

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

STARBUCKS CORPORATION

Respondent,

and

WORKERS UNITED

Charging Party.

Case No. 19-CA-319839

RESPONDENT STARBUCKS CORPORATION’S MOTION FOR A BILL OF PARTICULARS

Respondent Starbucks Corporation (“Starbucks” or “Respondent”), by and through counsel, moves for a Bill of Particulars (“Bill”) because the Consolidated Complaint (“Complaint”), issued by the Regional Director of Region 19 of the National Labor Relations Board (“Board”) on August 8, 2025 violates Starbucks’ due process rights, and is so vague and lacking in specificity as to certain allegations as to prevent Starbucks from adequately defending itself at trial.

I. PROCEDURAL HISTORY

On August 8, 2025, Region 19 issued a Complaint and Notice of Hearing (“Complaint”) in Case No 19-CA-319839. The Complaint in total alleges three unfair labor practices that allegedly occurred in April and May of 2023 at Starbucks’ store located at 2401 West Wellesley Avenue, Spokane, Washington 99205 (the “Store”). Specifically, the operative allegations are as follows:

- Starbucks, through District Managers Ryan Jones and Lindsey Holznagel, allegedly promised to remedy partner¹ grievances at the Store on or about the week of April 17, 2023 or April 24, 2023. Compl., ¶ 5(a).
- Starbucks, through Store Managers Olive Baurer and Emily [LNU] on May 1, 2023 allegedly threatened partners at the Store with the loss of benefits if they selected the Union as bargaining representative. Compl., ¶ 5(b).
- Starbucks, through Store Manager Olive Baurer and Emily [LNU] on May 3 or May 5, 2023, allegedly created an impression among partners that their union activities were being surveilled. Compl., ¶ 5(c).

There are no other facts alleged in the Complaint identifying what allegedly was said, making it impossible for Starbucks to investigate the allegations or to mount a defense. Starbucks hereby moves for an Order requiring Counsel for the General Counsel to amend the Complaint to provide more detailed allegations with respect to the allegations in Complaint Paragraph 5.

II. STATEMENT OF LAW

A bill of particulars must be granted when a complaint is so vague the charged party cannot meet the General Counsel’s case. *See McDonald’s USA, LLC*, 362NLRB No. 168, slip op. at 1 (2015) (quoting *North American Rockwell Corp. v. NLRB*, 389 F.2d 866, 871 (10th Cir. 1968)). An unfair labor practice complaint must put the charged party on adequate notice of the alleged violations as “the respondent [is] entitled to know the basis of the complaint against it, and to explain its conduct, in an effort to meet the complaint[.]” *NLRB v. Mackay Radio & Telegraph Co.*, 304 U.S. 333, 350 (1938); *see also Curtiss-Wright Corp. v. NLRB*, 347 F.2d 61, 72 (3d Cir. 1965) (a complaint is a “mechanism for giving [a respondent] notice of the claim upon which relief

¹ Starbucks refers to its employees as “partners”.

is sought.”).

This is a fundamental due process requirement. A complaint’s issuance signifies the start of a formal proceeding with the Board; it removes the matter from the investigative stage to the hearing phase. The Board’s Rules and Regulations, at Section 102.15, require the General Counsel to include the following elements in a complaint:

- (a) A clear and concise statement of the facts upon which the Board asserts jurisdiction, and
- (b) A clear and concise description of the acts that are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of Respondent’s agents or other representatives who committed the acts.

29 CFR § 102.15.

Longstanding United States Supreme Court precedent on due process requires that an unfair labor practice complaint must provide the charged party adequate notice of the violations it has allegedly committed: “[T]he respondent [is] entitled to know the basis of the complaint against it, and to explain its conduct, in an effort to meet the complaint[.]” *NLRB v. Mackay Radio & Telegraph Co.*, 304 U.S. 333, 350 (1938). Accordingly, “[t]he propriety of a pleading is today judged by its effectiveness as a mechanism for giving an adverse party notice of the claim upon which relief is sought.” *Curtiss-Wright Corp. v. NLRB*, 347 F.2d 61, 72 (3d Cir. 1965).

The allegations of a complaint must be “sufficiently detailed to enable the parties to understand the offenses charged and the issues to be met.” NLRB Casehandling Manual, Part 1, Unfair Labor Practice Proceedings, § 10264.2 (November 2022). Moreover, a Section 8(a)(1) allegation should specify the names of offending supervisors with the dates and locations of each incident. *Id.* (emphasis added). “Careful drafting of the complaint . . . avoids many problems during trial and time-consuming briefs and arguments.” *Id.*

To be sufficiently specific, a complaint should specify (1) the nature of the violations alleged, (2) the dates on which the alleged violations occurred, (3) the names of the agents of the respondent who allegedly violated the Act, and (4) the location at which the alleged violations occurred. *See Affinity Medical Center*, 364 NLRB No. 67, slip op. at 2 (2016).

