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

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

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

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

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

Amazon in a misleading and negative light to voters and suggested the Board's preference for the ALU.

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

After fostering this impression throughout the critical period, during the election itself the Region demonstrated the appearance of support for the ALU in front of voters in the polling place while they were voting. The Region required employees wearing "Vote No" shirts to cover up their shirts before entering the polling place, but permitted employees wearing ALU paraphernalia to display it in the polling place. The Region also hindered voter turnout by mismanaging the beginning stages of the election and bringing insufficient resources to support the size of the election. The Region's unpreparedness produced chaos and hours-long lines to vote on the first polling day, discouraging other employees from voting. The Region also allowed camera crews, including the ALU President's personal videographer, to photograph, video, and interview employees standing in line to vote. This scared away those who understandably did not desire to have a microphone or news camera in their face or a reporter publicly interrogating them about how they planned to vote.

The ALU's own misconduct during the critical period likewise chilled voters, suppressed turnout, and destroyed laboratory conditions. Among other things, the ALU unlawfully intimidated employees to support the ALU, stating among other things "if you vote no, I will know"; threatened violence against its detractors; perpetuated lies about Amazon's conduct in the NYPD's arrest of ALU President Christian Smalls for trespassing; recorded voters in the polling place; engaged in electioneering in the polling area; distributed marijuana to employees in exchange for their support; and surveilled employees as they exited the voting tent. All of these actions had a tendency to suppress voter turnout and interfere with laboratory conditions.

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

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

## OBJECTIONS

**OBJECTION 1 -** The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it sought a 10(j) injunction in *Drew-King v. Amazon.com Services LLC*, E.D.N.Y., No. 22-01479, on March 17, 2022. The Region sought this injunction 23 months after the alleged discriminatee (Gerald Bryson) was discharged, 18 months after the charge was filed, and 14 months after the complaint was issued in Case 29-CA-261755. Delaying the filing of this lawsuit until the eve of the election improperly

influenced employees' perception of Amazon mere days before they were to vote. The Regional Director admitted as much in a statement to multiple press outlets, specifically referencing the imminent election in Case 29-RC-288020, stating the Board's support for the ALU and alleging Amazon was a lawbreaker. Specifically, the Regional Director said:

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

(emphasis added).[1] Mr. Bryson was discharged in May of 2020 for verbally berating a female co-worker. This video[2] of the incident, which the Region attempted to conceal from Amazon throughout the investigation and trial, revealed that Mr. Bryson called his female co-worker, amongst other names, "gutter bitch," "crack ho," "queen of the slums," and "crack-head" over a bullhorn in front of their workplace because she exercised her Section 7 rights to disagree with him. Yet, on the eve of the election, the Region pursued this injunction suggesting that only ALU supporters' Section 7 rights matter, and that Amazon's actions were worthy of an extraordinary remedy.

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

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[1] *See* Mitchell Clark, The NLRB is suing Amazon to get a fired activist his job back, THE VERGE (Mar. 17, 2022), https://www.theverge.com/2022/3/17/22983692/nlrb-amazon-labor-activism-gerald-bryson-jfk8-warehouse-injunction; *see also* Karen Weise, N.L.R.B sues Amazon over labor practices at a Staten Island Facility, NY TIMES (Mar. 17, 2022), https://www nytimes.com/2022/03/17/business/amazon-staten-island-facility.html.

[2] *See* https://www facebook.com/bella nagengast/videos/1079803845739201.

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

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

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

[3] The ALU has repeatedly, and falsely, claimed that it has filed "over 40" unfair labor practice charges against Amazon.

CASEHANDLING MANUAL-PART TWO, REPRESENTATION PROCEEDINGS § 1103.1(a) (Sept. 2020) (CASEHANDLING MANUAL) (requiring a petitioner to file evidence in support of the showing of interest at the time the petition is filed or, when the petition is e-filed or faxed, within two days of filing).

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

showing of interest perpetuated the false impression that the ALU had sufficient support to proceed forward with an election when it clearly did not have sufficient support.

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

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

**OBJECTION 8 -** The Region failed to protect the integrity of its procedures when it failed to control media presence in and around the voting area. Amazon specifically raised concerns to

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

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

**OBJECTION 10 -** The Region failed to protect the integrity and neutrality of its procedures and created the impression of Board assistance or support for the ALU when it directed voters to cover up "Vote NO" shirts, but allowed other voters to wear ALU shirts and other ALU paraphernalia in the polling area. There was no basis for this direction as the Board has consistently held that wearing stickers, buttons, and similar campaign insignia by participants and observers at an election is, without more, not prejudicial. *R. H. Osbrink Mfg. Co*., 114 NLRB 940, 941-43

(1955); *see also Furniture City Upholstery Co*., 115 NLRB 1433, 1434–1435 (1956). The Board has held that the impact on voters is not materially different "whether the observers wear prounion or antiunion insignia of this kind." *Larkwood Farms*, 178 NLRB 226, 226 (1969) (observer wearing "Vote No" hat not objectionable). The Region's discriminatory directions toward ALU opponents created the impression for all voters present, as well as all potential voters who learned of these incidents, that the Board appeared to favor the ALU over Amazon in the outcome of the election. "No participant in a Board election should be permitted to suggest to the voters that this Government agency, or any of its officials, endorses a particular choice." *Am-O-Krome Co.*, 92 NLRB 893, 894 (1950).

