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

STARBUCKS CORPORATION

and **Case No. 07-CA-302784**
07-CA-311198

WORKERS UNITED

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DECISION

STATEMENT OF THE CASE

PAUL BOGAS, Administrative Law Judge. I heard this case on November 13, 2023, and January 8 to 11, 2024. The hearing was conducted remotely using videoconferencing technology on the first day, and in-person in Detroit, Michigan, on the remaining 4 days. Workers United (the Union or the Charging Party) filed the charge in case 07-CA-302784 on September 2, 2022 (amended March 27, 2023) and the charge in case 07-CA-311198 on January 31, 2023. The Acting Director of Region 7 of the National Labor Relations Board (the Board) issued the Consolidated Complaint (the Complaint) on September 22, 2023. The Complaint alleges that Starbucks Corporation (the Respondent, the Employer, or Starbucks), violated Section 8(a)(1) of the National Labor Relations Act (the Act) by promulgating and maintaining rules on workplace communication and conduct that interfere with employees' exercise of their Section 7

rights.[1] The Complaint further alleges that the Respondent discriminated in violation of Section 8(a)(3) and (1) of the Act: when it issued a disciplinary warning to, and subsequently, discharged, Alexandra "Sasha" Anisimova because she assisted the Union and engaged in concerted activity, and based on application of the allegedly unlawful work rules; and when it discharged Asher Ramirez because they[2] assisted the Union and engaged in concerted activities. The Respondent filed a timely answer in which it denied committing any of the violations alleged.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and the Respondent, I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation with its principal office in Seattle Washington, is engaged in the operation of restaurants selling food and beverages at locations throughout the United States, including one at 4585 Washtenaw Road, Ann Arbor, Michigan, (the Glencoe Crossing store or Glencoe store). The Respondent annually derives gross revenues in excess of $500,000 and at the Glencoe store purchased and received products, goods, and materials valued in excess of $5000 directly from points outside the State of Michigan. The Respondent admits, and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. BACKGROUND

The Respondent operates over 25,000 retail coffee shops worldwide.[3] Tr. 43. The alleged violations in this case primarily involve conduct at the Respondent's Glencoe store in Ann Arbor, Michigan, which has a staff of 20 to 30 persons. Tr. 43-44, 336. The Glencoe location is one of ten stores in the Respondent's District 366. Beginning in February 2022, District 366 was overseen by district manager Paige Schmehl. Tr. 507-508. At the time of the hearing, union representation petitions had been filed at six of the ten stores in the district. Tr. 536. Mohammed "Essa" Alessa was the store manager for the Glencoe location starting on August 1, 2022, and continuing through the time of the allegedly unlawful terminations. Tr. 42-43. Alessa had only worked for the Respondent for about 2 months prior to being assigned to manage the Glencoe store. As store manager, Alessa had the authority to discipline employees on

[1] Section 7 of the Act states that employees have the right, inter alia, "to self-organization, to form, join, or assist labor organizations, to bargaining collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection."

[2] Ramirez testified to using they/them pronouns. Transcript at Page (Tr.) 369.

[3] This figure is set forth in the Board's decision in *Starbucks Corp. d/b/a Starbucks Coffee Co.*, 372 NLRB No. 50, slip op. at 1 (2023).

his own, but generally obtained the district manager's approval before taking disciplinary actions. Tr. 84-86. Rachel Lambert had been the Glencoe store manager prior to Alessa, including at the time when the Respondent issued a written warning that is challenged by the General Counsel. Tr. 61. When a store manager is not present at the Glencoe location, the scheduled "shift supervisor" (a bargaining unit employee) is responsible for overseeing the operation of the store. Tr. 50.