The General Counsel must meet these particularity standards because procedural “due process requires the Board to afford an alleged violator notice and an opportunity for a hearing on a charge under the Act.” *Pergament United Sales, Inc. v. NLRB*, 920 F.2d 130, 134 (2d Cir. 1990). The Constitutional notice requirement is meant to “afford respondent[s] an opportunity to prepare a defense by investigating the basis of the complaint and fashioning an explanation of events that refutes the charge of unlawful behavior.” *Id.* at 135; *accord NLRB v. I.W.G., Inc.*, 144 F.3d 685, 688–89 (10th Cir. 1998) (quoting *J.C. Penney Co. v. NLRB*, 384 F.2d 479, 483 (10th Cir. 1967)) (“[f]ailure to clearly define the issues and advise an employer charged . . . is, of course, to deny procedural due process of law.”); *see also SFTC, LLC d/b/a Santa Fe Tortilla Co.*, 360 NLRB 1139, n.6 (June 13, 2014) (“[Respondent] is entitled to due process. That is, it is entitled to know ahead of time what alleged violations it must defend. It is, after all, a simple matter to prepare or amend a complaint that does so.”).

If the General Counsel fails to satisfy these standards, a respondent may file a motion for a bill of particulars with the Division of Judges. *See* Section 102.24(a) of the Board’s Rules and Regulations; *Full-Fill Indus., LLC*, No. 25-CA-249830, 2020 WL 6781765, at *1 n.2 (Nov. 17, 2020). A motion for a bill of particulars should be granted where a “complaint is so vague that the party charged is unable to meet the General Counsel’s case.” *Affinity Med. Ctr.*, 364 NLRB No.67, slip op. at 2 (2016) (quoting *N. Amer. Rockwell Corp. v. NLRB*, 389 F.2d 866, 871(10th Cir. 1968). For example, in *Storkline Corp.*, 141 NLRB 899 (1963), the company’s motion for bill of

particulars was granted to the extent that they sought specific information as to where alleged instances of interrogations or threats were committed, the form in which alleged threats were made, and the time and place of alleged surveillance.

Beyond the necessary pleading standards, a Complaint must also allege that a Respondent's actions are "related to employees' exercise of the rights contained in Section 7 of the Act." *See Starbucks Corp.*, Case No. 10-CA-291616 (Notice to Show Cause Order at 1, Sept. 23, 2022) (emphasis added) (**Ex. A**). In short, "because Section 8(a)(1) makes it unlawful for an employer to 'interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7,' a failure to allege in the complaint that the actions of its supervisor occurred in relation to employees' Section 7 activities renders the General Counsel's allegations insufficient to make out an 8(a)(1) claim." (*Id.*)

As set forth below, this Motion must be granted to afford Starbucks the due process rights it is entitled to under the Constitution and which have been violated by the actions of Counsel for the General Counsel in this proceeding.

III. ARGUMENT

A. The Complaint Fails to Meet Necessary Pleading Standards Under Supreme Court Precedent

Paragraph 5 of the Complaint is deficient and insufficiently specific to meet necessary pleading standards. Specifically, the Paragraph alleges only:

- (a) On or about the week of April 17 or April 24, 2023, on a date better known to Respondent, Respondent, by District Managers Ryan Jones and Lindsey Holznagel, at the Spokane store, promised to remedy employee grievances.
- (b) On or about the week of May 1, 2023, on a date better known to Respondent, Respondent, by Store Managers Olive Baurer and Emily (last name unknown), at the Spokane store, threatened its employees with the loss of benefits if they selected the Union as their bargaining representative.
- (c) On or about May 3 or May 5, 2023, on a date better known to Respondent, Respondent, by Store Managers Olive Baurer and Emily (last name unknown), at the Spokane store, created an impression among its employees that their union activities were under surveillance by Respondent.

"When determining whether words spoken by a supervisor violated the Act, a judge must take care to determine, as exactly as possible, what actually was said. Just a slight change in wording can mean the difference between a lawful statement and an unfair labor practice....[T]he General Counsel must identify as precisely as possible that portion of [Respondent's] speech which the government alleges to be a threat. Only then has the General Counsel provided the predicate for an argument that [Respondent] threatened employees." *Valley Hosp. Med. Ctr., Inc. d/b/a Valley Hosp. Med. Ctr.*, No. JD-50-25, 2025 WL 1610576 (June 4, 2025).

