person that I spoke with.
17 Q And what was that discussion about?
18 A The discussion was basically introducing myself, who I
19 was. I introduced myself by name. My name's Lou Villalvazo.
20 I'm the principal officer and secretary-treasurer with
21 Teamsters Local 630. I'm here with a couple of your employees
22 and I showed them a stack of cards. We're asking for
23 recognition for us to be able to represent your employees. And
24 basically from there he says well, he got quiet, you know, and
25 some other gentleman came in. I don't know who his name is.

1 And then he asked me the same question. So I said it again,
2 what we were doing.
3 And then from there after that I just told them look, I
4 would appreciate it if we would get recognition rather than you
5 spend money on a labor consultant or a union buster and come to
6 the table and negotiate a contract on behalf of your employees.
7 Q And what were their responses?
8 A Between him and another individual, they spoke and then
9 they said okay. Well, we're going to have to talk to our legal
10 counsel. And I said I understand. So I gave them a letter of
11 what I had, which was asking -- the letter I had, I don't
12 recall the name of all of it, but it was basically requesting
13 recognition. And I said well, here's the letter and you know,
14 you're still welcome to sign it if you're interested, but I'm
15 going to inform you that I'm going to leave now. I'm going to
16 go straight to the NLRB and we're going to file for a petition
17 for an election.
18 Q And were they interested?
19 A No. They said that they had to talk to legal and that was
20 it so.
21 Q Would you say that that meeting was confrontation in any
22 way?
23 A No.
24 Q Do you recall if there were security guards on site at the
25 time?

1 A No.
2 Q Okay.
3 JUDGE LAWS: No, you don't recall or --
4 THE WITNESS: No.
5 MS. SANCHEZ: Thank you, Your Honor.
6 THE WITNESS: There was no -- thank you. No. There was
7 no security guards.
8 Q BY MS. SANCHEZ: Did the Union end up filing a petition
9 for representation?
10 A Yes, we did.
11 MS. SANCHEZ: Could I have the witness look at GC Exhibit
12 1(a)?
13 Q BY MS. SANCHEZ: Do you have that document in front of
14 you?
15 A Yes.
16 Q Does that document look familiar to you?
17 A Yes.
18 Q What is it?
19 A It's the --
20 Q Is that the petition that --
21 A It's a copy of the petition that was filed on August 21st,
22 2017.
23 Q Since August 21st, 2017 have you or the Union performed
24 additional delegations or actions at the Wismettac facility?
25 A No.

1 Q You can put that document down. Have you threatened to
2 perform additional demonstrations at the facility?
3 A No.
4 MS. SANCHEZ: I'd like to introduce what we've marked as
5 Union Exhibit 47.
6 **(Union Exhibit Number 47 Marked for Identification)**
7 Q BY MS. SANCHEZ: Can you go ahead and scan this document?
8 A Yes.
9 Q Okay. Does this document look familiar to you?
10 A Yes.
11 Q Can you look at page 11? Is that your name towards the
12 bottom right of this page? Page 11. Do you see where it says
13 Lou Villalvazo Teamsters Local 630?
14 A No. This one's from Scott Wilson.
15 Q Is it a certificate of service?
16 A Yes.
17 Q Okay. Was this document served on you?
18 A Yes.
19 Q And it was also emailed to you, correct?
20 A That's correct.
21 Q Okay. What did you do with this document after you
22 received it?
23 A Contacted our attorneys.
24 Q Okay. Did you also provide it to the organizers?
25 A Yes, I did.

1 Q Which organizers?
2 A Oscar and Carlos.
3 Q Okay.
4 MS. SANCHEZ: The Union would like to move Union Exhibit
5 47 into the record, Your Honor.
6 JUDGE LAWS: Okay. Any objection?
7 MR. WILSON: Yes, Your Honor. I'd like an explanation as
8 to what pages they deem to be relevant.
9 MS. SANCHEZ: We deem all pages to be relevant, Your
10 Honor. This is the Employer's original statement of position
11 and the original list and there'll be further testimony about
12 it with our next witness.
13 JUDGE LAWS: You take your time and look through. Let me
14 know if there's any dispute as to what it reports to be.
15 MR. WILSON: Your Honor, I don't believe this is relevant.
16 There was a stipulation entered into between the parties
17 setting out the job classifications that's binding. So what we
18 said before that or I really don't see that there's any weight
19 or any relevance.
20 MS. SANCHEZ: Your Honor, it's directly relevant and goes
21 directly to Union objection number one.
22 MR. WILSON: And can you tell me what that is? I don't --
23 JUDGE LAWS: The voter list contained 16 wrong addresses
24 is the objection.
25 MS. SANCHEZ: It --

1 MR. WILSON: This isn't the voter list.
2 MS. SANCHEZ: -- contained 16 wrong addresses and there
3 was -- there were changes et cetera. And this was the original
4 list. It's not the voter list. It's the original list that
5 was provided that says existing unit employees covered by the
6 petition. This is a document that was sent to the Board, and
7 to counsel and the Petitioner. This is a document that's kept
8 in the regular course of business and it goes directly to this
9 case and is absolutely relevant.
10 MR. WILSON: Your Honor, it's not kept in the regular
11 course of business because we're not in the regular business of
12 replying to petitions. The stipulation between the parties
13 supersedes whatever we said in this number one. Secondly, this
14 isn't a voter list. This was an initial response where -- and
15 beginning, you know, we calculated what we thought the unit was
16 at the outset. If there were mis -- you know, addresses were
17 incorrect they should be referred to in the voter list. This
18 wasn't given to the parties as a voter list and it's superseded
19 by the stipulation.
20 MS. SANCHEZ: Your Honor, this document contains --
21 JUDGE LAWS: I don't need to hear anymore about it. You
22 know, position statements are frequently offered. Parties
23 change positions, I understand that. I can sort that out. I
24 don't think it's highly relevant, but I will admit it, but with
25 the understanding that clearly, this wasn't your final

1 position.

2 **(Union Exhibit Number 47 Received into Evidence)**

3 JUDGE LAWS: And --

4 MS. SANCHEZ: Thank you, Your Honor.

5 JUDGE LAWS: And you know, parties' positions change for

6 all sorts of reasons through the course of litigation.

7 MS. SANCHEZ: Thank you, Your Honor. I'd like to --

8 JUDGE LAWS: So with that explanation I'll admit Union 47.

9 Q BY MS. SANCHEZ: I'd like to switch gears a little bit and

10 ask you, after the delegation on August 21st, 2017, were you

11 aware of any flyers or documents that were created by the

12 company regarding yourself?

13 A Actually after the delegation, there were several flyers

14 that were being circulated throughout the company to the

15 employees. And what appeared to look like they grabbed my

16 picture from our website and basically stating personal

17 information about me, about DUIs or financial things about me.

18 And I think what the purpose of it was to basically discourage

19 the employees' support for us representing them.

20 Q Did you do anything about those flyers when you found out

21 about them?

22 A I was pretty upset, but I mean, at the end of the day

23 that's usually what labor consultants do when they come in and

24 try to discourage employees.

25 Q Was there ever -- have you ever been served with a lawsuit

1 by Wismettac?
2 MR. WILSON: Objection, irrelevant.
3 JUDGE LAWS: Overruled.
4 MS. SANCHEZ: It's absolutely relevant.
5 JUDGE LAWS: You can answer.
6 THE WITNESS: Yes, I was. I was served with a lawsuit,
7 myself and the Local.
8 Q BY MS. SANCHEZ: And what does the lawsuit claim; if you
9 know?
10 A It's claiming that, you know -- well, it's claiming that I
11 guess --
12 MR. WILSON: Objection, Your Honor. The lawsuit speaks
13 for itself. If they want to put it in evidence, they should
14 put it in evidence as opposed to this person testifying about a
15 document that's a public record.
16 JUDGE LAWS: I'll allow his testimony about how he
17 received the lawsuit. Go ahead.
18 THE WITNESS: Yeah. The lawsuit is stating that we're
19 some kind of thugs and we went in there trying to bully people
20 and threaten people.
21 MR. WILSON: Objection, Your Honor. The lawsuit doesn't
22 state anything like that. And once again, if he's going to
23 testify about the lawsuit, they have the complaint, they can
24 put it in evidence.
25 JUDGE LAWS: And again, presumably they will, but I will

1 allow -- again, this will go to this witness' perception of
2 what the lawsuit said, what it actually says --
3 Q BY MS. SANCHEZ: Do you recall --
4 JUDGE LAWS: -- to be apparent from the document itself.
5 MS. SANCHEZ: Excuse me, Your Honor.
6 Q BY MS. SANCHEZ: Mr. Villalvazo, do you recall how long
7 after the August 21st allegation that you were served with the
8 lawsuit?
9 A I can't recall, but it was a couple months after that.
10 But I definitely believe it was way before the second election.
11 Q So it was a couple months after August but before February
12 6th?
13 A Correct.
14 Q How has this lawsuit affected the Union organizing drive?
15 A It affected the drive drastically because a lot of the
16 employees were scared. We had meetings because you know, there
17 was conversation amongst them somehow that they were going to
18 get sued as well. So it really scared these employees. For
19 them to see that I'm the representative of that Local and the
20 company has filed a lawsuit against me personally and the
21 Local. And employees -- conversation was going around that
22 there was lawsuits pending for them. So they were scared.
23 Q So you were forced to have meetings about this?
24 A Yes.
25 MS. SANCHEZ: No further questions, Your Honor.

1 JUDGE LAWS: Okay. Are you ready with cross or do you
2 want some time?
3 MR. WILSON: Thank you.
4 **CROSS-EXAMINATION**
5 Q BY MR. WILSON: And I don't want to mess up your last name
6 so.
7 A Villalvazo.
8 Q Villalvazo, okay. Thank you. Thank you, Mr. Villalvazo.
9 So back to the lawsuit. Are you aware that -- or excuse
10 me, back up. Did your Local file an unfair labor practice
11 charge with the National Labor Relations Board after you were
12 served with the lawsuit alleging that that lawsuit violated the
13 National Labor Relations Act?
14 MS. SANCHEZ: Objection, goes beyond direct examination.
15 JUDGE LAWS: Overruled. Go ahead and answer.
16 THE WITNESS: There were several ULPs that were filed. I
17 don't know exactly which one, but --
18 MR. WILSON: Your Honor, we'll simply, as part of when we
19 respond, put in evidence the status of that charge. I have no
20 further questions.
21 JUDGE LAWS: All right. Any redirect?
22 MS. SANCHEZ: No, thank you.
23 JUDGE LAWS: All right.
24 Well, thank you for providing your testimony. Please
25 don't discuss what you testified about with any witnesses to

1 this proceeding or any potential witnesses. Thanks.
2 Off the record.
3 (Off the record at 9:41 a.m.)
4 JUDGE LAWS: Let's go back on the record. We have
5 Mr. Fujimoto back on the stand, for what we've learned as a
6 fourth time. I'm just going to remind you that the oath I've
7 administered to you a few times now applies throughout this
8 trial.
9 THE WITNESS: Yes, Your Honor.
10 Whereupon,
11 **ATSHUSHI FUJIMOTO**
12 having been previously sworn, was called as a witness herein
13 and was examined and testified as follows:
14 JUDGE LAWS: Thank you.
15 MR. WILSON: Can the witness be shown Employer Exhibit 4?
16 **REDIRECT EXAMINATION**
17 Q BY MR. WILSON: Mr. Fujimoto, can you take a look at
18 Employer Exhibit 4? And I think you've testified about that
19 before.
20 A Yes.
21 Q There's been considerable testimony about access from the
22 first floor office into the warehouse. How many entrances out
23 of the first floor office are there into the warehouse?
24 A Two.
25 MS. SANCHEZ: Your Honor, I'm going to object. I believe

1 that Mr. Fujimoto is here on redirect.
2 JUDGE LAWS: He is.
3 MS. SANCHEZ: And I believe that my questioning of him was
4 regarding employee personnel files.
5 MR. WILSON: And there was also --
6 MS. SANCHEZ: So I think this goes beyond the scope.
7 MR. WILSON: There was also discussion I'm virtually
8 certain about employees interacting from the first floor to the
9 warehouse. This is very brief and undisputed testimony. Also
10 yesterday there was a substantial amount of testimony about
11 people going in and out of the warehouse.
12 MS. SANCHEZ: Which would be rebuttal testimony then.
13 MR. WILSON: Okay. Then I'll call him back to ask him
14 what's basically two questions today.
15 JUDGE LAWS: We can cover both cross -- redirect, excuse
16 me, and rebuttal for the sake of what is now the last day of
17 trial, efficiency.
18 Q BY MR. WILSON: So can you point out on Employer Exhibit 4
19 where the two different exits from the first floor office are
20 into the warehouse?
21 A So one exit is where the red -- well, I'm looking at the
22 bottom left of this where is says first floor main office.
23 Where the red arrow is, that's one exit that goes into the
24 warehouse, which I talked about the hallway. And then the
25 other one is the, I guess looking at the box, the bottom right

1 you'll see a kind of opening. That door actually leads
2 directly into the warehouse.
3 Q Okay. Is -- so the second one that you just testified
4 about, does that go directly into the warehouse or is there a
5 hallway?
6 A No. There's no hallway. It's just directly into the
7 warehouse.
8 Q Okay.
9 A You open the door and you'll see the shelves in the
10 warehouse.
11 Q Okay. And what is the most direct route from the first
12 floor office into the warehouse?
13 A That door that leads into the warehouse that I spoke
14 about, the second I guess door.
15 Q Okay. That goes directly into the warehouse?
16 A Yes.
17 Q Okay. All right. Now that's all on that. And can the
18 Employer -- or excuse me, can the witness be shown Employer --
19 or Union Exhibit Number 6? And can you please turn to page 13
20 of Exhibit Number 6?
21 Now do you recall your testimony on cross-examination on
22 Wednesday?
23 A Yes.
24 Q Okay. And let me direct your attention to the top of page
25 13 where it says "EEOC job."

1 A Uh-huh, yes.
2 Q Okay. Do you recall being asked about that term as it
3 relates not only to Union Exhibit 6, but as to a number of
4 personnel files that you were shown?
5 A Yes.
6 Q Okay. And can you tell me what is the most accurate
7 document to describe the jobs being performed on the day of the
8 election? The job descriptions you test (sic) about previously
9 or the document --
10 MS. SANCHEZ: Objection, leading.
11 Q BY MR. WILSON: -- referencing an EEOC code.
12 JUDGE LAWS: Overruled.
13 MR. WILSON: That's not leading.
14 THE WITNESS: The job description.
15 Q BY MR. WILSON: That you had testified about previously?
16 A Yes.
17 Q Okay.
18 A For each position.
19 Q And would that be your testimony if we went through each
20 of the files you were shown and showed you the EEOC codes?
21 A Yes.
22 Q Okay. And when an employee is hired at the company, do
23 they always fill the job that they applied for?
24 A No.
25 Q Okay. So could there be a variance between their job

1 application and the job they're actually performing?
2 A Yes.
3 Q Okay. And is the most accurate determine -- is the most
4 accurate document to determine --
5 JUDGE LAWS: What's the most accurate document?
6 THE WITNESS: Would be the job duty -- the duties that
7 I've explained.
8 MR. WILSON: Okay, all right. I have no further questions
9 for this witness.
10 JUDGE LAWS: Okay. Any cross?
11 MS. SANCHEZ: No questions, Your Honor.
12 JUDGE LAWS: All right. Well, thanks for coming back
13 again. This will probably be your last time. It was brief, so
14 that's good.
15 THE WITNESS: Okay.
16 MR. WILSON: Okay. Let me walk him out.
17 JUDGE LAWS: And I've told you before, I'll reiterate it.
18 Just don't discuss your testimony with any witnesses or any
19 potential witnesses.
20 THE WITNESS: Yes, Your Honor.
21 JUDGE LAWS: Okay, thanks.
22 THE WITNESS: Thank you.
23 JUDGE LAWS: Off the record.
24 (Off the record at 10:02 a.m.)
25 JUDGE LAWS: All right. Let's go back on the record.

1 The Employer has submitted two exhibits, Employer Exhibits
2 84 and 85 to the record.
3 **(Employer Exhibits Number 84 and 85 Marked for Identification)**
4 JUDGE LAWS: And I will admit those documents.
5 **(Employer Exhibits Number 84 and 85 Received into Evidence)**
6 JUDGE LAWS: The Union had an objection to 84 because it
7 contains argument which again, it will be likely duplicated in
8 the brief because the argument pertains directly to Employer
9 objections, number one and I will consider it as such. And the
10 parties agree that -- to a stipulation that Employer Exhibit 84
11 was what the Employer submitted --
12 MR. WILSON: Right.
13 JUDGE LAWS: -- to the Board. So those are admitted.
14 MR. WILSON: Your Honor, and then just as we're concluding
15 our case in chief, we would be withdrawing election objections
16 3 and 4.
17 JUDGE LAWS: Thank you. So 3 and 4 are hereby withdrawn.
18 MR. WILSON: Correct.
19 JUDGE LAWS: Are we ready with the next witness?
20 And you know, actually before we get the next witness,
21 just so it's clear before we close the record that the
22 objections I have the Union having withdrawn were 6, 12 and 13.
23 MS. SANCHEZ: I will double check --
24 JUDGE LAWS: Okay.
25 MS. SANCHEZ: -- that and confirm.