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

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

the matter privately, the Board Agent, within earshot of voters, stated to the employee that the employee could file unfair labor practice charges against Amazon with the NLRB.

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

**OBJECTION 14 -** The ALU improperly promised employees in the final days of the campaign that it would not charge them dues unless and until the ALU secured a raise for employees during collective bargaining. Prior to and during the critical period, the ALU was clear that it would charge employees dues immediately following a successful vote. After employees expressed reluctance to pay dues, the ALU directly contradicted its earlier statements and asserted for the first time, late in the campaign, that it would not charge dues unless and until it secured higher wages in contract negotiations with Amazon. The ALU made these promises to employees during employee meetings, on social media, and in a letter from the ALU's President to all eligible voters two days before the polls opened. The ALU's failure to file any foundational documents and LM filings with the Department of Labor, as required by the Labor Management Reporting and Disclosure Act of 1959 ("LMRDA"), coupled with its late-hour promise of free union representation, allowed it to make promises regarding its dues structure in a way that deprived Amazon of the ability to effectively respond, and denied employees the opportunity to assess the credibility of the promise. Additionally, the ALU's promises of free union representation is an objectionable grant of a benefit because this benefit is within the ALU's power to effectuate. *See,*

*e.g., Alyeska Pipeline Serv. Co.*, 261 NLRB 125, 126-27 (1982) (union controlled all access to construction jobs in Alaska for employees participating in election, and thus union's suggesting only way to get union card was by voting for union in upcoming election was objectionable as union was clearly promising to grant members advantage over nonmembers and had power to do that); *see also Go Ahead N. Am., LLC*, 357 NLRB 77, 78 (2011) (finding objectionable union's offer to waive back dues).

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

**OBJECTION 16 -** Non-employee ALU organizers repeatedly trespassed on Amazon's property. Over the course of many months, Amazon informed non-employee ALU organizers on several occasions that they had no right to solicit on Amazon's property and that their presence on Amazon's property constituted unlawful trespass. Nevertheless, Mr. Smalls and other non-employee ALU organizers continued to trespass on Amazon's property for the purpose of soliciting employee support during the critical period. On February 23, 2022, during the critical period, Mr. Smalls and two ALU organizers initiated a confrontation with the New York Police Department after Mr. Smalls repeatedly refused to leave Amazon's property, which resulted in

their arrests. After his arrest, Mr. Smalls and the ALU consistently misrepresented what had occurred, claiming that he merely dropping off food for employees and was akin to an Uber Eats driver, and that Amazon "called the cops on employees." Mr. Smalls consistently failed, however, to mention in his social media posts and interviews on the subject that on the date of his arrest, he brought a film crew[4] onto Amazon's property without authorization, conducted an interview (that can be seen on social media), and then proceeded to trespass and loiter for over one hour. The ALU also filed ULP charges—which the Region has yet to investigate—and falsely alleged that Amazon had "violated its national settlement" with the NLRB. The ALU then amplified these misrepresentations and the pendency of the charge in the media. All of these actions had a reasonable tendency to interfere with laboratory conditions. *See Phillips Chrysler Plymouth*, 304 NLRB 16, 16 (1991) (Board set aside election when union agents invaded the employer's premises without permission and refused to leave when asked, engaging in a confrontation with company management).

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

[4] *See* Addison Post, *Amazon Did Everything it Could to Bust Staten Island Union*, THE INTERCEPT (Apr. 2, 2022), https://theintercept.com/2022/04/02/amazon-union-staten-island/.

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

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

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

conduct because they reasonably tended to coerce employees into supporting the ALU solely out of fear that they would lose their benefits.

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

NLRB 37, 39 (1999) (holding union's use of sound truck broadcasting pro-union music constituted objectionable conduct).

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

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

[5] *See* Sara Ashley O'Brien, Two Amazon warehouses are vying to make history with company's first union, but they're very different, CNN BUSINESS, (Mar. 30, 2022), https://www.cnn.com/2022/03/25/tech/amazon-new-york-alabama-union-elections/index.html.

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

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

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

**OBJECTION 25 -** ALU officials, agents, and supporters, including but not limited to non-employee ALU President Smalls and non-employee Gerald Bryson, engaged in objectionable conduct, including loitering in the "no-electioneering zone" established by the Board and/or within view of the polling area while polls were open, creating the impression among employees that the

ALU was surveilling the polling area, and otherwise engaging in electioneering. This conduct reasonably tended to coerce and intimidate voters and potential voters.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

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

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