And as the Fifth Circuit recently recognized, the Board's procedural rules already "favor the Board.... For a party defending against an enforcement action, there is no right to discovery during a Board investigation; no pre-trial right to discover evidence; the General Counsel may conceal the identity and any affidavits of employee witnesses until the employee testifies; and an employer may only review an employee affidavit moments before cross-examination. Essentially, employers face trial by ambush." *Trader Joes Company v. National Labor Relations Board*, No. 24-60367 at 48 (5th Cir. Feb. 18, 2026) (Oldham, C.J., dissenting) (internal citations and quotations omitted). "Trial by ambush" becomes assured where, as here, the Complaint simply recites boilerplate violations of the Act, and gives Starbucks no information with which to even conduct

its own investigation.

The Complaint fails to properly specify the nature of the violations alleged because it entirely fails to specify what speech or phrase was violative of the Act. The allegations of the Complaint are nothing but boilerplate recitations of actions which, broadly speaking, would theoretically violate the Act. But no indication is given to Starbucks as to what was said by any supervisor or manager, rendering it impossible for Starbucks to investigate the allegations and assess their truth, and more importantly, rendering it impossible for Starbucks to prepare any potential defense. Instead, Counsel for the General Counsel presumably seeks to ambush Starbucks at trial with the specific language used, requiring Starbucks to defend on the fly. *McDonalds USA, LLC*, 362 NLRB 1347, 1347 (2015) (a bill of particulars is justified “when the complaint is so vague that the party charged is unable to meet the General Counsel’s case.”). When Counsel for the General Counsel fails to state in the Complaint “the things claimed to constitute an unfair labor practice”, as here, a respondent cannot prepare any defense. *Curtiss-Wright Corp.*, 347 F.2d at 72.

Practically speaking, what such a deficient Complaint means is that counsel for Starbucks can only ask the named managers if, on the dates in question, they “promised to remedy employee grievances”, or threatened partners with a loss of benefits, or ever created an impression among partners that their Union activities were being watched. Of course, Starbucks’ Store Managers and District Managers, who are not versed in labor law, have no idea what statement or action from three years ago might constitute, for instance, an unlawful promise to remedy grievances. They cannot recite from memory every single thing they said to every partner on a given day several years prior. Thus, Starbucks is essentially left with nothing but to wait and see what, specifically, Counsel for the General Counsel alleges was said that allegedly violated the Act. This

is a violation of Starbucks' Due Process rights.

Nor is it any consolation that Starbucks could, theoretically, request some postponement of the hearing after Counsel for the General Counsel's case-in-chief. First, as outlined above, the Board's regulations already require that Starbucks cross-examine partner witnesses with little to no preparation time. The prejudice to Starbucks is only further heightened where, as here, Starbucks can conduct no meaningful investigation of its own prior to hearing and prior to the General Counsel's case-in-chief. And even if Starbucks could request some minor hearing postponement to prepare after hearing Counsel for the General Counsel's evidence (and there is no guarantee any given ALJ would grant such request), the deck still tilts wildly in favor of Counsel for the General Counsel, who has had months or years to prepare this case. That Starbucks could request a month or two to assess the Counsel for the General Counsel's case, conduct an investigation, marshal its own witnesses, and do its own search for documents, does not remedy the due process violation. Finally, it must be noted that to prepare for and attend hearing, even in the absence of notice of the allegations being defended against, requires substantial expenditures of Starbucks time and resources in the first instance. If Counsel for the General Counsel cannot even muster a Complaint that affords due process, there is little consolation to be had for Starbucks, who must spend substantial resources to prepare prior to even the opening of the hearing.

It is no secret why Counsel for the General Counsel here has drafted the Complaint so as to give Starbucks no information at all to prepare a defense. Of course, even with all of the Board's own procedural rules already requiring what is essentially "trial by ambush", Counsel for the General Counsel seeks through this vague Complaint to only stack the deck further in their favor. Starbucks does not ask to know the names of witnesses or partners, or to intrude upon any of their Section 7 rights – it seeks only to know what, specifically, was said by the named supervisors that

allegedly violated the Act. The Complaint fails to outline “a clear and concise description of the acts which are claimed to constitute unfair labor practices” as required by the Board’s Rules and Regulations, and more importantly, by the Due Process Clause of the United States Constitution. Counsel for the General Counsel must therefore amend the Complaint to put Starbucks on notice as to what specific statements were made that allegedly violated the Act.

B. Paragraph 5(a) of the Complaint Fails to Allege that Starbucks’ Actions Were Related to Employees’ Exercise of Their Section 7 Rights

In addition to the above deficiencies, the Complaint fails to allege that Starbucks’ actions were related to employees exercising Section 7 rights.