1 JUDGE LAWS: Okay. Please do. We can do that later.
2 MS. SANCHEZ: Are we on the record, Your Honor?
3 JUDGE LAWS: We are. All right. Are we ready with the
4 next witness?
5 MS. SANCHEZ: Yes.
6 JUDGE LAWS: All right.
7 MS. SANCHEZ: Your Honor, we didn't actually take that
8 break so.
9 JUDGE LAWS: Oh, if you'll go ahead. Why don't we take a
10 comfort break and we can come back with the next witness when
11 you're ready?
12 MS. SANCHEZ: Okay. Thank you, Your Honor.
13 (Off the record at 10:18 a.m.)
14 JUDGE LAWS: Let's go on the record. And since it has
15 been a while, I'm going to re-swear you.
16 MR. QUINONEZ: No problem.
17 JUDGE LAWS: Please raise your right hand.
18 Whereupon,
19 **CARLOS QUINONEZ**
20 having been duly sworn, was called as a witness herein and was
21 examined and testified as follows:
22 JUDGE LAWS: Please have a seat.
23 MR. WILSON: Your Honor, I'm sorry. Just a housekeeping
24 matter. Ms. Heath is on her way, so when she knocks I will let
25 her in.

1 JUDGE LAWS: Okay. So a knock on the door will be
2 Ms. Heath. We can just briefly suspend testimony, you can let
3 her in and we'll do it with minimal disruption.
4 Just a reminder of the instructions I gave before, in
5 particular just to not start with your answer before the
6 question's done so that our court reporter doesn't have a tough
7 job of trying to decipher two voices at once.
8 MS. SANCHEZ: Thank you, Your Honor.
9 **DIRECT EXAMINATION**
10 Q BY MS. SANCHEZ: Good morning, Carlos.
11 A Good morning.
12 Q You previously testified in this hearing about your
13 background and training. I'm not going to do that again. I
14 don't need to; it's on the record.
15 And you also testified that you were an organizer for
16 Local 630; is that right?
17 A Yes, ma'am.
18 Q Can you explain what an organizer's job is, or what your
19 job is as an organizer for Local 630?
20 A As an organizer I get to talk to employees. Sometimes I
21 meet them, you know, out in the street or start talking to
22 them, or sometimes they come to us, you know, asking for help.
23 And what I do is I teach them their rights as laborers. Talk
24 about what their issues are. Talk about what they would want
25 to fix at their job or, you know, or why they're actually

1 searching for help. You know, so with that I ask them, you
2 know, each place is different. So you know, they come
3 searching for a voice because they feel like they don't have a
4 voice at work. They're being disrespected in some way and we
5 help them with that.
6 Q And what was your first contact with Wismettac employees?
7 A Wismettac employees actually contacted the Local. And
8 they contact the Local in February of 2017. I was actually a
9 volunteer then. And we started talking to them because they
10 felt the need to speak up about issues that were going on at
11 work and they wanted our help.
12 Q And so you began working on the Wismettac campaign in
13 February of 2017?
14 A We actually talked to them in February, gave them some
15 tasks to see if they really, you know, wanted this. You know,
16 so we started that campaign in April after, you know, they
17 completed the tasks that we told them and it seemed like
18 they're really ready to actually you know, work, you know.
19 Q And were you involved in the campaign from February 2017
20 through the entirety of the campaign or were you off and on?
21 A No. I was actually hired on the Local as an organizer --
22 as a permanent organizer in April, early April. And this was
23 my job, like Wismettac was mine.
24 Q When you say Wismettac was yours what do you mean by that?
25 A Well, actually myself and Oscar Ruiz are organizers there.

1 And we have different campaigns going on. We help each other,
2 but my main focus was Wismettac.
3 Q Are organizers assigned specific campaigns?
4 A Yes.
5 Q And you were assigned to Wismettac?
6 A Yes, ma'am.
7 Q Did Local 630 eventually file for representation -- file a
8 representation petition with the NLRB?
9 A Yes. We filed on August 21st, 2017.
10 Q Do you remember participating in a march on that same date
11 at Wismettac?
12 A Yes. We actually did the march in the morning and after
13 that we filed.
14 Q And what was your role in that march?
15 A Actually, I talked to all the employees that were willing
16 to participate and they wanted to participate. We told them
17 the times we were going to arrive. The night crew that wanted
18 to participate, they met us early in the morning a block away
19 at Starbucks. And then we proceeded to go to Wismettac.
20 Q And what was the purpose of that march?
21 A The purpose was just to give the employees a voice, to
22 raise their concerns and also to let the boss know that they
23 wanted to be represented by Local 630.
24 Q Let the Wismettac boss know?
25 A Yes. Which is Yoshie at the time.

1 Q Do you know what Yoshie's last name is?
2 A Narimoto.
3 Q After the Union filed for the election did you receive the
4 Employer's position statement with the attached list of
5 employees?
6 A Yes, we did. That actually came to the Local addressed to
7 Lou Villalvazo, our secretary-treasurer. And he handed it off
8 to myself and Oscar and told us this is it, the beginning.
9 Q The beginning of what?
10 A Actually what we do is we look at the list and we see the
11 employees. We see -- we actually, you know, highlight the
12 employees that we have already talked to and our point of
13 contact.
14 And then from there we actually, you know, see who they
15 know and assign them to actually just talk to them and see if
16 they're willing to speak to myself or to Oscar to start the
17 campaign.
18 MS. SANCHEZ: May I have this witness look at Union
19 Exhibit 47 please?
20 Q BY MS. SANCHEZ: Take your time and take a look at that
21 document --
22 A Okay.
23 Q -- and when you're done let me know if it looks familiar
24 to you.
25 A Yes.

1 Q What is this document?
2 A This is the first document that arrived that Lou handed
3 off to us.
4 Q This is the document you just testified to?
5 A Yes. Yes. This was the first employee list we received.
6 Q And when you received this list did you look at the names
7 that were contained therein?
8 A Yes.
9 Q And what did you notice, if anything?
10 A Well, I mean, I looked at the list itself and the first
11 thing we go by is numbers, you know. So when we initially
12 started the campaign per the employees, we had the knowledge
13 that there was only 82 full-time employees at that time in the
14 warehouse and drivers. So when we went to ask for recognition,
15 we were asking for recognition for 82 employees.
16 Q And is that -- was that what you found when you looked at
17 this list?
18 A No.
19 Q Did you notice -- excuse me. Did you recognize any of the
20 names that were on this list?
21 A Yes, of course.
22 Q What do you mean of course?
23 A Well, I had already been talking to people since February.
24 So since February to when we got the list it had already been
25 months that I had already talked to people, assessed people and

1 get to know the people themselves. So I mean --
2 Q So when you say that you talked to people and you assessed
3 people, is that part of your job as an organizer?
4 A Yeah. Well, part of my job as an organizer is to get to
5 know the employee himself, what are his issues for his
6 individual person. So then what we do is we actually do the
7 collective all together, check to see what their issues are.
8 So if it's individual it, you know, his personal with wages out
9 of 50 or 60 people we look how many people have wages as their
10 problem, you know, as they see their problem. A lot of them,
11 you know, have families and you know, they want better medical.
12 And so then we look through the assessments and see what
13 the individual you know, sees as what they would like to see
14 you know, in their actual work you know, to be better.
15 Q Do you also assess for example, who you may think supports
16 the campaign and who may not support the campaign?
17 A Yes. The classifications that we use is a number
18 classification. And the numbers tell us if they're against the
19 Union, or against, you know, the campaign. When we go to
20 somebody's home and, you know, they slam the door on you
21 obviously you're not going to, you know, do anything about it.
22 You just kind of highlight it and noted and say, you know, this
23 guy doesn't want to talk or you know, or actually say you know,
24 oh this guy has you know, he's supportive. You know, and then
25 what we do is we give him a task to say okay. So who is your

1 friend at the company and who do you think that would be
2 willing to talk to us. And then they bring somebody else and
3 then that's how we give them a number category.
4 Q And you previously testified that you have significant
5 organizing experience including volunteering with the IBT et
6 cetera, that was your previous testimony. In your experience,
7 do labor consultants do the same kind of assessing?
8 A Yes. They actually do the opposite than what we do. I
9 mean --
10 Q What do you mean the opposite?
11 A Well, they look for the people that don't want the Union.
12 And you know, and they ask them to go and look for the other
13 people that don't want the Union so it's the opposite. What I
14 do is I go for people that you know, want to be a part of it
15 and then who are their friends that wants to be a part of it
16 and leave the anti-union guys you know, alone until the end.
17 Q And -- but you're saying that the labor consultants go
18 with the anti-union guys --
19 A Yes.
20 Q -- and try to develop them?
21 A Yes. It's reverse organizing.
22 Q After you received this list was there any negotiations
23 with the National Labor Relations Board to try to reach a
24 stipulated election agreement?
25 A Yes. We actually were back and forth with the agent, I

1 think his name was AJ Hernandez (sic), at the time and we,
2 through our legal counsel, we were going back and forth on what
3 the company wanted and what we wanted, you know.
4 Q Do you mean JD Hernandez?
5 A Yeah. I think it's J -- yeah, JD Hernandez. I can't
6 remember. Yeah, it was.
7 Q And do you remember you mentioned that there was some back
8 and forth with regard to what the company wanted and what the
9 Union wanted. Do you recall what the first issue that came up
10 about what one side or the other wanted?
11 A Yeah. Well, the company -- when we did the petition, we
12 did it for full-time employees you know, which is you know,
13 Wismettac employees themselves. The first argument from
14 Wismettac was that their temp employees had been working there
15 for years and they wanted to include the temp employees.
16 Q When you said you originally petitioned for the full-time
17 employees, which classifications of the full-time employees did
18 you petition for?
19 A Wanted warehouse and drivers.
20 Q So what was the Union's response with regard to the
21 proposal for temp employees?
22 A Well, after -- like I said, after going back and forth
23 with Mr. Hernandez, he you know, he was saying you know, they
24 gave us -- they actually sent us another list with the temp
25 employees. Like I said, organizing is all about numbers. We

1 looked at the numbers and we knew we can win even with the temp
2 employees. So that would be more union members. So to us it
3 was like okay. Let's do it. So --
4 Q So the Union eventually agreed to include the temps?
5 A Yes.
6 Q After the Union agreed to include the temps were there any
7 additional or further negotiations about other categories of
8 employees?
9 A Yes.
10 Q What do you recall about that?
11 A They proposed four different categories of employees that
12 they said that they were warehouse employees; that were
13 warehouse office employees and the warehouse itself.
14 So like I got to work, and I figured out how many people
15 actually worked in the warehouse office by talking to employees
16 and stuff. And we actually counted the numbers with -- with
17 Mr. Hernandez. You know, we talked to -- to him and see who
18 was -- who was the people that wanted to -- and who were the
19 people in those categories.
20 We actually agreed to -- to get 13 people and then 4
21 different categories, and we were actually -- they didn't want
22 to agree, but he says if we wanted to get an election, we can
23 have an election but actually agree with subject to challenge.
24 Q So those -- so you didn't agree to include additional
25 classifications. You agreed to allow people to vote subject to

1 challenge?
2 A Yes, ma'am.
3 Q And a moment ago, you said something about 4 different
4 categories of employees and 13 people. I'd like to introduce
5 Union Exhibit 50, Your Honor.
6 **(Union Exhibit Number 50 Marked for Identification)**
7 Q BY MS. SANCHEZ: Does this document look familiar to you,
8 Carlos?
9 MR. WILSON: Can we have a minute to go through that --
10 MS. SANCHEZ: Oh, of course.
11 JUDGE LAWS: Oh, sure, yeah, just let counsel know when
12 you're ready.
13 MR. WILSON: Okay.
14 Q BY MS. SANCHEZ: Thank you. Carlos, does this document
15 look familiar to you?
16 A It does.
17 MR. WILSON: Your Honor, I'm going to object. I don't see
18 his -- him referenced on these emails. These appear to be
19 emails between counsel and the Board. I'm not sure he
20 testified to that.
21 JUDGE LAWS: Well, let's see if he's familiar with them,
22 if he was shown them or otherwise made aware of them.
23 MS. SANCHEZ: That's true. I will also remind counsel
24 that this was the document that we just agreed to stipulate to.
25 MR. WILSON: I agreed I was --

1 MS. SANCHEZ: If counsel doesn't agree to the contents of
2 it, but we've already stipulated to enter it into the record.
3 MR. WILSON: All right.
4 JUDGE LAWS: Well, let's explore his familiarity with
5 it --
6 MS. SANCHEZ: Okay.
7 JUDGE LAWS: -- before we go any further.
8 MR. WILSON: Your Honor, can I just clarify?
9 JUDGE LAWS: Sure.
10 MR. WILSON: I stipulated that this document is authentic.
11 JUDGE LAWS: Yes.
12 MR. WILSON: I didn't stipulate that it was relevant. I
13 didn't stipulate he could authenticate himself. So I think
14 we're reading a little more into the stipulation. I'll accept
15 Ms. Counsel's representation that these emails --
16 JUDGE LAWS: These are authentic.
17 MR. WILSON: -- are between her and the NLRB. That's all
18 I'll accept.
19 MS. SANCHEZ: Thank you.
20 JUDGE LAWS: And then do we need his testimony on it or
21 are they -- is he involved in them somehow or can we just --
22 MS. SANCHEZ: No, I will ask maybe a limited number of
23 questions about it, but I -- I accept that stipulation as well.
24 JUDGE LAWS: Okay, all right, and before you ask him
25 anything substantive about it, let's do some foundation for his

1 familiarity with this chain.
2 MS. SANCHEZ: Sure.
3 Q BY MS. SANCHEZ: Mr. Quinonez, you testified a moment ago
4 that there was a lot of back and forth about who would be
5 included and how they would vote, et cetera. You also
6 testified that there was back and forth about a number of
7 categories and certain people. Do you -- how are you familiar
8 with this document?
9 A Well, these are -- these, I mean --
10 JUDGE LAWS: How did you become aware of this document?
11 THE WITNESS: I mean we've -- we told our counsel to --
12 JUDGE LAWS: How did you come into possession or become
13 aware of this document? That's the only question --
14 THE WITNESS: Okay.
15 JUDGE LAWS: -- to answer right now.
16 THE WITNESS: Actually, I was shown -- I was shown the
17 emails, some of these emails that were shown to me because it
18 was frustrating that I just wanted something done, like I
19 wanted something an election --
20 JUDGE LAWS: Yeah, and let's go on to the next question
21 because you answered it. They were shown to you.
22 THE WITNESS: Yes.
23 Q BY MS. SANCHEZ: You testified a moment ago that they were
24 shown to you. Why were they -- drawing your attention to the
25 first page of this document which is really the relevant page,

1 do you see numbers --
2 A Yes.
3 Q -- listed on top? Why were these shown to you?
4 A These were shown to me because we had talked to you over
5 the phone about the actual people that they wanted to include.
6 The reason why there is numbers is because, like I said, to us
7 it's all about numbers. The numbers mean the number of the --
8 of the actual employee on the actual list.
9 Q Are you referring to the list that's included on Union
10 Exhibit 47?
11 A Yes.
12 MS. SANCHEZ: The Union would like to move in Union
13 Exhibit 50.
14 JUDGE LAWS: And subject to what we just discussed, any
15 objection?
16 MR. WILSON: Yes, Your Honor. My objection, once again,
17 goes to relevance as it did to the previous document. The
18 stipulation the parties entered into speaks for itself. It's
19 clear on its face. This idea of negotiations back and forth I
20 simply believe that it carries no weight and it's irrelevant.
21 MS. SANCHEZ: Your Honor, Union -- Petitioner's objection
22 number 4 is that the Employer intentionally changed titles of
23 multiple office clerical employees in an effort to increase the
24 no votes. It's absolutely relevant.
25 JUDGE LAWS: And I'll admit it. I also will note that I

1 am to look at extrinsic evidence if there's ambiguity in any of
2 the stipulated terms. Whether or not this will be part of
3 that, I don't know, but in the event it may, I will admit Union
4 Exhibit 50.
5 MS. SANCHEZ: Thank you, Your Honor.
6 **(Union Exhibit Number 50 Received into Evidence)**
7 Q BY MS. SANCHEZ: I'm going to hand you what we are marking
8 as Union Exhibit 51.
9 **(Union Exhibit Number 51 Marked for Identification)**
10 JUDGE LAWS: And while you're doing that, I just want to
11 ask is it okay to put 47 away, or are you still going to be
12 referring to it?
13 MS. SANCHEZ: Through the course of this testimony, we
14 may.
15 JUDGE LAWS: Okay, I'll leave it out. And similar, I
16 think, to what I did with the Union with the standing objection
17 as to the documents you submitted into the record in your case
18 in chief, can we assume a standing objection to the information
19 pertaining to the negotiations?
20 MR. WILSON: Yes, Your Honor.
21 JUDGE LAWS: Okay, so when anything is offered, I will say
22 other than the standing objection which is the relevance of the
23 underlying negotiations, are there any other objections. We'll
24 proceed that way from now on with the standing objection noted
25 for the record.