The Respondent maintains a 76-page staff manual, which it refers to as the "Partner[4] Guide." General Counsel Exhibit Number (GC Exh.) 10. Among the directives in the guide is one, under the heading "commitment to a respectful workplace," which states "We treat each other with dignity and respect, and connect with transparency." Id. at Page 22. Another directive in the guide, this one under the heading "how we communicate," states that "Partners are expected to communicate with other partners and customers in a professional and respectful manner at all times." Id. at Page 43. The guide states that employees who violate the polices "will be subject to disciplinary action, up to and including separation from employment." Id. at Page 25. The second page of the guide states, inter alia: that the policies in the guide should not be "interpreted to interfere with . . . partner communications," protected by the National Labor Relations Act, "regarding . . . terms and conditions of employment"; that the Respondent reserves the right to change anything in the guide with or without notice to employees; that employment is "at-will"; and that the Respondent reserves the right to "separate a partner from employment at any time, with or without notice." Id. at Page 2.

III. UNION CAMPAIGN

On January 28, 2022, pro-union Glencoe store employees sent a letter to Kevin Johnson, the Respondent's president and chief executive officer (CEO). GC Exh. 12. The "Dear Kevin" letter was signed by 20 employees at the Glencoe store and stated that the employees had decided to form a union and set forth a number of the employees' complaints about their terms and conditions of employment. The next day, January 29, the Union filed a petition with the Board to represent a bargaining unit of baristas and shift supervisors at the Glencoe store. In early June 2022 the employees voted unanimously to be represented by the Union, and on June 15, 2022, the Board certified the Union as the employees' bargaining representative. Tr. 231, GC Exh. 6.

Between the time of the representation petition, and the time of the representation election, employees engaged in a number of activities to support the union campaign. These activities included approaching co-workers about signing authorization cards for union representation, speaking to news organizations, making statements about the union effort on social media, wearing union buttons at the store, and posting union materials at the store. After the Union was certified as the employees' bargaining representative, the employees engaged in further union activities, including: repeatedly asking the Respondent to bargain, raising questions

[4] The Respondent refers to all persons it employs – statutory agents, managers, and supervisors as well as statutory employees – as "partners."

regarding management's compliance with employees' *Weingarten* rights,[5] engaging in a strike on August 11 over a change to store hours, engaging in a 3-day strike from September 2 to 4 in response to the discharge of alleged discriminatee Anisimova, and contributing to news stories about the strikes.

IV. ANISIMOVA: UNION ACTIVITY, WRITTEN WARNING, AND TERMINATION

Anisimova, one of the two alleged discriminatees in this case, began her employment as a barista with Respondent in September 2021. The record establishes that she was the leader of the employees' union organizing campaign at the Glencoe store. Tr. 343-344; GC Exh. 52(c). Anisimova contacted the Union in December 2021 about representing store employees, spoke with co-workers about unionizing, and collected signed union authorization cards from employees. Tr. 210-213. Anisimova drafted the "Dear Kevin" letter to the Respondent's CEO, obtained the consent of other employees to add their names to the letter, and, on January 28, transmitted the letter to the Respondent using her own email account. Tr. 214, 217-219. Around this time, Anisimova identified herself to store manager Lambert as the store's union organizer. Tr. 225-226. In mid-March, Anisimova introduced herself to district manager Schmehl as the union organizer for the store. Tr. 228. Anisimova wore a union button at work and, in February 2022, posted pro-union materials in the workplace. Tr. 220-221. Anisimova was the one who organized the August 11 strike and presented store manager Alessa with the letter informing him about the strike. Tr. 67, 343-344, 350.

Anisimova's role with the store union was unusually public. She was quoted, and identified by name, in multiple 2022 news reports about employees' union campaign and activities. These included news reports on January 28 (GC Exh.14), March 8 (GC Exh. 15), August 11 (GC Exhs. 17 and 18), and August 12 (GC Exh. 19). New reports not only gave Anisimova's name, but also stated that she had "kickstarted" the union campaign, GC Exh. 15, was "the union leader," GC Exh. 19, was a "union representative," GC Exh. 17, and was the union "organizer," GC Exh. 18.

In addition to the above union activities, Anisimova raised union-related matters with managers on multiple occasions. As is reviewed below, the record shows multiple instances in which the Respondent's managers reacted dismissively to Anisimova's attempts to raise bargaining unit issues. If Anisimova persisted, the managers often characterized her as "yelling," even when the evidence, including in multiple instances audio recordings of the exchanges, shows that Anisimova was not yelling but rather asking in an appropriately, even admirably, collected manner for a meaningful response.