In a different Starbucks case, where the complaint suffered from similar deficiencies, the Board issued a Notice to Show Cause. *See Starbucks Corp.*, Case No. 10-CA-291616 (Notice to Show Cause Order, Sept. 23, 2022) (**Ex. A**). There, the Complaint contained only the following allegations:

- 7 About March 3, 2022, Respondent, by Ashley Bracher, at Respondent’s Store #9780, implicitly threatened employees with unspecified reprisals by disparaging employees and accusing employees of being disloyal.
- 8 By the conduct described above in paragraph 7, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

See Starbucks Corp., Case No. 10-CA-291616 (Compl., ¶¶ 7-8, July 12, 2022) (**Ex. B**). In its Notice to Show Cause, the Board found “the complaint does not allege that the supervisor’s alleged accusation of employee disloyalty and disparagement of employees *was related* to employees’ exercise of the rights contained in Section 7 of the Act.” *See Starbucks Corp.*, Case No. 10-CA-291616 (Notice to Show Cause Order at 1, Sept. 23, 2022) (emphasis added) (**Ex. A**).

The same is true here. Specifically, Paragraph 5(a) of the Complaint alleges only that “District Managers Ryan Jones and Lindsey Holznagel, at the Spokane store, promised to remedy employee grievances.”

Such an allegation is deficient on its face for the same reasons outlined in *Starbucks Corp.*, 10-CA-291616. That is, even assuming *arguendo* that the allegations are true, the Complaint does not allege that a promise to remedy grievances was in any way connected with partners’ exercising of their Section 7 rights, or in any way connection to partners’ Union activity. In other words, the Complaint fails to specify *how* any of the above allegations interfered with, restrained, or coerced partners in exercising their rights because it does not allege any relation between the action and partner Section 7 activity.

IV. CONCLUSION

For the foregoing reasons, Starbucks hereby moves for an Order requiring Counsel for the General Counsel to amend the Complaint to provide more detailed allegations with respect to Paragraph 5 or withdraw those allegations.

Dated: March 2, 2026

LITTLER MENDELSON, P.C.

/s/ Jacob D. Multer

Charles Powell IV
LITTLER MENDELSON, P.C.
420 20th St. N., Suite 2300
Birmingham, AL
Telephone: 205.421.4703
Email: cpowell@littler.com

Jacob D. Multer
LITTLER MENDELSON, P.C.
265 Church St, One Century Tower
Suite 300
New Haven, CT 06510
Telephone: 203.974.8742
Email: jmulter@littler.com

*Attorneys for Respondent
Starbucks Corporation*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this 2nd day of March, 2026, a true and correct copy of the foregoing Motion for a Bill of Particulars was electronically filed with the Division of Judges and served via e-mail upon the following:

Isabel Oraha, Counsel for the General Counsel
National Labor Relations Board, Region 19
915 Second Ave., Suite 2948
Seattle, WA 98174
Isabel.oraha@nlrb.gov

Marina Multhaup
Counsel for Charging Party
Barnard, Iglitzin & Lavitt LLP
18 West Mercer Street, Suite 400
Seattle, WA 98119
multhaup@workerlaw.com

/s/ Jacob D. Multer

LITTLER MENDELSON, P.C.
Attorney for Respondent

EXHIBIT A

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

STARBUCKS CORPORATION

and

Case 10-CA-291616

**WORKERS UNITED, SOUTHERN
REGIONAL JOINT BOARD**

**ORDER TRANSFERRING PROCEEDING TO THE BOARD
and
NOTICE TO SHOW CAUSE**

On July 26, 2022, the Respondent filed with the National Labor Relations Board a motion to dismiss or, alternatively, for a bill of particulars on the grounds that the complaint fails to state a claim upon which relief can be granted.¹ The Respondent submits that because Section 8(a)(1) makes it unlawful for an employer to “interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7,” a failure to allege in the complaint that the actions of its supervisor occurred in relation to employees’ Section 7 activities renders the General Counsel’s allegations insufficient to make out an 8(a)(1) claim. We note that the complaint does not allege that the supervisor’s alleged accusation of employee disloyalty and disparagement of employees was related to employees’ exercise of the rights contained in Section 7 of the Act.

Having duly considered the matter,

IT IS ORDERED that the above-entitled proceeding be transferred to and continued before the Board in Washington, D.C.

¹ The Respondent’s alternative request for a bill of particulars is not properly before the Board. Sec. 102.24(a) of the Board’s Rules and Regulations provides that prehearing motions other than motions for default judgment, summary judgment, or dismissal must be filed with the Board’s Division of Judges. Deputy Chief Administrative Law Judge Amchan denied the Respondent’s request for a bill of particulars on August 2, 2022.