1 MS. SANCHEZ: Thank you, Your Honor.
2 Q BY MS. SANCHEZ: Mr. Quinonez, I've just put in front of
3 you a document the Union has marked as Union Exhibit 51. Can
4 you tell me what this document is?
5 A Yeah, this document is -- actually you got these numbers
6 from these emails --
7 MR. WILSON: Objection, lack of foundation.
8 THE WITNESS: Well, if you see the numbers, they're the
9 same, okay.
10 JUDGE LAWS: How -- what is this document?
11 THE WITNESS: This document is myself and counsel were
12 going over the actual numbers that they had put into the -- so
13 the numbers are really close --
14 JUDGE LAWS: Is this your writing or counsel's writing?
15 THE WITNESS: This is counsel's writing.
16 JUDGE LAWS: Okay, thanks.
17 THE WITNESS: So this is we were going through actually
18 the notes and the actual number of the employees that they
19 wanted to include subject to challenge.
20 Q BY MS. SANCHEZ: When you say they, who are referring to?
21 A Wismettac.
22 Q A moment ago, you testified that there was a lot of back
23 and forth with regard to the employees and the categories --
24 A Yes.
25 Q -- and you mentioned there were 13 employees and four

1 categories. Does this document reflect what you were referring
2 to in your previous testimony?
3 A Yes, it does.
4 Q And the "a lot of back and forth" reference that you made
5 a moment ago, I'd like to explore that a little bit. The back
6 and forth that was occurring, do you know if that was occurring
7 between counsel and the Board, or you and the Employer, or who?
8 How was that happening?
9 A It was actually you with Mr. Wilson, I guess, representing
10 the company. He would send you the numbers of the actual
11 people that the company wanted to include.
12 Q Do you know if both counsels were also speaking directly
13 to the NLRB?
14 A Yes.
15 Q Okay, and do you know what the significance of the circle
16 around the middle part of this document is?
17 A Yes.
18 Q What is that circle?
19 A Actually, I pointed out to you that the numbers 103, 107
20 and 109 were the only employees that were in the downstairs
21 warehouse office.
22 MR. WILSON: Objection, lack of foundation.
23 Q BY MS. SANCHEZ: How do you know that?
24 A Because if you look at the list, I mean, they're the only
25 warehouse clerks.

1 MR. WILSON: Your Honor, once again, lack of foundation.
2 He doesn't work at the Company.
3 JUDGE LAWS: Let's get his -- the basis of his knowledge
4 for those people being what he perceives to be the only
5 warehouse clerks.
6 Q BY MS. SANCHEZ: You previously testified that as an
7 organizer, your job is to know people and to know their issues.
8 A Yes.
9 Q You also previously testified that prior to even receiving
10 Union Exhibit 47, which was the original list that you got,
11 that you knew many of the people on that list, correct?
12 A Yeah, I had already spoken to these three people myself.
13 Q Can you please take a look at Union Exhibit 47, and can --
14 are you able to identify numbers 103, 107 and 109?
15 A We got 103 is Suguru Onaka.
16 Q And 107?
17 A 107 is Mamoru Tagai.
18 Q And number 109?
19 A And 109 is Rinko Tunabe.
20 Q And do you see what their associated job process is listed
21 as?
22 A They're logistics office clerks.
23 Q And was that consistent with Union Exhibit 51?
24 A Yes.
25 Q At that time, and based on your experience as an organizer

1 on this campaign for months, did you know of any other logistic
2 office clerks?
3 A No.
4 MS. SANCHEZ: The Union would like to move in Union
5 Exhibit 51.
6 JUDGE LAWS: Other than the standing objection, any other
7 objection?
8 MR. WILSON: No, Your Honor.
9 JUDGE LAWS: Okay, Union 51 is admitted.
10 **(Union Exhibit Number 51 Received into Evidence)**
11 Q BY MS. SANCHEZ: I'd like to hand you what we're marking
12 as Union Exhibit 52.
13 **(Union Exhibit Number 52 Marked for Identification)**
14 Q BY MS. SANCHEZ: Carlos, can you take a look at this
15 document?
16 A Yes.
17 Q Does this document look familiar to you?
18 A Yes, it does.
19 Q Why does it look familiar to you?
20 A Because these are -- this is -- this is my notes.
21 Q Can you tell me what the significance, if any, is with
22 regard to the colors identified on this document?
23 A Okay, the colors on the top if you see the red like
24 burgundy markings on the top, and it says 46 --
25 Q Yes.

1 A Okay, that to me when I -- when I do all my assessments,
2 those are the people that are anti-union so --
3 Q The burgundy is the anti-union?
4 A Yes, the burgundy are the ones, are the people that they
5 didn't want to talk to us. So, of course, you know, we
6 don't -- we don't talk to them if they don't, you know, want to
7 talk to us. So all the burgundy is -- is the ones that we
8 don't talk to.
9 Q And what about the green?
10 A The greens means that that they're okay with the Union.
11 So they're supporters.
12 Q And I see other markings on here, like numbers and
13 checkmarks and question marks. What are those?
14 A Okay, so the numbers, like I told you earlier, as
15 assessments we use numbers. So the green is -- twos or ones,
16 one is being like an activist; two being, you know, supportive,
17 and if you see -- if you go down to number 45, if you see that
18 X and an LOA, that's -- that person was on leave of absence.
19 So he wasn't at the company. So I would have more time to
20 actually go talk to him to see if, you know, to see if he was
21 supportive or not. You see number 55, I got the knowledge that
22 he was already terminated. So, you know, you put it on there,
23 that's fired.
24 Q And I'm looking at -- I apologize, Your Honor, we did not
25 number these any different than the numbers that they identify.

1 So I will ask you to turn to the --
2 JUDGE LAWS: So let's just leave it the last two pages 5
3 and 6, and I think that adds in this chronologically paginated.
4 THE WITNESS: Okay.
5 JUDGE LAWS: In the official copy.
6 MS. SANCHEZ: That's what I was going suggest. Thank you.
7 Q BY MS. SANCHEZ: So if you turn to page 3 of 6 --
8 A Uh-huh.
9 Q -- I see a notification, a handwritten notation that this
10 manager. What does that signify, if anything?
11 A Okay, so, like I said, I know everybody in the company
12 that I have talked to, and I saw that it said supervisor. So I
13 asked my committee if they knew Howard Lu, and they said yeah,
14 they -- they told me that he was a manager. So -- so that's
15 why I wrote that. On 64, the guy his middle name is Pedro, and
16 he goes -- he goes by Pedro because I was asking who -- who
17 Julio Martinez was and nobody knew him by Julio. So they're
18 like I think there's a Pedro Martinez. So I found out, later
19 found out, that that was his middle name, and he goes by Pedro.
20 So that's the kind of notes that I write on there.
21 When I find out -- when I found out they worked nights, I
22 would put nights next to them. Like I said, that's a leave of
23 absence was another one there. Actually, this guy, number 68,
24 I spoke to his wife, and he was on a military leave of absence.
25 So I get to know them really good, like personally. The same

1 thing with 73, he goes by Armando, and, you know, on the thing,
2 nobody knew Oscar Pena. So they knew him by Armando. So I --
3 I go by that -- the blue -- the blue highlights --
4 Q Yeah, what does that mean?
5 A Well, the blue highlights are the ones that we had agreed
6 to by challenge --
7 Q When you say agreed to, what do you mean?
8 A The four categories that were agreed to per your prior
9 notes, these numbers match actually the highlighted -- the
10 highlighted numbers in blue, and there's 13 in total that we
11 had agreed subject to challenge.
12 Q And finally, I see a couple of yellow highlights. What
13 are the yellows?
14 A The yellow highlights, those are people that -- that we
15 didn't agree to by classification. If you look at the NEC on
16 the top of page 4, the second one says, not E class, which to
17 me it refers to a not eligible classification. So then I
18 highlighted it in yellow that, you know, it's not a
19 classification that -- that we agreed on. So and that they had
20 added, and also, I have the ones on page 5, I have yellow
21 and -- highlighted yellow and also like a reddish burgundy, and
22 HD means hire date. We had agreed on a hire date, and if you
23 look at the hire dates on the right-hand side, I had put an X
24 on them, and these are all the people that didn't qualify to
25 actual vote because of the hire date.

1 Q Are you talking about the hire date that was -- are you
2 talking about the date -- strike that, Your Honor. In the
3 stipulated election agreement, was there a cut-off date with
4 regard to who would be eligible to vote or not?
5 A Yes, it was -- it's a paycheck before, what I was told was
6 a paycheck before the actual election, September 19th. So and
7 they get paid every 15 days. So the people that -- that were
8 on that -- on that payroll cut-off date, that's the people that
9 are eligible to vote.
10 Q And that's why you put Xs by the highlighted people with
11 yellow highlights and burgundy Xs on page 5?
12 A Yes, and also on page 6.
13 Q And, thank you, and back to page 4, you had made a
14 reference to your handwritten notes that say not E class, and
15 you said that that was not eligible classification. Did you
16 mean not eligible classification of included voters and
17 challenged voters or something else?
18 A No, that -- that class we had never spoken of before, and
19 when we got the list, we got all these other classes that we
20 had never even heard of or agreed to, so agreed to subject to
21 challenge, of course, you know, but that's why I put not -- you
22 know, not eligible classification.
23 Q Can you take a look at Union Exhibit 51 again?
24 MS. SANCHEZ: Oh, Your Honor, the Union would like to move
25 in Exhibit 52.

1 JUDGE LAWS: Okay, any objections?
2 MR. WILSON: Subject to the same objection before, no,
3 Your Honor.
4 JUDGE LAWS: Okay, and I will admit it and ask, if
5 possible, that it be processed as a colored document because
6 otherwise the testimony isn't going to have any meaning.
7 COURT REPORTER: Yes.
8 JUDGE LAWS: Thanks, 52 is admitted, if I didn't already
9 say that.
10 MS. SANCHEZ: Thank you, Your Honor.
11 **(Union Exhibit Number 52 Received into Evidence)**
12 Q BY MS. SANCHEZ: Carlos, when you referenced the 13
13 employees, what are -- what are the names on the original list
14 of those employees if you recall?
15 A Well, we have them marked in blue. So the actual numbers
16 match the copy of -- of the notes that we had already made. So
17 I wanted to make sure that those were the actual people. So
18 number 80, there's Amanuma Yukihiko; 81 was Wesley Chang; 85 is
19 Gonzalez Guardado Senllacett. We have number 87, Inagaki
20 Masae. Number 89 is Juichiya Kaori. Number 94 is Manjarrez
21 Stephany. Number 99 is Nguyen Thao, and we have 100. Number
22 100 is Nishikawa Kayoko, and we have 103 was Onaka Suguru. 104
23 is Prewitt Ryan Prewitt. We had 107 and that is Mamoru Tagai;
24 109 Tanabe Rinko. 112 is Shun, Yung Shun.
25 Q And do the names and numbers of those employees match with

1 the categories of employees provided by the Board at the time?
2 A Yes.
3 Q Okay, you previously testified that it's your job as an
4 organizer to get to know everybody, and that you did, in fact,
5 get to know everybody. So what, if anything, did you know
6 about those 13 employees at the time you agreed to vote them
7 subject to challenge?
8 A Well, as a -- as like, as I found out by speaking to all
9 the employees that were active in there, the only ones that
10 worked in the warehouse were the logistics office clerks, which
11 was three of them, and I actually went and spoke to them at
12 their house, and they were -- I asked them about the other --
13 the other people, and they said that they were office people in
14 the front; that, you know, they didn't work with them, and they
15 didn't know -- they didn't know themselves. A couple of names
16 they saw on some labels, but they didn't know them personal.
17 Q And did you agree that those 13 people were included in
18 the unit?
19 A We agreed subject to challenge for the voters, but as,
20 like I said, as an organizer, we wanted to get an election in,
21 and I knew that the 13 wouldn't make a difference on a -- on a
22 win, and so, we went ahead and -- with the election.
23 Q And when was the first election?
24 A September 19th, 2017.
25 Q Did you receive the excelsior list -- the voter list prior

1 to the election?
2 A We received four, four lists.
3 Q I've handed you what we're marking as Union Exhibit 53. I
4 apologize, it's not noted on the document. So we'll just write
5 in a 53 there.
6 **(Union Exhibit Number 53 Marked for Identification)**
7 Q BY MS. SANCHEZ: Are these the four lists you just
8 referenced?
9 A Yes.
10 Q Going back to Union Exhibit 52, which was the notes, your
11 notes, with the different colors on it --
12 A Uh-huh.
13 Q -- when did you make those notations on that document
14 approximately?
15 A I was actually making them right before because I was
16 making -- I was actually going through the count of -- of the
17 people. So I added the numbers last to see. So every time I
18 would -- I would go on a house call to somebody, I would always
19 refer to these notes.
20 So it's not like a specific time of when I finished them.
21 I started them when I would talk to somebody, and then I would
22 go back to these notes and if they were assessed as a number
23 two, which was, you know, a supporter, I would just go and jot
24 it down. So it's not like I just went -- it's not like I just
25 went and did the whole thing. So this was what I would refer

1 to every time I would talk to someone.
2 Q So that was a living document?
3 A Yes.
4 Q And did you complete your notes on that document prior to
5 the first election?
6 A Yes.
7 Q Okay, now looking at Union Exhibit 53, which is marked in
8 four parts, (a), (b), (c) and (d) --
9 A Uh-huh.
10 Q -- do you have those in front of you?
11 A Yes.
12 Q Doing one at a time, can you tell what Union Exhibit 53(a)
13 is?
14 A This is the very first list that we got.
15 Q And what, if any -- what did you do with this list when
16 you received it?
17 A Like I said, the same -- the same thing that I had already
18 done here. I transferred some of this information that I had
19 on here onto this list because now we had, you know, addresses
20 and stuff, and that's how we start getting to go their houses
21 and do home assessments. So I started going to the ones that I
22 already knew. I -- I kind of highlighted them on another list,
23 and, you know, started home visiting everybody on that.
24 Q And did you go visit homes after you got this one?
25 A Yes.

1 Q Did you notice anything else about this list?
2 A Yeah, it was -- it was frustrating because a lot of the
3 addresses were wrong. A lot of the -- the temp employees have
4 the same address which I found out after going -- trying to go
5 talk to a couple of them, those were the actual agencies
6 addresses. So, I mean, they're not going to give me their real
7 addresses. So I went to an actual agency and asked if I can
8 have their addresses, and they said no.
9 Q Can you take a look at page 7 of Union Exhibit 53(a)?
10 A Page 7?
11 Q Page 7.
12 A Yes.
13 Q The very last person listed there I see is number 96-1,
14 Barajas?
15 A Yes.
16 Q Was this a correct address for Juan Barajas?
17 A No. He -- Juan Barajas lives right next to the -- right
18 next to Wismettac.
19 Q How do you know that?
20 A Because I went to visit him like three times.
21 Q Can you turn to page 8? And look at number 99, Hector
22 Celis.
23 A He lives in Pomona.
24 Q Can you look at number 101, Martin Gallardo?
25 A Same address as the agency.

1 Q So is 6026 Pacific Boulevard the agency address that you
2 just referred to?
3 A Yes.
4 Q And that's repeated also on numbers 102 and 104?
5 A Yeah. Well if you go further, you have the email and all
6 the emails are the same -- the same email for that agency. So
7 at the -- at the first time when I went to visit them, you
8 know, thinking I was going to find a home, I actually come to a
9 business and then that's when I noticed -- I went back to the
10 list, and I noticed every single one of them that they had, you
11 know, the Horizon is the personnel staffing agency, and they
12 all have Horizon as the -- as their email and their address.
13 MR. WILSON: Your Honor, I'm going to object to the
14 testimony as to any voter list that wasn't used in the second
15 election simply because the first election was thrown out.
16 I'll stipulate to it -- or agree that it's relevant as to the
17 classifications of the people, but as far as the address, why
18 are we going through all these lists when that election I mean,
19 like I say, was set aside. So the only relevant voter list
20 would be the one that's used -- for the issue of addresses,
21 would be the one used in the second election.
22 MS. SANCHEZ: Your Honor, this directly goes to
23 Petitioner's objection number 4, and I believe is subject to
24 the standing objection that we just discussed earlier.
25 MR. WILSON: No.

1 MS. SANCHEZ: This testimony and this evidence goes
2 directly to the intentional manipulation of the list starting
3 from the beginning of the election and through the campaign and
4 through February 6, 2018.
5 MR. WILSON: You know, I --
6 JUDGE LAWS: Hang on. 4 seems to deal with job
7 classifications, not addresses. So, you know, I agree we don't
8 need -- I mean we don't need much in the way of testimony about
9 wrong addresses for lists that I'm not considering.
10 MS. SANCHEZ: I'm actually done with the questioning about
11 this particular --
12 JUDGE LAWS: Okay.
13 MS. SANCHEZ: -- list. Thank you, Your Honor.
14 Q BY MS. SANCHEZ: Can you please now look at Union Exhibit
15 53(b)?
16 A Yes.
17 Q When did you receive this list; if you recall?
18 A It has a date on the bottom when received. It's September
19 7th, 2017.
20 Q And what did you do with this list once you received it if
21 anything?
22 A The same thing. I checked -- I checked it with the actual
23 first order list that they had given us. And they had, you
24 know, per counsel, they told us that they had to fix the
25 problem, which --

1 MR. WILSON: Your Honor, I'm going to object again. We're
2 still talking about --
3 MS. SANCHEZ: He's not done testifying.
4 MR. WILSON: -- addresses on the first order.
5 JUDGE LAWS: Hold on.
6 MS. SANCHEZ: And I appreciate it if he wouldn't object
7 during the middle of testimony.
8 JUDGE LAWS: Well, it sounded like he was going toward
9 fixing the addresses, which, you know, again, I'm going to be
10 looking at the addresses on the list that I am considering as
11 part of this trial. So there has been some background. I
12 don't really need to be looking at that with regard to these
13 lists in any material way.
14 MS. SANCHEZ: Thank you, Your Honor
15 Q BY MS. SANCHEZ: If you look at page 8 of this document,
16 do the highlighted people on the left-hand column under name
17 have any significance other than their addresses?
18 A Well, the -- some of these guys work days and nights. So
19 we actually would go to their house, and they would tell us
20 they work -- they work night shift. So a lot of these -- a lot
21 of these guys, you know, since we couldn't really get to them
22 because we didn't know if they worked days or nights. Some of
23 the shifts were wrong. Plus the same thing, the addresses were
24 still the same so.
25 Q Okay. I'd like -- I'd like to draw your attention to part

1 (c) of Union Exhibit 53. When did you receive this?
2 A I actually received it September 12th.
3 Q And what did you do with this document when you received
4 it?
5 A Same thing that I had done. I had a week with the -- with
6 (b), the list amendment -- the first amendment -- the second
7 amendment list. Well, actually marked first, but it was the
8 second one. Just cross-referenced to see who's there, who's
9 not. The actual employees themselves and, like I said,
10 organizing is all about numbers.
11 So the first thing we would go to is to see if they added
12 any more employees. So make sure that the number still stayed
13 the same, but, you know, every list they added a little bit
14 more and more all the time so.
15 Q And I'd like you to now look at Exhibit (d) --
16 A Yes.
17 Q -- of Union 53. When did you receive this list?
18 A We actually received this the same day. Later on that
19 afternoon because they told me all, you know, you got another
20 one, and the first thing I did was, you know, go back and to
21 check to see if it was the same. Maybe it was an error, and I
22 went and looked at it, and from the morning to the afternoon,
23 it had grown to 145, and this morning they had sent me 140 so.
24 Q And do you know what -- you said it had grown from 140 to
25 145?

1 A Yes.
2 Q So there were five additional employees included?
3 A Yes.
4 Q Do you know who they were?
5 A I think --
6 Q Or can you point them out to us?
7 A They got 141 through 145, and that's Kumiko Estrada, Fumi
8 Meza, Miwa Sassone, Hideki Takegahara, and Karen Yamamoto.
9 Q And is it your testimony that those people were not
10 included on the previous list, which was Union Exhibit 53 part
11 (c)?
12 A Yes. These were people we didn't even know. So, you
13 know, we took the challenge to go visit them and, like I said,
14 we have PO boxes. They were hard to find, so.
15 Q Did you -- do you remember anything about your visit with
16 these particular employees? Meaning employees 141 through 145
17 on the third amended voter list?
18 A Yes. Well, they hardly spoke the language. So it was
19 hard to communicate with them.
20 MR. WILSON: Objection. Lack of foundation as to which
21 language he's referring to.
22 Q BY MS. SANCHEZ: Which language are you referring to?
23 A Japanese.
24 Q They hardly spoke Japanese?
25 A No. They hardly spoke English. They were from Asian

1 descent, and they hardly spoke English. So it was hard to
2 communicate with them.
3 Q Which languages do you speak?
4 A I speak Spanish and English.
5 Q And then on Union Exhibit 53 part D, I noticed that
6 some -- there's some circling of numbers and some -- for
7 example, on page 4 of this document and on page 5 -- and on
8 page 5 and 6 there's some highlighting. Do you know who made
9 those notations?
10 A I did.
11 Q And what did those notations signify?
12 A If you go to page 4, number 50 is Alex Garcia. He got
13 hired. His hire date didn't match what was --as a cutoff date.
14 So he was -- he didn't qualify because he was -- his hire date.
15 If you look at 56, Kaiso, he was actually terminated two years
16 before. So and the way I go, is I visited Alex and, you know,
17 he spoke to me. Kaiso, he no longer lived there, and I asked
18 all -- everybody that works there, and they said he no longer
19 works there. Number 65, he's the one that -- that I had noted
20 on the other list.
21 So I compare lists every time I get them, and he was
22 already noted as a manager, supervisor. We got number 85,
23 88 -- those are people that we had already said they didn't
24 qualify per my highlighted list also. You see number 99,
25 office clerk. We didn't even speak about that. 102, Ms. Sho,

1 associate. 106, Yamashita, CMO rep.
2 Q Did you know what those categories of employees were or
3 what they had to do with this, if anything?
4 A No.
5 Q The Union would like to offer Union Exhibit 53.
6 JUDGE LAWS: Okay. Any objections other than the standing
7 objection?
8 MR. WILSON: Yes, Your Honor. That consideration of this
9 document should be limited strictly to the job classifications
10 listed. Not the job classifications or any other claimed
11 inaccuracies.
12 JUDGE LAWS: Yeah. I won't be considering this document
13 with respect to the addresses because that issue is not before
14 me, and with that I will admit Union Exhibit 53.
15 **(Union Exhibit Number 53 Received into Evidence)**
16 MS. SANCHEZ: Your Honor, I'm just preparing the next
17 exhibit.
18 JUDGE LAWS: Okay.
19 **(Union Exhibit Number 54 Marked for Identification)**
20 Q BY MS. SANCHEZ: I've just handed you what we've marked as
21 Union Exhibit 54. I will note that there are two separate
22 stapled documents that we've marked as (a) and (b). If you
23 would just take --
24 MR. WILSON: Can you hang on a second?
25 JUDGE LAWS: Just let our counsel know when you're ready.

1 Same to counsel and the witness. Just look through it and let
2 us know when you're ready to proceed.
3 MR. WILSON: Okay, Your Honor.
4 Q BY MS. SANCHEZ: Mr. Quinonez, the election -- first
5 election was September 17th, 2018. Union Exhibit 54(a) --
6 MR. WILSON: Your Honor, I think that's incorrect. I
7 think it was September 19th.
8 JUDGE LAWS: Well, it's a matter or record. We don't --
9 MS. SANCHEZ: Thank you.
10 JUDGE LAWS: -- need to concern ourselves with that.
11 MS. SANCHEZ: Thank you. Thank you. I might have that
12 backwards.
13 Q BY MS. SANCHEZ: You've testified that with each list you
14 received you noted your perceived problems of -- that were
15 contained in those lists. These emails that I've just handed
16 you are dated respectively September 8th, 2017, 11:50 a.m. and
17 September 8th, 2017, 2:16 p.m. At any point in time, did you
18 make your objections known about the list to counsel -- to your
19 counsel?
20 A Yes. We -- every time, you know, we got the list, we
21 always talked to counsel and asked if -- I mean what --
22 actually, what's going on because I mean they wouldn't correct
23 the addresses. They wouldn't give us the right stuff to talk
24 to the employees, and also what was going on with the
25 classifications because there's classifications that we had not

1 agreed to on the list, and we wanted to fix that before the
2 actual election.
3 Q And did you instruct your counsel to contact the NLRB with
4 those problems and objections?
5 A All the time, yes.
6 Q And if you look at Union Exhibit 54(a), page 7. I
7 apologize. Union Exhibit 54(a), page 10, page 12, 13, 14, and
8 15 for me.
9 A Yes.
10 Q Do you see comments on the right-hand side of this
11 document?
12 A Yes.
13 Q Are those comments consistent with the problems you
14 identified to the Board with regard to the voter list?
15 A Yes.
16 Q And if you look at Union Exhibit 54 part (b). Was the
17 email between the NLRB and Union Council forwarded to you with
18 the attached list that you just testified about?
19 A Yes. Yeah, these are the same.
20 Q The Union would like to offer Exhibit 54.
21 JUDGE LAWS: Okay. And with the same standing objection
22 noted. Any additional objection?
23 MR. WILSON: No, Your Honor.
24 JUDGE LAWS: Union Exhibit 54 is admitted.
25 **(Union Exhibit Number 54 Received into Evidence)**

1 **(Union Exhibit Number 55 Marked for Identification)**
2 Q BY MS. SANCHEZ: Mr. Quinonez, if you would just take a
3 look at this document and let me know when you're done.
4 A Yes.
5 Q Have you looked at this document?
6 A Uh-huh.
7 JUDGE LAWS: Before you ask questions about that. Going
8 back to Union Exhibit 54. The annotations are color coded, but
9 I don't think the testimony identified that. So I'm just
10 wondering for a court reporter's purposes if this needs to be a
11 document that shows the colors or not. I don't think the
12 testimony talked about the colors having any significant
13 meaning. I think it was just the comments.
14 MS. SANCHEZ: I would actually like to ask a question
15 about that, Your Honor.
16 JUDGE LAWS: Oh, okay.
17 MS. SANCHEZ: That I think might be -- might be helpful.
18 JUDGE LAWS: Okay, go ahead.
19 Q BY MS. SANCHEZ: Looking at Union Exhibit 54(a),
20 Mr. Quinonez, the first page of that, can you read that first
21 paragraph to yourself?
22 A You said the very first page, right?
23 Q Union Exhibit (a), first paragraph.
24 JUDGE LAWS: Okay. So there is some significance to the
25 green. So why don't we have Union 54 processed to show the

1 colors that appear on the document?
2 MS. SANCHEZ: Okay, Your Honor.
3 Q BY MS. SANCHEZ: Mr. Quinonez, back to Union Exhibit 55.
4 Page 1 of this document, does it contain your name on it?
5 A Yes, it does.
6 Q Did you receive this document via email?
7 A Yes.
8 Q And is Oscar Ruiz the other organizer employed by
9 Teamsters Local 630?
10 A Yes, he is.
11 Q And Lou Villalvazo is a principal officer?
12 A Yes.
13 Q Can you tell me what this document is?
14 A This is the list that we used right before the first
15 election. It was the third amended list that we received
16 before the election, which was actually the fourth list that we
17 had received. And we had highlighted the people that we were
18 going to object to in red.
19 Q When you say it was the fourth list you received, do you
20 mean the first three plus the original list included in the
21 Employer's position statement?
22 A Yes.
23 Q And why did you -- who did the red highlights?
24 A Myself and Oscar Ruiz.
25 Q Why did you highlight the employees in red?

1 A These -- if you go through all the lists, all these
2 numbers match to the people that we had -- that we had said
3 that we were going to -- that didn't qualify. Like I said,
4 number 50, Alex Garcia, he got hired, and the cut-off date
5 for -- to qualify was -- he was hired after. So we highlighted
6 in red. Like I said, 56, he was already terminated, page 6.
7 If you go to 65, Howard Lu, he's a supervisor. So all these --
8 all these highlights match with all these other lists that we
9 had already gotten.
10 Q When you say all of these other lists, you mean the lists
11 you've previously testified to?
12 A Yes.
13 Q Can I ask you about number 50 on Union Exhibit 55, page 5,
14 Alex Garcia?
15 A Yes.
16 Q That person's job classification is listed as inventory
17 controller.
18 A Yes.
19 Q In your job as the organizer working this campaign, did
20 you understand that there were folks in the warehouse who's
21 jobs were inventory controllers?
22 A Yes, I did.
23 Q What did you know about them, if anything?
24 A Well, my previous job was 21 years at Vons warehouse
25 distribution center. And we have inventory controllers there,

1 and they are part of the Union because they're regular
2 warehouse employees.
3 Q And did you get to know any inventory controllers at
4 Wismettac?
5 A Yes.
6 MR. WILSON: Objection. Lack of foundation.
7 JUDGE LAWS: We'll get there as to when he met them and
8 how presumably.
9 Q BY MS. SANCHEZ: Who did you get to know as inventory
10 controllers and when?
11 A I got to know Alex Garcia himself, because he lives by my
12 house. I live in Irvine, and he lives in Lake Forest. So I
13 got to know him. I got to know Justin Luong.
14 Q Were Alex Garcia and Justin Luong the only inventory
15 controllers in the warehouse?
16 MR. WILSON: Objection.
17 Q BY MS. SANCHEZ: As far as you know?
18 A There's Alfredo. Alfredo also was -- there was three.
19 Q Do you know Alfredo's last name?
20 A I can't recall right now. It's in here. I mean, it's on
21 here.
22 Q That's okay. Between the first and the second election,
23 you continued to work on the campaign, correct?
24 A Yes.
25 Q Did the inventory's controllers change between the first

1 and the second election?
2 A No.
3 MR. WILSON: Objection. Lack of foundation.
4 Q BY MS. SANCHEZ: As far as you know?
5 JUDGE LAWS: As far as -- this is -- will only be to the
6 extent of this witness' --
7 MR. WILSON: Also, Your Honor, that term is not defined.
8 MS. SANCHEZ: I'm referring to --
9 MR. WILSON: There's capital I, capital C.
10 MS. SANCHEZ: -- inventory control.
11 JUDGE LAWS: Hold on. You're talking over each other.
12 MR. WILSON: On Job number 50, on Union 55 it's -- the
13 employee number 50, the job classification is capital I,
14 capital C, inventory controller. Her question was general.
15 And that's -- to us that --
16 JUDGE LAWS: Well, I think that goes to the heart of the
17 matter of what I'm going to be sorting out. So --
18 MR. WILSON: Okay.
19 JUDGE LAWS: -- let's proceed.
20 Q BY MS. SANCHEZ: What did you know about inventory
21 controllers at Wismettac prior to the second election?
22 A I -- well, when I go and talk to the person and ask them
23 individually what do you do, like that's part of my job. To
24 ask them what do you do, you know, what could be better. You
25 know, because one guy could be lifting heavy stuff and another

1 guy could be lifting light stuff. You know, so it's kind of
2 like, well, I mean if you do this job and then you do this job,
3 you're not going to be complaining about the same thing so.
4 Q Okay. But my question was what did you know about
5 inventory controllers prior to the second election, if
6 anything?
7 A There was -- there was three of them. I spoke to all
8 three of them, and they didn't seem to have any issues because
9 they had light work.
10 Q Did they identify themselves as inventory controllers?
11 A Yes.
12 Q Were the same three that you just identified who were on
13 the third amended employee voter list or the fourth list in
14 total, Justin Luong, Alex Garcia, and Mr. Alfredo, were they
15 the same inventory controllers between the first and the second
16 elections prior?
17 MR. WILSON: Objection. Lack of foundation.
18 MS. SANCHEZ: If he knows.
19 JUDGE LAWS: Yeah.
20 THE WITNESS: Yes.
21 JUDGE LAWS: And how do you know that?
22 THE WITNESS: Because I -- every time the list grows, I
23 always check to see who is added, who is not. And, of course,
24 if someone is added, I have to go house call them so. You
25 know, that's part of my job.

1 Q BY MS. SANCHEZ: You just said every time the list grows.
2 Are you referring to this case or all campaigns that you've
3 worked on?
4 A This case itself.
5 Q And in your experience as an organizer, how many lists
6 generally do you get before an election?
7 A One.
8 Q And how many did you get total before the second election
9 in this case?
10 A Seven.
11 MS. SANCHEZ: The Union would like to offer Exhibit 55
12 into evidence, Your Honor.
13 JUDGE LAWS: Okay. And with the standing objection noted,
14 are there any additional objections?
15 MR. WILSON: No, Your Honor.
16 JUDGE LAWS: All right. And just for purposes of having a
17 record we can decipher, I don't think it really matters if it's
18 read, but if it's just black and white, the highlighting is
19 going to be dark enough to make it illegible. So let's just
20 make sure however it's processed that we can see both the names
21 that are highlighted and the underlying words below the
22 highlights. That's it -- like another minute?
23 Okay, 55 is admitted.
24 **(Union Exhibit Number 55 Received into Evidence)**
25 MS. SANCHEZ: Your Honor, would it be okay to take a

1 restroom break at this point?
2 JUDGE LAWS: Sure. I was going to check in when we did
3 break to see how we're doing in terms of time, given that they
4 would like us to be out of here by 4:00.
5 MS. SANCHEZ: Yes, thank you, Your Honor. I believe we
6 are over halfway through with this testimony, and I think this
7 would either be a good time for a short break or even a small
8 lunch break, and we can then get through the rest of the
9 testimony.
10 JUDGE LAWS: All right. Let's go off the record and see
11 how everybody is doing, and we can go from there.
12 (Off the record at 11:46 a.m.)
13 JUDGE LAWS: Everybody ready?
14 MS. SANCHEZ: Yes, Your Honor.
15 JUDGE LAWS: All right. Let's continue. On the record.
16 **(Union Exhibit Number 56 Marked for Identification)**
17 Q BY MS. SANCHEZ: Carlos, I've just handed you what's been
18 marked as Union Exhibit 56. Are you familiar with this
19 document?
20 A Yes.
21 Q If you look at page 3 of this document, is your name
22 listed there?
23 A Yes.
24 Q Were you copied on this document?
25 A Yes.

1 Q And you received this document?
2 A Yes.
3 Q Page 4 through 7 -- do you know what that document is?
4 A Yes.
5 Q What is that?
6 A Actually, this is the document that I -- that I created
7 from all the information from the lists. If you see all the
8 numbers, that's all the highlighted numbers from most of my
9 lists that -- that -- that they sent and the -- the reason why
10 they're ineligible to vote.
11 Q When you say, if you -- when you see all of the -- the
12 numbers, are you talking about the first column on the left on
13 page -- of a chart contained on pages 4 through 7 of this
14 document?
15 A Yes. On the left-hand side, on the top, it says numbers
16 listed on the -- on the third amended list.
17 Q Okay. And prev- -- you previously testified about your
18 frustration with the numerous lists and the problems with the
19 lists, and you also testified that you instructed counsel to
20 confer with the NLRB about those problems. Did you instruct
21 Union counsel to send a letter to the NLRB regarding what --
22 who you perceived as ineligible voters?
23 A Yes.
24 Q Is this the letter that you instructed Union counsel to
25 send?