NOTICE IS GIVEN that any party seeking to show cause why the Respondent's motion should not be granted must do so in writing, filed with the Board in Washington, D.C., on or before October 7, 2022 (with affidavit of service on the parties to this proceeding). If a response to this Notice to Show Cause is filed, a party may file a reply to the response within 7 days of receipt of the response (with affidavit of service on the parties to this proceeding), but further responses will not be permitted except where there are special circumstances warranting leave to file such a response.

Dated, Washington, D.C., September 23, 2022.

By direction of the Board:

Roxanne Rothschild

Executive Secretary

EXHIBIT B

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 10**

STARBUCKS CORPORATION

and

Case 10-CA-291616

**WORKERS UNITED, SOUTHERN REGIONAL
JOINT BOARD**

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Workers United, Southern Regional Joint Board (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Starbucks Corporation (Respondent) has violated the Act as described below.

1.

(a) The Union filed the charge in this proceeding on March 3, 2022, and a copy was served on Respondent by U.S. mail on March 4, 2022.

(b) The Union filed an amended charge in this proceeding on March 16, 2022, and a copy was served on Respondent by U.S. mail on March 17, 2022.

2.

At all material times, Respondent has been a corporation with its principal office and place of business in Seattle, Washington, and various locations throughout the United States, including Store #9780 located at 116 Merchant Drive in Knoxville, Tennessee (Respondent's Store #9780), and has been engaged in the retail operation of restaurants.

3.

In conducting its operations described above in paragraph 2, Respondent annually purchases and receives at its Store #9780, goods valued in excess of \$50,000 directly from points outside the State of Tennessee.

4.

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

5.

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

6.

At all material times, Ashley Bracher held the position of Respondent's Store Manager and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

7.

About March 3, 2022, Respondent, by Ashley Bracher, at Respondent's Store #9780, implicitly threatened employees with unspecified reprisals by disparaging employees and accusing employees of being disloyal.

8.

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

9.

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

REMEDIES

The General Counsel seeks an Order providing for all relief as may be just and proper to remedy the unfair labor practices alleged, including, but not limited to, requiring that Respondent electronically distribute by email, internal apps, and electronically post on its intranet, the Notice to Employees and Explanation of Rights in English and in additional languages, if appropriate.

The General Counsel also seeks an Order requiring that, at a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's Store Manager Ashley Bracher read the Notice to Employees in English and in additional language, if appropriate, on worktime in the presence of a Board agent. Alternatively, the General Counsel seeks an Order requiring that Respondent promptly have a Board agent read the notice to employees during worktime in the presence of Respondent's Store Manager Ashley Bracher.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 26, 2022, or postmarked on or before July 25, 2022.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests

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

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **September 22, 2022, at 10:00 am [CT] at a location to be determined in Knoxville, Tennessee**, and on consecutive days thereafter until concluded, at a location and by a means and method to be determined, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the

allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.



Dated: July 12, 2022

A handwritten signature in black ink, appearing to read "L. Henderson", with a long horizontal line extending to the right.

LISA Y. HENDERSON
REGIONAL DIRECTOR
National Labor Relations Board
Region 10
401 W. Peachtree Street, NE
Suite 472
Atlanta, GA 30308

Attachments

1. Form NLRB 4338 – Notice
2. Form NLRB 4668 - Procedures in NLRB Unfair Labor Practice Hearings

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 10-CA-291616

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

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

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

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

Kevin Johnson, President and CEO
Starbucks Corporation
2401 Utah Avenue South, Suite 800
Seattle, WA 98134

Roderick Todd, District Manager
Starbucks Corporation
116 Merchant Drive
Knoxville, TN 37912

Kimberly J. Doud, Esq.
Littler Mendelson, PC
111 North Orange Avenue, Suite 1750
Orlando, FL 32801

Elizabeth B. Carter, Esq.
Littler Mendelson, PC
111 North Orange Avenue, Suite 1750
Orlando, FL 32801

Erik C. Hult, Attorney
Littler Mendelson, P.C.
41 S High St Ste 3250
Columbus, OH 43215

Chris Bauman
Workers United, Southern Regional Joint Board
1777 Phoenix Pkwy Ste 230
Atlanta, GA 30349

Michael B. Schoenfeld, Attorney
Stanford Fagan LLC
2540 Lakewood Ave SW
Atlanta, GA 30315

Procedures in NLRB Unfair Labor Practice Hearings

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

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

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

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not

submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.