1 A Yes, it is.
2 Q And did it contain the Union's objections and arguments
3 regarding ineligible voters?
4 A Yes.
5 Q And if you recall, was counsel for the Employer provided
6 with the chart contained in pages 4 through 7 at or around the
7 time of the election?
8 A Yes. We actually took this same list and we handed it --
9 we handed one to the company, we handed one to actually the --
10 the NLRB agent -- of -- of the people that we were objecting
11 to.
12 MS. SANCHEZ: The Union would like to offer Exhibit 56,
13 Your Honor.
14 JUDGE LAWS: Any objection?
15 MR. WILSON: Due to the standing objection, we have no
16 objection.
17 JUDGE LAWS: Okay. I will admit Union Exhibit 56.
18 **(Union Exhibit Number 56 Received into Evidence)**
19 Q BY MS. SANCHEZ: Did you attend the election -- the first
20 election in September of 2017?
21 A Yes, I did.
22 Q What was the outcome of that election, if you recall?
23 A The employees won the election, 75 yeses towards the Union
24 and 22 nos towards non-representation.
25 (Counsel confer)

1 **(Union Exhibit Number 57 Marked for Identification)**
2 Q BY MS. SANCHEZ: Mr. Quinonez, I've just handed you what
3 we've marked as Union Exhibit 57. Does this document look
4 familiar to you?
5 A Yes, it does.
6 Q Can you tell us what it is?
7 A After the count of the votes, this was a tally that the
8 actual NLRB filled out of the outcome of the election.
9 Q Did you attend the count of the votes?
10 A Yes, I did.
11 Q And did you witness the NLRB agent filling this out?
12 A Yes.
13 Q Is your signature contained anywhere on this document?
14 A Yes. It's on the bottom left, right underneath the
15 refusal to sign.
16 Q Do you know what that signifies, if anything -- refused to
17 sign?
18 A Well, once the election was done, the company said they
19 didn't want to sign.
20 MS. SANCHEZ: The Union will offer Exhibit 57 into
21 evidence.
22 JUDGE LAWS: Any objection?
23 MR. WILSON: No objection.
24 JUDGE LAWS: Union 57 is admitted.
25 **(Union Exhibit Number 57 Received into Evidence)**

1 Q BY MS. SANCHEZ: So according to the tally of ballots just
2 marked as 50- -- Union Exhibit 57, the Union won by 53 votes?
3 MR. WILSON: Objection, Your Honor. The document speaks
4 for itself. None of this is in dispute.
5 JUDGE LAWS: Yes. Let's --
6 MS. SANCHEZ: That's fine.
7 JUDGE LAWS: Sustained.
8 Q BY MS. SANCHEZ: Was there eventually a second election
9 in -- for -- at Wismettac?
10 A Yes, there was.
11 Q There was previous testimony that the Union filed multiple
12 petitions for representation. Is that true?
13 A Well, we had -- like, we put another -- I didn't
14 understand that, really, like --
15 Q Sure. Sorry if that was confusing.
16 A I think you said it too fast. I was like --
17 Q That's fine.
18 Did the -- the Union filed the original representation
19 petition on August 21, 2017, correct?
20 A Yes.
21 Q Did the Union ever file a second R petition?
22 A No.
23 Q How come there was a second election, if you know?
24 A We were -- we were told that -- that the NLRB put the
25 first election aside because there was actually misconduct from

1 one of the agents, because he played ping-pong while the
2 election was on break.
3 Q Did you agree that -- with that determination?
4 A Of course not.
5 Q Was there eventually a second election on February 6,
6 2018?
7 A Yes.
8 Q You were still involved with the campaign at that time?
9 A Yes.
10 Q Did you attend the second election?
11 A Yes, I did.
12 Q Do you remember how many challenged ballot votes there
13 were in the second election?
14 A There was --
15 MR. WILSON: Objection, Your Honor. This is --
16 THE WITNESS: -- 53.
17 MR. WILSON: I mean --
18 JUDGE LAWS: I -- I assume it's --
19 MR. WILSON: -- it's really not in dispute.
20 JUDGE LAWS: No. I assume the undisputed things are --
21 are getting toward something that -- that is disputing (sic)
22 and are just background, but --
23 Q BY MS. SANCHEZ: I'm sorry, what was your answer?
24 A Fifty-three.
25 Q So there was exactly the same amount of challenged ballot

1 votes in the second election by the margin you won in -- in the
2 first election?
3 MR. WILSON: Objection. Irrelevant.
4 THE WITNESS: Yes.
5 MR. WILSON: And one again, this -- this is all --
6 JUDGE LAWS: Yeah.
7 MR. WILSON: -- documented in --
8 JUDGE LAWS: It -- it seems to be undisputed. But again,
9 I'm going to allow counsel some leeway, assuming we're getting
10 background on something that is going to be decided here.
11 THE WITNESS: Yes.
12 Q BY MS. SANCHEZ: What did you think of that, if anything?
13 MR. WILSON: Objection. Irrelevant.
14 JUDGE LAWS: I guess what -- what his thoughts are on --
15 on that don't seem to be rel -- I mean, if -- if -- if there is
16 some relevance and -- and I'm missing it, go ahead. But I'm --
17 I'm -- I'm not --
18 MS. SANCHEZ: Thank you --
19 JUDGE LAWS: -- not sure --
20 MS. SANCHEZ: Thank you, Your Honor.
21 JUDGE LAWS: -- what -- what that would glean.
22 Q BY MS. SANCHEZ: After having gone through the various
23 different lists and the first -- going through the first
24 election and the second election, what, if anything, was
25 relevant to you with regard to the number of challenged ballot

1 voters in the second election?
2 A Well, when -- when we decided -- I talked to the employees
3 to see how they felt about it, because a lot of people were
4 upset about the put-aside of the first election, because they
5 didn't understand if they won, why, you know, aren't they being
6 represented. So -- we explain to them that this was the -- the
7 legal and we had to go through another one if they wanted it,
8 and we agreed that we would.
9 And the numbers itself -- like I say, I always speak about
10 numbers because that's what we do. And we had -- we had the
11 numbers, so we were going to win. It just -- it -- it -- from
12 one list to another, I -- I expected more. Because from the
13 previous ones they added more, so I was expecting to see
14 what -- what was coming.
15 Q When you said "they added more," who are you referring to?
16 A The company.
17 Q So did the Board -- did the NLRB ever certify the first
18 election?
19 A No, they didn't.
20 Q And by the end of November 2017, did you have any answer
21 one way or the other about what would happen?
22 A Yes. The -- they said that the fastest -- the fastest way
23 would be -- well, the NLRB explained that the fastest way would
24 be if we would just run another election instead of going
25 through the -- through the channels of fighting the first

1 election. So we decided to run the second election with the
2 same -- with the same -- we thought we were getting the same
3 list, but --
4 Q Prior to the second election, you mentioned a moment ago
5 that the -- the employees at Wismettac were frustrated. How do
6 you know they were frustrated?
7 A Because I was frustrated with them.
8 Q What were you frustrated about?
9 JUDGE LAWS: But let's answer the question. How do you
10 know -- that doesn't relate --
11 Q BY MS. SANCHEZ: How do you know they were frustrated?
12 JUDGE LAWS: Your answer didn't really explain that.
13 THE WITNESS: I speak to the employees -- a -- a lot of
14 the employees, I mean, basically every day, because this is
15 my -- my job every day. So I speak to them every day, and --
16 and -- and also ask them how -- how do they feel about running
17 the second election. So because -- I mean, if -- if the
18 numbers --
19 JUDGE LAWS: That's -- that's enough. I mean, I think
20 it's -- the -- the answer is they told you.
21 THE WITNESS: Okay.
22 MS. SANCHEZ: Thank you, Your Honor.
23 JUDGE LAWS: Yeah.
24 Q BY MS. SANCHEZ: At some point, did you instruct Union
25 counsel to contact the Board and ask when the second election

1 would be run?
2 A Yes.
3 Q Did you get a quick answer?
4 A No. We waited months, actually, for -- for an answer.
5 **(Union Exhibit Number 58 Marked for Identification)**
6 Q BY MS. SANCHEZ: I've just put in front of you,
7 Mr. Quinonez, what we've marked as Union Exhibit 58. If you
8 would take a look at this document and let me know if it looks
9 familiar to you once you've had the time to review it?
10 Does this document look familiar to you, Mr. Quinonez?
11 A Yes.
12 Q What is this?
13 A This is actually the letter that -- we advised counsel
14 to -- to -- to write a letter letting them know that we were
15 waiting for a date for the second election. And this is the --
16 the letter that he wrote.
17 Q If you look on page 1 of Union Exhibit 58, do you see your
18 email there?
19 A Yes.
20 Q And if you look at page 5 of Union Exhibit 58, are you
21 copied to this letter?
22 A Yes.
23 Q And this is the le -- the letter you just testified about
24 that you instructed Union counsel to send to the National Labor
25 Relations Board?

1 A Yes.

2 MS. SANCHEZ: The Union would like to offer Union Exhibit

3 58.

4 JUDGE LAWS: Okay. Any objection? Take your time to look

5 through it and let me know.

6 MR. WILSON: Yes, Your Honor. Relevance.

7 MS. SANCHEZ: Your Honor, we believe that this is

8 relevant. It goes direct -- directly to Petitioner's objection

9 number 4, and we believe it's also subject to the same standing

10 objection that we discussed earlier.

11 JUDGE LAWS: Okay. And I -- I will allow -- admit Union

12 Exhibit 58.

13 **(Union Exhibit Number 58 Received into Evidence)**

14 Q BY MS. SANCHEZ: What happened next?

15 A We -- we actually -- my job was to keep the employees

16 calm, because every -- everybody was upset at the outcome. And

17 just waited to get the second election date.

18 Q And did the Union eventually enter into a new stipulated

19 election agreement?

20 A Yes.

21 MS. SANCHEZ: And we'll note for the record that that

22 stipulated election agreement is attached as exhibit A to the

23 report on challenged ballots and objections.

24 MR. WILSON: Your Honor, I think that mischaracterizes

25 that document. I thought the Board simply -- I don't know that

1 we -- I'm -- I'm not trying to -- I -- I'm not sure that it was
2 a stipulated election or no, that they just ordered another
3 election. I don't think the parties signed -- I think it was
4 just issued.
5 MS. SANCHEZ: I believe that it is included as --
6 MR. WILSON: That's not my point.
7 MS. SANCHEZ: -- attachment A to the --
8 MR. WILSON: But --
9 JUDGE LAWS: Hold on.
10 MS. SANCHEZ: -- report.
11 MR. WILSON: But what is being characterized now is --
12 JUDGE LAWS: This -- the witness' characterization and
13 testimony isn't going to establish --
14 MR. WILSON: Okay. I just --
15 JUDGE LAWS: -- what legal --
16 MR. WILSON: Yeah. Okay.
17 JUDGE LAWS: -- significance --
18 MR. WILSON: That's fine.
19 JUDGE LAWS: -- a document has.
20 MS. SANCHEZ: That's fine.
21 Q BY MS. SANCHEZ: Did you receive a new voter lift -- list
22 after you agreed to the second election?
23 A Yes, we did.
24 (Counsel confer)
25 MS. SANCHEZ: Can we have the witness look at Employer

1 Exhibit 18?

2 JUDGE LAWS: You had it ready for him.

3 **(Union Exhibit Number 59 Marked for Identification)**

4 Q BY MS. SANCHEZ: Mr. Quinonez, I've just put in front of

5 you what the Union has marked as Union Exhibit 59. And you

6 have Employer Exhibit 18 in front of you.

7 First, can you -- you -- a moment ago, you testified to

8 receiving new lists after the stipulated el -- second

9 stipulated election agreement.

10 MR. WILSON: Objection, Your Honor. I object to that

11 term, "second stipulated election agreement."

12 MS. SANCHEZ: Okay.

13 JUDGE LAWS: Let's -- let's --

14 MR. WILSON: I don't believe that exists.

15 MS. SANCHEZ: I withdraw it. I withdraw the question.

16 JUDGE LAWS: Okay.

17 Q BY MS. SANCHEZ: You just testified that you received a

18 new list prior to the second election. Do you remember that

19 testimony?

20 A Yes.

21 Q Is the list that is in front of you marked as Union

22 Exhibit 59 that list?

23 A Yes. That's --

24 Q What did you do when you received this list?

25 A First -- first things as an organizer, you go back to the

1 numbers. You go --
2 Q And --
3 A -- look at the numbers.
4 Q And what did you notice, if anything, about the numbers?
5 A It had grown.
6 Q How had they grown?
7 A Well, the first election was 145 employees that they had
8 put to vote. When we got the second one, it was 178. From --
9 it grew from 145 to 178.
10 Q The second one -- do you mean the fifth amended list?
11 A Yes.
12 Q I'm sorry, I missed your last testimony. What were those
13 numbers, again?
14 A It was 145 on the third amended list of -- of September
15 19th election, 2017. When we got the fifth amended list, it --
16 it jumped from 145 to 178.
17 Q I'm doing math. That is over 30 employees?
18 A Yes.
19 Q And do you know -- could -- did you identify those 30
20 employees at all?
21 A I did. I -- I actually had another list that I
22 highlighted them and -- and actually knew who -- who they were.
23 Q And Employer Exhibit 18 -- what is that document?
24 A Okay. This -- the fifth amended list, okay -- there was
25 supposed to be an election -- a second election in January.

1 And -- and it got canceled, because it was right before
2 Christm- -- it was -- it was the -- the actual election was
3 supposed to happen on the 5th of January, but it got canceled
4 because of the holidays. Nobody was going to be -- we didn't
5 have enough time to go house-call people, and people were out
6 of -- out, and everything. So -- so they gave us, actually, a
7 new date, was -- which was February 6. So then that's when
8 they sent this list.
9 MR. WILSON: Excuse me, by "this list," can you say what
10 you're referring to?
11 THE WITNESS: The sixth amended Employer voter list.
12 MR. WILSON: So I -- I don't want to interrupt you, but
13 you're talking about two different lists, and which one was
14 sent when? That's --
15 THE WITNESS: The fifth list was sent before -- before the
16 election, which was supposed to happen early January.
17 MR. WILSON: Okay.
18 Q BY MS. SANCHEZ: So Carlos, do you also recall that there
19 were a number of unfair labor practice charges filed during
20 this time?
21 A Yes.
22 Q And did one of those unfair labor practice -- do you
23 remember how many there were?
24 A Like, nine.
25 Q And do you remember if one of those charges caused the

1 election to be blocked for a period of time?
2 A Yes.
3 Q Okay. Union Exhibit -- when you looked at Union Exhibit
4 59 and compared it to Union -- excuse me, Employer Exhibit 18,
5 did you identify who the added voters were?
6 A I have -- yes.
7 Q And -- and what did you -- what did you glean from your
8 review of those documents?
9 A Well, every -- every time I get a new one, I go to the
10 previous one. So number 3 amended list -- I -- I compared it
11 to number 5. And then I -- I -- I checked who was added and
12 the -- the classifications of -- of the people that -- that
13 were added. And checking on the third one, since I had already
14 done a actual chart of the people that were -- that didn't
15 qualify, I went and looked at number 5 to see if those matched.
16 And it -- it was actually -- if you look at the list --
17 Q Which list --
18 A -- all --
19 Q -- are you referring to?
20 A Number 5.
21 Q Uh-huh.
22 A If you look at list number 5 and compare it to number 3, a
23 lot of the classifications had already been changed on the
24 employees of the four categories that we had said that we were
25 going to have them vote subject to challenge.

1 Q You mentioned a moment ago a chart. Is it your regular
2 practice as an organizer to make charts?
3 A Yes.
4 MS. SANCHEZ: The Union would like to offer Exhibit 59
5 into evidence.
6 JUDGE LAWS: Okay. Any objection?
7 MR. WILSON: No, Your Honor.
8 JUDGE LAWS: All right. Union 59 is admitted.
9 **(Union Exhibit Number 59 Received into Evidence)**
10 Q BY MS. SANCHEZ: I wanted to clarify the -- the record and
11 ask you this question. You were referring a moment ago to the
12 third amended list and then the fifth amended list; was there a
13 fourth list?
14 A No, there wasn't.
15 **(Union Exhibit Number 60 Marked for Identification)**
16 Q BY MS. SANCHEZ: Does this document look familiar to you?
17 A Yes.
18 Q What is this document?
19 A This is the list that I created for the second election.
20 Q Is part of your job as an organizer to track employees?
21 A Yes.
22 Q And why did you put this chart together?
23 A To simplify the -- the actual growth of the list and --
24 and -- by number and classification and what's the difference
25 between the first, second, third, fifth, and sixth lists.

1 Q On the top row of this chart on Union Exhibit 60, page 1,
2 and also the top row on page 2, where it -- the fifth column
3 through the -- the last column, where it says "Title on First
4 Amended List," "Title on Third Amended List" -- do you see
5 where I'm referring to?
6 A Yes.
7 Q Do those amended lists refer to the documents we -- in
8 evidence we were just reviewing?
9 A Yes.
10 MS. SANCHEZ: The Union would like to offer Exhibit 60
11 into evidence, Your Honor.
12 MR. WILSON: No objection.
13 JUDGE LAWS: Okay. Union Exhibit 60 is admitted.
14 **(Union Exhibit Number 60 Received into Evidence)**
15 Q BY MS. SANCHEZ: Carlos, you testified that your job was
16 to regularly know and talk to employees. And I want to ask
17 you, between the first election and the second election, do you
18 know if any new employees were hired at Wismettac?
19 A Yes, there was.
20 Q Do you know if it was a significant amount?
21 A Well, there was hires because a lot of people would get
22 replaced. It -- it was like I would go house-call somebody,
23 and they're like, oh, I no longer work there. So --
24 JUDGE LAWS: So the question was --
25 MS. SANCHEZ: Was it --

1 JUDGE LAWS: And I'm going to rephrase it, because I think
2 "significant" is an ambiguous term. Do you know how many
3 employees were hired?
4 THE WITNESS: Let me see. I don't know right off the top
5 of my head. I -- I don't know. But -- meaning the exact
6 number.
7 MS. SANCHEZ: Excuse me. I would like the Union to -- I
8 would like the witness to see Union Exhibit 2, please.
9 Q BY MS. SANCHEZ: I'd like to direct your attention to the
10 first column, where it says "Name." If you down sort of midway
11 to the name Susan Sands -- do you see where I'm referring to?
12 A Sands, Susan Lynn?
13 Q Yes. And will you look at the column that says "Hire
14 Date"?
15 A Yes.
16 Q Was it your understanding that this was about or around
17 the hire date of Susan Sands?
18 A Yes.
19 Q And do you know who Keiko Takeda is?
20 JUDGE LAWS: I -- I -- I -- I'm wondering if this in
21 evidence, do we need to establish anything more other than what
22 it says?
23 MS. SANCHEZ: Do -- it's a different question.
24 JUDGE LAWS: Okay.
25 Q BY MS. SANCHEZ: Do you -- does -- does -- strike that.

1 Is it your recollection that there were a few folks that
2 were hired between the first and the second election?
3 A Yes.
4 MR. WILSON: Objection, Your Honor.
5 Q BY MS. SANCHEZ: As far as you knew?
6 A Yes.
7 Q I want to actually ask you about -- switch topics a little
8 bit. Do you see the name John Kirby -- John Andrew Kirby up
9 above on the first column?
10 A Yes.
11 Q Do you know who that person is?
12 A Yes, I do.
13 Q And how do you know who that person is?
14 A I house-called him about three times.
15 Q And were you aware of the various wages employees made
16 during the course of your organizing campaign?
17 A Yes.
18 Q Why were you --
19 A They were on the very first list.
20 Q Why were you aware of that?
21 A They're on the very first list that we got.
22 Q The -- the --
23 A The wages.
24 Q The wages were on --
25 A Yes.

1 Q -- that list?
2 And did you talk to employees about their various wages?
3 A Yes. One of -- one of the biggest topics of their concern
4 was wages.
5 Q And did any warehouse workers make $46 an hour?
6 A No.
7 MR. WILSON: Your Honor -- well, I would -- I mean, there
8 was already testimony from the company that that -- that
9 $46-an-hour rate is incorrect. We're not --
10 MS. SANCHEZ: There was --
11 MR. WILSON: -- asserting that.
12 MS. SANCHEZ: I don't believe that there was testimony --
13 JUDGE LAWS: There was.
14 MS. SANCHEZ: -- to that.
15 JUDGE LAWS: But it's -- it's --
16 MR. WILSON: For Mr. Matheu, we --
17 MS. SANCHEZ: I can move on.
18 JUDGE LAWS: There was for Mr. Matheu. But we -- you
19 know, she's certainly allowed to argue something other than
20 what Mr. Matheu said.
21 I'll note if this is the hourly wage, I want Susan Sands'
22 job.
23 THE WITNESS: I want John Kirby's job.
24 Q BY MS. SANCHEZ: Mr. Quinonez, did the Union stipulate to
25 include or exclude employees with a classification of inventory

1 control?

2 MR. WILSON: Your Honor, objection. The document speaks

3 for itself as to who's included and who's excluded.

4 JUDGE LAWS: I'll allow his testimony on the matter.

5 Go ahead.

6 THE WITNESS: We were -- we -- we said yes, we -- because

7 they were warehouse workers -- for our knowledge, they were

8 warehouse workers.

9 Q BY MS. SANCHEZ: And to your knowledge, there were three

10 inventory controllers, correct?

11 MR. WILSON: Your Honor, objection. Once again, we're

12 back to the same job classification listed, capital I, capital

13 C.

14 JUDGE LAWS: And I understand that, and we've had the

15 testimony.

16 Are we getting to anything new?

17 MS. SANCHEZ: I will continue --

18 JUDGE LAWS: Okay.

19 MS. SANCHEZ: -- and move on.

20 I'd like to have the witness take a look at Employer

21 Exhibit 17.

22 (Counsel confer)

23 MS. SANCHEZ: I apologize. I believe that's the wrong

24 exhibit. One second.

25 It's actually Employer Exhibit 14.

1 Q BY MS. SANCHEZ: Before I ask you questions about this
2 document, were you familiar with the temporary employees in the
3 classifications of warehouse and/or driver?
4 A Yes.
5 Q And how were you familiar with the temporary employees?
6 A I house-called them once we decided to let them, you know,
7 be included in the voting.
8 Q And did you house-call employees multiple times or one
9 time?
10 A You -- well, I mean, for me, I think it's -- it -- it's
11 better if you -- if you do it multiple times. Because, you
12 know, things might change, you know, and they might have new
13 stuff that they want to add to it, or just to let them know
14 that I'm still there and I'm -- you know, I'm -- I'm still
15 going through it. So I don't -- you don't want to just go one
16 time and then just leave them, and -- and them -- they're going
17 to be like, what happened? So --
18 Q And were you here during the previous witness testimony of
19 Lou Villalvazo?
20 A Yes.
21 Q And he mentioned meetings that occurred at the Local with
22 the Wismettac employees. Did you attend those meetings, too?
23 A Yes. I'm the one that organized them.
24 Q Did temporary employees attend those meetings as well?
25 A Yes.

1 Q If you look at Employer's Exhibit 14, I'd like to draw
2 your attention to the -- the boxes -- the rows that are
3 highlighted in green.
4 A Uh-huh.
5 Q Can you look in the second box on page 1? I see the name
6 Ricardo Bravo highlighted in green. Do you know who that is?
7 A Yes, I do.
8 Q How do you know who that is?
9 A I met with him right at Carl's Jr. by the company. And he
10 actually called me and he wanted to meet before -- right before
11 the first election, but he didn't qualify to vote because of
12 the hire date. But I -- I still talked to him and everything,
13 so I -- I knew who he was.
14 Q And if you go all the way down to the bottom line on the
15 same page, I see a Cheryl Diane Johnston. Did you speak with
16 her as well?
17 A She actual -- I went to her house, and she wanted nothing
18 to do with the Union, so we didn't speak to her after that.
19 Q So in your assessment -- in the assessment scheme that you
20 discussed earlier, did you assess Ms. Johnston as one way --
21 one way or the other supportive of the Union?
22 A No. Once -- once we make contact with the individual
23 employee, we make an assessment, and if we -- you know, if --
24 if we get, you know, their reaction, positive or negative,
25 that's how we put it on the -- on the assessment sheet, which

1 is -- is noted like on -- on the other prior list in green on
2 the first one, so --
3 Q So then you noted Ms. Johnston as a negative?
4 A Yeah. If you --
5 JUDGE LAWS: We have to have --
6 THE WITNESS: -- check the list --
7 JUDGE LAWS: -- yes or no.
8 THE WITNESS: -- it's on red. Yes.
9 Q BY MS. SANCHEZ: Can you look at the next page, please?
10 In the second box -- there are two big boxes, as I see them.
11 On the bottom box, I see the second highlighted person in green
12 as Marcus Hosea Mack. Do you see where I'm indicating?
13 A Yes.
14 Q Did you do an assessment of this person?
15 A Yes, I did.
16 Q And what was your assessment?
17 A He contacted me right before the first election also, and
18 he didn't qualify as a -- as a eligible voter. But he -- he --
19 he told me himself that he was prior employee and he was a
20 union before, and he was looking forward to -- for the Union to
21 come in at that time. But he didn't qualify to vote.
22 Q And was Marcus Mack -- did you do an assessment of Marcus
23 Mack as a negative as well?
24 A Like I said, af- -- that was the first time meeting him,
25 before the first election. When we got the list of the second

1 election, I went back and -- and I revisited everybody over
2 again. By the second visit that I did, he wanted -- he wanted
3 nothing to do with me. He said the Union wasn't for him.
4 Q Did he say why?
5 MR. WILSON: Objection, Your Honor. Irrelevant.
6 MS. SANCHEZ: Okay. I'll move on.
7 JUDGE LAWS: Okay.
8 THE WITNESS: I want -- I wanted to note that these
9 boxes -- it's the same one, but it's one long column. So
10 it's --
11 JUDGE LAWS: All right. Let's just confine --
12 MS. SANCHEZ: Oh.
13 JUDGE LAWS: -- your --
14 THE WITNESS: Yeah.
15 JUDGE LAWS: -- testimony to --
16 MS. SANCHEZ: Thank you.
17 JUDGE LAWS: -- to questions that are asked, please.
18 THE WITNESS: Okay.
19 MS. SANCHEZ: Thank you.
20 Q BY MS. SANCHEZ: During the -- during the course of your
21 organizing on the Wismettac campaign, did you get to know
22 anybody in the warehouse who identified themselves as labelers?
23 A Yes.
24 Q And who were they?
25 A The only lady that works there; her name's Beatriz

1 Gonzalez. And another guy; his name is Jose Erazo.
2 Q Do you know who Atsushi Fujimoto is, other -- strike that.
3 Prior to your attendance at this hearing, did you ever
4 meet somebody by the name of Atsushi Fujimoto during your
5 organizing campaign?
6 A No.
7 Q Did you ever see him at Wismettac?
8 A No.
9 Q Did you ever see him with the employees that you met with
10 from Wismettac?
11 A No.
12 MR. WILSON: Objection. There's lack of foundation that
13 he was at Wismettac on the floor when he would've seen
14 Mr. Fujimoto.
15 JUDGE LAWS: Overruled.
16 **(Union Exhibit Number 61 Marked for Identification)**
17 Q BY MS. SANCHEZ: Mr. Quinonez, can you take a look at what
18 we've just marked as Union Exhibit 61 that I've handed you and
19 tell me if this document looks familiar to you?
20 A Yes.
21 Q What is this document?
22 A This document I created for different purposes. We -- we
23 make routes -- different routes of people that live in the same
24 area and everything. And -- and the same thing -- when we have
25 bad addresses, I -- I create the bad addresses so we don't keep

1 going to the same address that they no longer live there.
2 Q And did you create this list in advance of the second
3 election?
4 A In advance or before?
5 Q Prior to the second election.
6 A Yes.
7 Q And did you base this list on your review of the last two
8 election lists that -- voter lists that you received?
9 A Yes.
10 MS. SANCHEZ: The Union would like to offer Exhibit 61
11 into evidence, Your Honor.
12 JUDGE LAWS: Okay. Any objection?
13 MR. WILSON: No objection.
14 JUDGE LAWS: Union 61 is admitted.
15 **(Union Exhibit Number 61 Received into Evidence)**
16 Q BY MS. SANCHEZ: Did you attend the pre-election
17 conference the morning of the second election?
18 A Yes, I did.
19 Q Did the Union make any objections that morning?
20 A Yes, we did.
21 Q Do you recall what objections you made?
22 A There was cameras pointing to the -- to the actual voting
23 room, which was prior safety room. There was big anti-union
24 banners hanging along the side of the -- the hallways, in the
25 racks, by the dock doors, visible to going to vote. So -- and

1 we -- we actually saw a monitor with a camera inside the -- the
2 voting room itself. And there was some propaganda --
3 anti-union propaganda on the -- on the actual wall right before
4 you go into the safety room.
5 Q Okay. I'd like to take that one at a time.
6 Did the -- did the Union also object that morning to a
7 certain number of ineligible vo- -- what you -- the Union
8 perceived as ineligible voters?
9 A Yes. We -- we -- we actually did the same thing as we did
10 to -- on the first election. We had a -- a -- a list of -- of
11 employees that -- that we handed to the company and to the --
12 and to the NLRB agent with the people that we agreed that we're
13 going to let them vote subject to challenge.
14 **(Union Exhibit Number 62 Marked for Identification)**
15 Q BY MS. SANCHEZ: If you look at Union Exhibit 62 -- I've
16 just put it in front of you -- can you tell me what this
17 document is?
18 A This is the document that I handed the NLRB and the
19 company.
20 Q Is this the document you just testified to with regard to
21 who the Union was objecting to?
22 A Yes. This is the list -- the chart that I made.
23 Q And at the pre-election conference, there was an agreement
24 that counsel for the Employer would be provided the -- the list
25 that the Union was using, correct?

1 A Yes.
2 Q And that's the chart contained on pages 2 through 5 of
3 this document?
4 A Yes.
5 MS. SANCHEZ: I'd like to offer 62 into the record, Your
6 Honor.
7 MR. WILSON: No objection.
8 JUDGE LAWS: 62 is admitted.
9 **(Union Exhibit Number 62 Received into Evidence)**
10 Q BY MS. SANCHEZ: Okay. You also mentioned cameras. What
11 cameras were you objecting to?
12 A Those cameras on the dock pointing towards -- towards
13 the -- the room. And we said -- basically said, if you can
14 just turn them away? And there was also a -- a -- a monitor --
15 computer monitor with a -- with a camera that we wanted to be
16 turned around so they couldn't see the vote -- the -- who was
17 voting.
18 Q Did the Employer agree to the -- with regard to the
19 cameras that were on the dock facing the room, did the Employer
20 agree to turn those cameras off or to cover them?
21 A No. They actu- -- well, I was going to say why, but --
22 Q Was your answer no?
23 A No.
24 Q Did they say why they were saying no?
25 A It would take too long to call the -- the people that came

1 to move the cameras, because it wasn't that easy, they weren't
2 accessible from -- they gave us all kinds of --
3 Q Did the Employer agree to turn the computer monitor with
4 the camera around?
5 A They said no, the ca- -- they -- their explanation was the
6 camera didn't even work.
7 Q Did you know one way or the other if the camera worked?
8 A No.
9 Q Did the employees know one way or the other if the camera
10 worked?
11 A No.
12 Q Were the employees, as far as you know, able to see the
13 cameras on the dock that were facing the voter room?
14 A Yes.
15 Q You also mentioned some banners. What banners are you
16 referring to?
17 A I had -- I had been told that they had put sign -- signs
18 up to vote no and everything. I have -- I have gotten pictures
19 of them prior to going there, so when I got there, I wanted to
20 see if they were still up there, and they were. The ones
21 that --
22 Q And that was the day of the election?
23 A Yes, the morning of the election.
24 MS. SANCHEZ: I would like the witness to look at Union
25 Exhibit 42.

1 Q BY MS. SANCHEZ: Does this document look familiar to
2 you?
3 A Yes.
4 Q Are these the banners you're referring to?
5 A Yes.
6 Q And are you certain those banners were still hanging on
7 the day of the election?
8 A Yes.
9 Q How are you certain that those banners were still hanging
10 on the day of the election?
11 A Because I was there.
12 **(Union Exhibit Number 63 Marked for Identification)**
13 Q BY MS. SANCHEZ: And what are the pictures -- if you look
14 at Union Exhibit 63 --
15 A Uh-huh.
16 Q -- can you tell me what the doc -- what the pictures are
17 on pages 2 and 3?
18 A These are -- are -- are the pictures that -- that I took
19 myself, just to note that they were still -- they were still
20 there. Those are on the le -- you can see them right when you
21 walk out.
22 MS. SANCHEZ: The Union would like to offer Exhib- --
23 Union Exhibit 63 into evidence.
24 MR. WILSON: No --
25 JUDGE LAWS: Okay. Any objection?

1 MR. WILSON: No objection.
2 JUDGE LAWS: All right. Union Exhibit 63 is admitted.
3 **(Union Exhibit Number 63 Received into Evidence)**
4 Q BY MS. SANCHEZ: How many voting sessions were there on
5 February 6, 2018?
6 A There was two.
7 Q Did you leave the voting area after the initial
8 pre-election conference?
9 A Yes.
10 Q And did you return for the second session?
11 A Yes, I did.
12 Q When you returned for the second session, did you
13 re-request for the cameras to be turned off?
14 A Yes.
15 Q And what was the answer?
16 A We'll take our chances.
17 Q I'm sorry, what was that?
18 A When -- when we asked them to turn the cameras off, I
19 recall them saying --
20 MR. WILSON: Objection --
21 THE WITNESS: -- we're not going to do it --
22 MR. WILSON: -- as to the term "them," "they."
23 JUDGE LAWS: Who's -- who's -- you have to identify --
24 Q BY MS. SANCHEZ: Who --
25 JUDGE LAWS: -- the person.

1 Q BY MS. SANCHEZ: Who do you -- who -- who -- who are you
2 referring to?
3 A Counsel.
4 Q I'm sorry?
5 A Mr. Wilson.
6 Q And -- and what was the response from Mr. Wilson?
7 A We'll take our chances. Because we -- we told them that
8 that could be a ULP, and by the second time, they said, we'll
9 take our chances.
10 Q Did you also re-request for the computer monitor to be
11 turned around?
12 A Yes.
13 Q And what was the response?
14 A No.
15 Q And the response of "no" was from the Employer?
16 A Yes.
17 Q Did you re-request that the banners be removed from the
18 warehouse floor?
19 A Yes, we did.
20 Q And what was the response?
21 A No.
22 Q You also mentioned memos a moment ago. What memos did you
23 originally notice?
24 A When -- when -- right before you go into the safety room,
25 there was a -- a wall where they had anti-union memos on the

1 wall. And we requested to take -- take them -- to take them
2 down, and that was the only thing they -- they -- they took
3 down.
4 Q Where did the voting occur on February 6, 2018?
5 A It's a safety room right next to the warehouse office.
6 MS. SANCHEZ: Can I have the -- can I have Mr. Quinonez
7 take a look at Employer Exhibit 4, please?
8 Q BY MS. SANCHEZ: You just referred to the safety room next
9 to the warehouse office. Is the safety room identified on
10 Employer Exhibit 4 as the showroom?
11 A Yes, it is.
12 Q Prior to February 6, 2018, was that room known as the
13 safety room?
14 A Yes, it was.
15 Q Do you know when it changed to the showroom?
16 A It was between the -- the first election and the second
17 election.
18 Q A moment ago, you testified that there were cameras on the
19 docks pointing to what's listed on Employer Exhibit 4 as the
20 showroom. Where -- where were those cameras located, if you
21 recall? And if you could identify the area, using your words,
22 on Employer Exhibit 4?
23 A If you look at the red arrow that says "west gate" on the
24 top, this is a arrow that comes in -- that's the warehouse
25 entrance door there. Right -- right above -- right above that,

1 there's -- there's -- there's cameras by the entrance of -- of
2 that door. And it -- and it takes a wide lens to see all
3 the -- all the -- the beginning of the dock and the -- the
4 front of the offices.
5 Q Thank you.
6 And I'm sorry, still looking at Employer Exhibit 4, you --
7 a moment ago, you were discussing memos that were posted next
8 to the safety room or the showroom. Can you, using your
9 words, describe where on Employer Exhibit 4 those memos were
10 posted?
11 A Yes. If you -- if you look at the -- the left, where --
12 where it says restrooms, the male restrooms -- that's a whole
13 wall right there. That's right by the entrance of the
14 showroom -- the now showroom. And -- and there's a board right
15 there that they had put the actual letters -- the anti-union
16 letters on that -- on that.
17 Q And if you recall, how many anti-union letters did you see
18 posted on that board right next to the voting area?
19 A There was four.
20 Q And did the Employer agree to take those down?
21 A Yes.
22 Q And were those taken down prior to the vote?
23 A Yes.
24 Q Okay. So your -- your remaining concerns, then, were the
25 banners, the cameras, and the monitor?

1 A Yes.
2 Q Did you attend the vote count?
3 A Yes, I did.
4 Q And what were the results, if you recall?
5 A The results were 76 yeses and 46 nos, and 53 votes that
6 were put aside -- challenged.
7 Q You mean challenged?
8 A Yes.
9 Q And so the Union won?
10 A According to us, yes.
11 Q What did the Board agent do with the challenged ballots,
12 if you recall?
13 A He had a -- a prior list that we had already given him.
14 And he actually -- when they came in, they -- he would write
15 their name and their position and -- and put them in the
16 envelope. And they said that if -- like -- like the former
17 election, if -- if -- if there was enough votes and we would
18 win by that margin, that it didn't matter, they would never get
19 opened. So that's what he -- he would separate them in
20 envelopes.
21 Q Did you watch the agent handle the challenged ballots?
22 A Yes.
23 Q And did you watch the count itself?
24 A Yes.
25 Q And was the Employer there also able to watch the count?

1 A Yes.
2 Q You just testified a moment ago that you watched the
3 count, and you saw the Board agent handle the challenged
4 ballot votes. Is this what -- do you know what this document
5 is?
6 A Yes. This was the paper that was outside of the yellow
7 folders that he put the actual envelopes in.
8 Q And do you recall if he sealed that?
9 A He did.
10 Q And if you look at the third page of this document, do you
11 see the bottom there where there's an X?
12 A Yes.
13 Q And do you see, too, what looks like -- what look like
14 signatures?
15 A Yes.
16 Q Do you know whose signatures those are?
17 A Well, I remember you signing it and Scott Wilson signing
18 it.
19 MS. SANCHEZ: The Union would like to introduce Exhibit
20 64.
21 **(Union Exhibit Number 64 Marked for Identification)**
22 JUDGE LAWS: Okay.
23 MR. WILSON: No objection.
24 JUDGE LAWS: Union 64 is admitted.
25 **(Union Exhibit Number 64 Received into Evidence)**

1 Q BY MS. SANCHEZ: Were both sides given a copy of that
2 document?
3 A Yes.
4 Q Who was present at the vote count in the showroom or the
5 safety training room that day?
6 A For the Union, it was myself, you, Renee, Oscar Ruiz, and
7 Alberto Rodriguez stayed behind, because he was the -- the PM
8 observer.
9 Then it was Scott Wilson, very different kind of managers
10 that were there -- Frank was there -- Matheu, Jose Romero was
11 there. There was a -- a lady there, later on. I asked who she
12 was and they told me that that was HR, so I -- I don't know who
13 she was. And then there was a lot of freezer people that came
14 in -- employees, I mean.
15 Q Who is Jose Romero?
16 A He's a supervisor.
17 Q Were the people who prior witnesses have identified as
18 union-busters there?
19 A Yes.
20 Q How many?
21 MR. WILSON: Objection. Irrelevant.
22 MS. SANCHEZ: If he knows.
23 THE WITNESS: There was two.
24 JUDGE LAWS: Overruled.
25 Q BY MS. SANCHEZ: And you mentioned that there was freezer

1 employees; is that correct?
2 A Yes.
3 Q How do you know they were freezer employees?
4 A Because of prior warehouse experience. I know the suits
5 that they wear. So the suits that they wear is freezer gear,
6 and they had taken off their jackets and they had the freezer
7 pants, which is a kind of, like, overall they -- they put over
8 their own clothes. And they came in right before the count.
9 Q Did you see that the folks from the freezer were wearing
10 any buttons or any kind of T -- special T-shirts?
11 A Yeah, they -- they were wearing a ant -- a -- a -- a Union
12 logo, our logo, and then they had done their -- their red void
13 mark over the -- that -- the Union logo.
14 Q You're making an indication with your finger of a circle
15 with a cross through it --
16 A Yeah.
17 Q -- is that --
18 A So --
19 Q -- what you mean?
20 A Yeah. The -- the void, you know --
21 Q So they had --
22 A -- circle with the -- with the line over it.
23 Q So they had worn shirts with the Union's insignia with the
24 void symbol over it?
25 A Yes.

1 Q And did you know those employees to be anti-union
2 employees?
3 A Yeah. One of them was John Kirby. Jose Rosas. Because I
4 had prior knowledge of who they were. I -- I recognized a
5 couple of them prior from house calls.
6 Q And do you know if the pro-union employees that you had
7 identified were allowed to attend that vote count?
8 MR. WILSON: Objection. Lack of foundation.
9 MS. SANCHEZ: He was there.
10 JUDGE LAWS: Yeah.
11 MS. SANCHEZ: If he knows.
12 MR. WILSON: Your Honor --
13 JUDGE LAWS: If you know.
14 MR. WILSON: -- he -- she used the term "allowed," and
15 that's meaning that they were told they cannot come in, and
16 that has to be established.
17 JUDGE LAWS: That does have to be established. Okay.
18 THE WITNESS: Okay. Well, that -- that was my next --
19 that was -- I was waiting for them to come in, just like the
20 very election.
21 JUDGE LAWS: Who are -- who are "they"?
22 THE WITNESS: The --
23 JUDGE LAWS: Identify them.
24 THE WITNESS: The employees that are -- are for the Union,
25 that, you know, want the Union. When --

1 JUDGE LAWS: Were there any in particular you were waiting
2 for?
3 THE WITNESS: The committee.
4 JUDGE LAWS: Okay.
5 THE WITNESS: I was waiting for them to come in, and --
6 and they never came in. So I just took my notes and -- and --
7 and wrote down the count and everything.
8 Right after, we're -- we were supposed to meet at
9 Starbucks to know the outcome, and they were all waiting there.
10 And I asked them, why -- why didn't you go? Like, what --
11 what's going on, you know? You left us there, you know, by
12 ourselves. This is your election. And --
13 Q BY MS. SANCHEZ: So were you upset at them?
14 A Yeah.
15 Q You -- and -- and what did they say?
16 A They said that the -- that the managers were around, and
17 every time they went to vote, they told them to leave the
18 premises. Like, they couldn't stick around. And I said, well,
19 you know, you can come back. And they said -- they said no,
20 they -- they weren't allowed.
21 MS. SANCHEZ: No further questions, Your Honor.
22 JUDGE LAWS: All right. Let's go off the record, and we
23 can figure out lunch break.
24 MR. WILSON: Your Honor, I have --
25 JUDGE LAWS: If I could --

1 MR. WILSON: -- no questions for this witness.
2 JUDGE LAWS: Oh.
3 MS. SANCHEZ: I am done, then.
4 JUDGE LAWS: Does that mean we're done?
5 MR. WILSON: I guess so.
6 JUDGE LAWS: All right. Well, let me --
7 UNIDENTIFIED SPEAKER: Let's go off.
8 JUDGE LAWS: Oh. Let's go off. What --
9 MR. WILSON: Your Honor, 64 was admitted, correct?
10 JUDGE LAWS: I believe so, yes. Was it --
11 MS. SANCHEZ: We believe so.
12 JUDGE LAWS: 64 noted as admitted.
13 (Off the record at 12:57 p.m.)
14 JUDGE LAWS: The Employer indicated he does not have any
15 questions for Mr. Quinonez, so we are finished with the
16 testimony for today. We do have some outstanding matters, so I
17 will not be closing the record.
18 The Employer is going to turn over the time records and --
19 and other records that we talked about. I'm not going to
20 reiterate it, because I did it on the record, so the transcript
21 will most accurately reflect that. I don't dare venture to --
22 to -- to mess with that. So the Employer has agreed the -- to
23 get those documents to the Union by November 19th. If there
24 are any problems, they will let us know.
25 Assuming the documents are provided by November 19th,

1 given the Thanksgiving weekend, to allow the Union a couple
2 weeks with those documents, they will review them by December
3 10th. I will set a conference for some time that week or
4 sooner to determine how, where, when, and by what method to --
5 to get the Employer's anticipated rebuttal testimony -- which
6 will be, as of now, just one witness -- and then to receive any
7 documents into the record that the Union might want to put in
8 after they receive them.
9 The exhi- -- since we have all but one exhibit, I'm going
10 to ask that they be processed, just so that if we do reconvene
11 again, we will have those exhibits electronically and people
12 won't have to be carrying suitcases full of paper and it'll
13 just be easier for everybody. And we very well might -- may --
14 we -- we might not have more exhibits; we don't know. But at
15 this point, since -- since all but potentially one are in, I
16 would like to have those processed.
17 And with that, we will reconvene sometime after December
18 10th. Off the record.
19 MS. SANCHEZ: Your Honor, I didn't want to interrupt
20 the --
21 (Off the record at 1:03 p.m.)
22 MS. SANCHEZ: You didn't -- it was a tally of ballots.
23 JUDGE LAWS: Yeah.
24 MS. SANCHEZ: You didn't object to it.
25 MR. WILSON: No, no. I agree.

1 JUDGE LAWS: Yeah.

2 Just one final housekeeping matter before we reconvene.

3 Employ- -- Union Exhibit 57 is admitted.

4 Now we're really off the record.

5 MS. SANCHEZ: Thank you, Your Honor.

6 **(Whereupon, the hearing in the above-entitled matter was**

7 **recessed at 1:05 p.m., until date TBD December 2018)**

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1 **CERTIFICATION**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978,
5 21-CA-219153, 21-CA-212285, 21-RC-204759, Wismettac Asian
6 Foods, Inc., and International Brotherhood of Teamsters, Local
7 630, and Rolando Lopez, and International Brotherhood of
8 Teamsters, Local 630, at the National Labor Relations Board,
9 Region 21, 888 South Figueroa Street, Room 902, Los Angeles,
10 California 90017, on Friday, November 2, 2018, 9:03 a.m., was
11 held according to the record, and that this is the original,
12 complete, and true and accurate transcript that has been
13 compared to the reporting or recording, accomplished at the
14 hearing, that the exhibit files have been checked for
15 completeness and no exhibits received in evidence or in the
16 rejected exhibit files are missing.
17
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19
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21 _____
TROY RAY
22 Official Reporter
23
24
25

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:

Wismettac Asian Foods, Inc.,	Case Nos.	21-CA-207463
		21-CA-208128
Employer,		21-CA-209337
		21-CA-213978
and		21-CA-219153
		21-CA-212285
International Brotherhood of Teamsters, Local 630,		21-RC-204759
Union,		

and

Rolando Lopez,

An Individual,

and

International Brotherhood of Teamsters, Local 630,

Petitioner.

Place: Los Angeles, California

Dates: January 22, 2019

Pages: 1696 through 1718

Volume: 13

OFFICIAL REPORTERS
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Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

In the Matter of:	
WISMETTAC ASIAN FOODS, INC., Employer,	Case Nos. 21-CA-207463 21-CA-208128 21-CA-209337 21-CA-213978 21-CA-219153 21-CA-212285 21-RC-204759
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Union,	
and	
ROLANDO LOPEZ, An Individual,	
and	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 630, Petitioner.	

The above-entitled matter came on for hearing, pursuant to notice, before **ELEANOR LAWS**, Administrative Law Judge, at the National Labor Relations Board, 312 N. Spring Street, Courtroom #2, Los Angeles, CA 90017, on **Tuesday, January 22, 2019, 9:32 a.m.**

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1 **I N D E X**

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3 WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
4 Frank Matheu	1700	1711			

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1 **E X H I B I T S**

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3 EXHIBIT	IDENTIFIED	IN EVIDENCE
4 **Employer:**		
5 E-86	1712	1713
6 E-87	1712	1713
7 E-88	1712	1713
8 E-89	1712	1713
9 E-90	1712	1713
10		
11 **Union:**		
12 U-65	1715	1715
13 U-66	1715	1715
14 U-67	1715	1715
15 U-68	1715	1715

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

2 JUDGE LAWS: Let's go on the record. We are back for what
3 is hopefully the final day of testimony is Wismettac Asian
4 Foods and International Brotherhood of Teamsters, et al. and we
5 are going to be having Mr. Matheu return to the stand, so is
6 there anything we need to discuss on the record before he comes
7 up?
8 MR. WILSON: I don't believe so.
9 JUDGE LAWS: Okay. Come on up. Since it's been a while,
10 I'm going to re-swear you.
11 Whereupon,
12 **FRANK MATHEU**
13 having been duly sworn, was called as a witness herein and was
14 examined and testified as follows:
15 JUDGE LAWS: Please have a seat. And the court reporter
16 has your name so I will just turn things over to Counsel. Be
17 mindful of the instructions I gave last time, particularly
18 about our court reporter's job and the need to have one voice
19 at a time.
20 THE WITNESS: Sure.
21 JUDGE LAWS: Thanks.
22 **DIRECT EXAMINATION**
23 Q BY MR. WILSON: Good morning, Mr. Matheu, thank you for
24 coming back. I want to direct your attention to -- we can all
25 agree that you testified previously so I won't go through a lot

1 of preliminary matters that you've discussed but I want to
2 direct your attention to August -- approximately August of
3 2017.
4 A Um-hum.
5 Q At some point, did it come to your attention that security
6 guards were posted outside the company facility in Santa Fe
7 Springs?
8 A Yes.
9 Q Okay. And how did you learn about that?
10 A I was told by Mr. Yoshi Narimato.
11 Q Okay. And when did he tell you about that?
12 A He told me that after the walk-in with the Union came into
13 our building.
14 Q Okay. Did he describe what you just referred to as a
15 walk-in by the Union?
16 A Yeah, he described it as a situation where a bunch of
17 employees were frightened. They burst into a building with no
18 permission, and that was the purpose of the security.
19 Q Okay. So were the security guards posted before or after
20 this entrance by the Union that you just described?
21 A After.
22 Q Okay. And to your recollection, how long did they stay
23 there?
24 A They're still there. Until today, they're still there.
25 Q Okay. And they remained there during the second election

1 then?
2 A That's correct.
3 Q Okay. So can you -- court report show the witness
4 Employer Exhibit No. 4?
5 COURT REPORTER: They've all been processed, sir. I don't
6 have any --
7 JUDGE LAWS: I can do it.
8 MR. WILSON: I mean I've got a copy of it.
9 JUDGE LAWS: Okay. I can show it to him electronically or
10 if you want to show him a paper copy, that's fine.
11 MR. WILSON: I can show him -- as long as I can approach
12 and stand here with him when I can.
13 JUDGE LAWS: Just make sure you're close to the
14 microphone.
15 MR. WILSON: Okay.
16 Q BY MR. WILSON: Mr. Matheu, I want to show you what's been
17 marked and admitted previously as Employer Exhibit No. 4.
18 A Okay.
19 Q Do you recognize this document?
20 A Yes, I do.
21 Q Can you describe what it is?
22 A Yeah, it's the outline of the warehousing, basically the
23 whole building.
24 Q Okay. Now, we've had testimony about there being two
25 elections involving the NLRB at the company, One in September

1 of 2017 and one in February of 2018. Do you recall those
2 elections?
3 A Yes, I do.
4 Q Were you present at both of them?
5 A Yes.
6 Q Okay. Now, can you, looking at --
7 MS. SANCHEZ: Your Honor, may I object, just to ask Mr.
8 Wilson to take -- to step back from the stand and his notes --
9 to not have his notes --
10 JUDGE LAWS: Oh.
11 MS. SANCHEZ: -- on the stand.
12 MR. WILSON: Oh, okay. Well, I'll take the notes away.
13 JUDGE LAWS: The notes taken away. He can't step too far
14 back --
15 MS. SANCHEZ: Okay, sure.
16 JUDGE LAWS: -- because he needs to be close to a
17 microphone.
18 MR. WILSON: Okay.
19 JUDGE LAWS: So the notes are turned over.
20 MR. WILSON: Right.
21 MS. SANCHEZ: Thank you.
22 MR. WILSON: No, that's fine, sorry.
23 Q BY MR. WILSON: Now, can you point out on Exhibit --
24 Employer Exhibit Number 4 where the voting took place in both
25 of the elections.

1 A Sure.
2 MR. WILSON: You guys want to see it?
3 JUDGE LAWS: Sure.
4 A BY THE WITNESS: It took place on the little place that's
5 a showroom.
6 Q So that's in the upper left-hand corner?
7 A Right, right there.
8 Q Okay. Are there cameras posted in the vicinity of that
9 showroom?
10 A Yes.
11 Q Where are the cameras located?
12 A The cameras are right where the X is at.
13 Q Okay. Is there only one set of cameras or are there more
14 than one?
15 A There is more, I do not recall exactly where the other
16 ones are. I believe there's one around this area here.
17 Pointing this way.
18 Q And you're pointing --
19 A Toward the back doors.
20 Q Yeah, to the top where the rows are --
21 A Right.
22 Q -- selected there. Okay.
23 JUDGE LAWS: And is it the bottom X? There are two Xs,
24 one up and a little bit to the left and one lower, where the
25 cameras are?

1 THE WITNESS: I'm sorry, that would be the southeast exit.
2 JUDGE LAWS: Okay.
3 THE WITNESS: Yeah, this X right here.
4 JUDGE LAWS: Okay. So it's the one that's lower on the
5 page?
6 THE WITNESS: Yup.
7 MR. WILSON: Sorry.
8 JUDGE LAWS: That's all right.
9 Q BY MR. WILSON: Okay. And are you familiar with what can
10 be observed by those cameras?
11 A Yes.
12 Q Okay. Now, to your knowledge, if you're viewing the -- if
13 you're looking through any one of those cameras you described,
14 can you view the inside of the showroom where the voting was
15 taking place?
16 A No, not the inside.
17 Q Okay. And to your knowledge, and you were there both
18 elections --
19 A Um-hum.
20 Q During the first election was there a camera inside the
21 showroom?
22 A No.
23 Q Okay.
24 A Nope.
25 Q And during the second election, was there a camera inside

1 the showroom?
2 A No.
3 Q Okay. Now, during the first election while the voting was
4 taking place were the cameras in operation?
5 A yes.
6 Q Okay. And during the second election when the voting was
7 taking place were the cameras in operation?
8 A Yes.
9 Q Okay. And why were those cameras operating during those
10 times?
11 A Security.
12 Q Okay.
13 A Security for the employees.
14 Q Okay. Why do you have the cameras there?
15 A That's basically the camera that shows the people coming
16 in and the people going towards the office area of the
17 building.
18 Q Okay. Why do you have -- are there cameras throughout the
19 warehouse?
20 A Yes, there is.
21 Q And what's the purpose of the cameras?
22 A Just for inventory control, just to observe employees,
23 observe the doors that are coming in from the outside.
24 Q Okay.
25 A Yup.

1 Q And to your knowledge, how long have those cameras been in
2 the LA warehouse?
3 A For since I got there, which will be September of 2017.
4 Q Okay. Do you know if they were there prior to that.
5 A No, they were there prior to that, I just don't know when
6 they were put in. They were there a long time.
7 Q Okay. And prior to the election, the second election in
8 February of 2018, were there posters up or banners in the
9 warehouse addressing the issue of unionization?
10 A Yes.
11 Q Okay. And once again, going back to Employer Exhibit 4,
12 can you tell us where those posters were located?
13 A Yeah, obviously the approximate vicinity, they were posted
14 above the dock doors facing the racks and some were posted on
15 the racks facing towards the dock doors. And one approximately
16 in the middle area of the racks, which is this area, open space
17 here.
18 Q Okay. Now the voting took place in the showroom, correct?
19 A Correct.
20 Q Okay. Could employees entering the showroom, to your
21 knowledge, observe these banners?
22 A Not from that point, no.
23 Q Why is that?
24 A They were facing the opposite, obviously they were
25 facing -- I don’t know how to explain it but, you needed to

1 walk towards the middle of the warehouse for you to start
2 seeing the posters.
3 Q So were they posted sideways?
4 A Yes.
5 Q Okay. So if I were standing -- if I were entering the
6 showroom to vote and I looked to my left, could I observe the
7 banners to your knowledge?
8 A No.
9 Q Okay.
10 MR. WILSON: I'll take that back. And so I want the
11 witness to look at General Counsel Exhibit 35.
12 JUDGE LAWS: Okay.
13 MR. WILSON: And once again I have a copy of it.
14 JUDGE LAWS: I have it too. If you want to show him your
15 copy, I can pull it up electronically.
16 MR. WILSON: It's the suspension letter of Alberto
17 Rodriguez.
18 JUDGE LAWS: And that's General Counsel 35 you said?
19 MR. WILSON: Yes.
20 JUDGE LAWS: Okay.
21 Q BY MR. WILSON: Mr. Matheu, I want to show you a document
22 that has been an exhibit -- marked and entered in as an exhibit
23 which is General Counsel 35. Do you recognize that document?
24 A Yes.
25 Q Okay. Now that deals with the suspension of employee

1 Alberto Rodriguez, do you recall the circumstances around his
2 suspension?
3 MS. PEREDA: Objection --
4 MR. RIMBACH: Objection, that's --
5 MS. PEREDA: irrelevant --
6 MR. RIMBACH: Oh, sorry.
7 MS. PEREDA: Objection. It's irrelevant. This particular
8 issue was already -- this witness was already questioned
9 about -- and we are here solely for the purpose of matters
10 relating to the R-case. This has nothing to do with what this
11 witness is here to testify about.
12 JUDGE LAWS: Looks like Union objection two --
13 MR. WILSON: Two?
14 JUDGE LAWS: -- is the Alberto Rodriguez suspension.
15 MS. PEREDA: We would still object to relevance because
16 Mr. Matheu was already -- Mr. Rodriguez testified prior to Mr.
17 Matheu's testimony and Mr. Matheu already testified. He was
18 here to testify to rebuttal regarding what the Union presented.
19 MS. SANCHEZ: The Union would join that objection. We
20 understood that this was rebuttal to the R-case.
21 MR. WILSON: Well the R-case included, I assume, the
22 testimony put on from the General Counsel that related to your
23 objection. I just have very, very brief testimony to clarify
24 something that Mr. Rodriguez testified to. It certainly is not
25 getting into the merit of the --

1 JUDGE LAWS: I'll allow it. Go ahead.
2 Q BY MR. WILSON: Okay. So do you recall the circumstances,
3 and when I say the circumstances, I don't mean the reasons for
4 his suspension, but the day that it took place?
5 A Yes, sir.
6 Q Okay. Can you tell me what happened?
7 A Yes, so basically HR presented me a letter to give to Mr.
8 Alberto Rodriguez.
9 Q Was that Exhibit 35?
10 A Yes, it was.
11 Q Okay.
12 A We, myself and two other managers went to speak to Mr.
13 Rodriguez in a secluded area in the warehouse. I explained the
14 suspension letter, told him he was suspended effective
15 immediately with no pay in regards to the investigation going
16 on.
17 Q Okay. Did you read this letter to him?
18 A I did not. I said the basic -- what the contents were.
19 Q Did you mention -- and when you had this conversation with
20 him, did you mention anything about his union activities?
21 A No.
22 Q Okay, all right. That's my only question.
23 MR. WILSON: So I have no more questions. We just have
24 exhibits to put in which we -- that don't relate to what he
25 testified to, and we can put those in after cross examination.

1 JUDGE LAWS: After cross, okay. Do you need a minute?
2 MS. SANCHEZ: Yes, thank you.
3 (Off the record at 9:44 a.m.)
4 **CROSS-EXAMINATION**
5 Q BY MS. SANCHEZ: Good morning, Mr. Matheu.
6 A Good morning.
7 Q I want to ask you a couple of questions about your
8 testimony. Prior to the first election, how many working
9 cameras were there in the warehouse?
10 A Prior to the first election, all of them, I believe.
11 Q How many are all of them?
12 A I ca -- right around the showroom, I would say four,
13 around the showroom when the election took place.
14 Q And then out in the racks, how many?
15 A I cannot give you an exact number.
16 Q More than five?
17 A yes.
18 Q More than 10?
19 A Around 10.
20 Q And what about out on the docks?
21 A That's including the docks.
22 Q And with regard to Employer Exhibit Number 4 which is the
23 map of the facility?
24 A Um-hum.
25 Q You previously testified that the -- that the banners, the

1 anti-union banners were in the racks and along the side, but
2 where you pointed to the X, which is near the entrance, the
3 bottom X on this document, wasn't there also a poster hanging
4 on the wall there, one that had Lou Villalvazo's face on it?
5 A I don't recall that.
6 Q You're sure?
7 A Yes.
8 Q That poster was there for months including before the
9 first election through the second election, wasn't it?
10 A I don't recall that.
11 Q And those banners, they were large banners, correct?
12 A Correct.
13 MS. SANCHEZ: No further questions, Your Honor.
14 JUDGE LAWS: Okay. Any follow up?
15 MR. WILSON: No, Your Honor.
16 JUDGE LAWS: All right. Well thank you again for
17 providing your testimony. Please don't discuss it with any
18 witnesses.
19 THE WITNESS: Yes, ma'am.
20 JUDGE LAWS: Let's go off the record and see where things
21 are with regard to exhibits and any potential rebuttal. Off
22 the record.
23 (Off the record at 9:52 a.m.)
24 **(Employer Exhibit Numbers 86 through 90 Marked for**
25 **Identification)**

1 JUDGE LAWS: Okay. The employer has handed copies to
2 myself and the other parties of exhibits marked for
3 identification as Employer Exhibits 86 through 90. And off the
4 record, the Union indicated they object, so I want to give them
5 an opportunity to state the basis for their objection on the
6 record.
7 MS. SANCHEZ: Thank you, Your Honor. The Union doesn't
8 believe that these documents have any relevance, and so we
9 object for that reason.
10 JUDGE LAWS: And I do think they speak to the part of
11 Union objection number 3 which says -- which alleges the filing
12 of a merit list lawsuit. Does the Union have any dispute as to
13 the authenticity of these documents?
14 MS. SANCHEZ: No, Your Honor.
15 JUDGE LAWS: All right, then I will go ahead and admit
16 Employer Exhibits 86, 87, 88, 89, and 90.
17 **(Employer Exhibit Numbers 86 through 90 Received into Evidence)**
18 MS. SANCHEZ: Your Honor, the Union would like to offer
19 additional documents related to the lawsuit if these ones are
20 going to get admitted.
21 JUDGE LAWS: All right. Let's go off the record and get
22 those sorted out.
23 MS. SANCHEZ: We don't have them with us today.
24 JUDGE LAWS: You don't have them? Okay.
25 MS. SANCHEZ: We didn't anticipate --

1 JUDGE LAWS: Is there a way to get them today? Have them
2 emailed to you or --
3 MS. SANCHEZ: We can -- we can try.
4 JUDGE LAWS: Okay.
5 MS. SANCHEZ: Our office assistant is a part-time employee
6 and she's not in the office today but we can try to talk to --
7 JUDGE LAWS: Is there somebody else -- okay.
8 MR. WILSON: Your Honor, if they will tell us what the
9 documents are, we --
10 JUDGE LAWS: You might have them?
11 MR. WILSON: And well, we may very well stipulate to them
12 if we just know what they are. But I mean, I'd want to see
13 them first.
14 JUDGE LAWS: Yes.
15 MS. SANCHEZ: Sure, they would be documents that were
16 related to the demurrers.
17 MR. WILSON: Okay. That's fine.
18 JUDGE LAWS: All right. Why don't we see if we can get
19 those --
20 MS. SANCHEZ: Sure.
21 JUDGE LAWS: -- because I can't close the record with
22 outstanding exhibits, and I don't want to have to reconvene
23 everybody again either telephonically or otherwise to close the
24 record. I think this is something we should be able to get
25 into the record today. So let's do what we can to try to get

1 that --

2 MS. SANCHEZ: Sure.

3 JUDGE LAWS: The wheels in motion for that.

4 MS. SANCHEZ: Sure.

5 JUDGE LAWS: Off the record.

6 (Off the record at 10:04 a.m.)

7 **(Union Exhibit Numbers 65 through 68 Marked for Identification)**

8 JUDGE LAWS: All right, we're back on the record and then

9 the Union has turned over to Counsel and myself some documents

10 that they wanted to submit related to the most recent documents

11 the respondent has submitted. Respondents' counsel indicated

12 he does not object, so with that I will admit Union Exhibits

13 65, 66, 67, and 68.

14 **(Union Exhibit Numbers 65 through 68 Received into Evidence)**

15 MS. SANCHEZ: Thank you, Your Honor.

16 JUDGE LAWS: All right. Is there anything else from the

17 Union?

18 MS. SANCHEZ: No, Your Honor.

19 JUDGE LAWS: Is there anything else from the Respondent?

20 MR. WILSON: No. No, Your Honor.

21 JUDGE LAWS: Oh, no problem. And I -- is there anything

22 else from the General Counsel before I close the record?

23 MS. PEREDA: No, Your Honor.

24 JUDGE LAWS: All right, then if there is nothing else, I

25 will prepare and file with the Board my decision in this

1 proceeding. A copy will be served on each of the parties. You
2 are reminded to refer to the Board's rules and regulations for
3 information regarding the filing of briefs and proposed
4 findings for my consideration and regarding procedures before
5 the Board after the issuance of a judge's decision.
6 Now that all the evidence is in, you have a better
7 opportunity to assess your chances regarding the outcome of the
8 issues than you had at the outset of the trial. All parties
9 should carefully weigh the risks entailed and decide whether an
10 amicable settlement of the issues might not offer a more
11 satisfactory solution. Settlement may be arranged now or at
12 anytime before I issue my decision.
13 I will allow until February 26, 2019 for the filing of
14 briefs and any proposed findings and conclusions. Briefs
15 should be filed directly with the judge's division in San
16 Francisco regardless of whether they e-filed or mailed.
17 Sections 102.2 through 102.5 of the Board's rules address
18 filing and service requirements. Any requests for an extension
19 of time for the filing of briefs must be made in writing to the
20 associate chief judge in San Francisco and served on the other
21 parties. The positions of the other parties regarding the
22 extension should be obtained and set forth in the request. It
23 is the policy of the division of judges to grant discretionary
24 extensions only when they are clearly justified. Requests for
25 extensions must contain specific reasons and show that the

1 requesting party cannot reasonably meet the current deadline.
2 I want to thank all the parties for presenting the case in
3 a cooperative and efficient manner. Even though it was a long
4 case, I feel like the parties did a good job working together.
5 And there being nothing further, the hearing is now closed and
6 off the record.
7 MR. WILSON: Your Honor, I just had one, and you can
8 answer off the record.
9 JUDGE LAWS: Yeah, I will. Off the Record.
10 (Off the record at 12:01 p.m.)
11 **(Whereupon, the hearing in the above-entitled matter was closed**
12 **at 12:01 p.m.)**
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1 **C E R T I F I C A T I O N**

2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 21, Case Numbers
4 21-CA-207463, 21-CA-208128, 21-CA-209337, 21-CA-213978, 21-CA-
5 219153, 21-CA-212285, 21-RC-204759, Wismettac Asian Foods,
6 Inc., and International Brotherhood of Teamsters, Local 630 and
7 Rolando Lopez and International Brotherhood of Teamsters, Local
8 630, at the National Labor Relations Board, 312 N. Spring
9 Street, Courtroom #2, Los Angeles, CA 90017, on January 22,
10 2019, at 9:32 a.m. was held according to the record, and that
11 this is the original, complete, and true and accurate
12 transcript that has been compared to the reporting or
13 recording, accomplished at the hearing, that the exhibit files
14 have been checked for completeness and no exhibits received in
15 evidence or in the rejected exhibit files are missing.
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19 _____
TROY RAY
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Official Reporter
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