March 2022 Interaction Between Schmehl and Anisimova*:* In March 2022, district manager Schmehl was at the store talking to small groups of employees about the union effort. Anisimova's understanding was that some employees were being

[5] See *NLRB v. J. Weingarten,* 420 U.S. 251 (1975) (upon request, bargaining unit employees have the right to the presence of a union representative during investigatory interviews that the employee reasonably believes may result in discipline).

interrogated by Schmehl during these talks. Anisimova, who had not previously met Schmehl, introduced herself to Schmehl as the "union organizer" and asked Schmehl why she was interrogating employees and whether she was soliciting grievances or telling employees that unionization would result in a reduction in benefits. Tr. 228-229, 420, 510-511; GC Exh. 50; Respondent Exhibit Number (R Exh.) 4.[6] Schmehl responded that she was educating employees about the Respondent's views on unions. Tr. 228-229. There was some back and forth between the two regarding unions, and then Schmehl ended the conversation, citing her view that Anisimova was not being sufficiently respectful. Tr. 420, 510-511; GC Exh. 50; R Exh. 4.

On March 22, 2022, Schmehl contacted the Respondent's human resources department, which it calls the Partner Resources Support Center (PRSC),[7] to request advice about the exchange with Anisimova. GC Exh. 50. Schmehl was "looking to deliver C[orrective]A[ction]," but conceded to human resources that "corrective action or accountability" for Anisimova "would be challenging considering the basis for the raising voice or disrespectful communication was around . . . conversations that [Schmehl] was having with partners around union/petition/voting" and that Anisimova's "behavior could be interpreted as passion for the union." GC Exh. 50(b); Tr. 544. The human resources staff recommended against corrective action, stating, instead, that the appropriate action was for Schmehl to "ask [Anisimova] to communicate respectfully as [Schmehl] respects [Anisimova] and listening to [Anisimova's] point of view." Ibid. The Report from the human resources department noted that the Glencoe location was a "petitioned store." GC Exh. 50(a). The March interaction with Schmehl was not the basis for any corrective action against Anisimova. Tr. 230.

March 27 Anisimova/Pyne Incident and May 2 Written Warning*:* On March 27, 2022, Anisimova went to the employee-only – "back of house" or "BOH" -- area of the Glencoe store to tell shift supervisor Patrick Pyne that the baristas needed staffing help. Anisimova and Pyne ended up becoming frustrated with one another and had an argument during which both raised their voices. Subsequently, store manager Lambert, who was not present at the store at the time of the exchange, told Anisimova that customers had heard the exchange that Anisimova and Pyne had in the back of house.

On April 15, Lambert contacted the Respondent's human resources department for advice about how to respond to the March 27 exchange between Anisimova and Pyne. GC Exh. 51. The human resources department report identifies the Glencoe location as a "petitioned store." According to the human resources report, Lambert had been at home when she was contacted by an employee who told her that Anisimova and Pyne were arguing in the back of house area loudly enough that they could be heard in the customer service area (front of house) of the store. Lambert reported to human resources that she spoke with Anisimova and Pyne by phone and that they

[6] On April 24, 2022, Schmehl emailed herself written notes about this first, March, contact with Anisimova, R Exh. 4, but the records show that Schmehl had contacted Human Resources about it a month earlier on March 24, 2022, GC Exh. 50.

[7] Tr. 416, 454, Brief of Respondent at Page 4 n.5.

informed her that they had become frustrated during the March 27 exchange, but that they were able to work together.[8]

In an April 20 communication to the human resources department, Lambert stated that she had spoken with the district manager [Schmehl], who stated that both Anisimova and Pyne would "need a documented coaching," but that they wondered whether a "corrective action" might also be warranted.[9] Lambert stated: "What is giving me pause is that I am a petitioned store and one of the partners is heavily involved in the union . . . . I wanted to confirm that documented coaching was ok and that I did not need to move to a corrective action." She stated that she "wanted to ensure that I was moving forward with the correct action of doing a documented coaching." GC Exh. 51(b). On April 29 – 9 days later – a human resources consultant responded to Lambert, that she "would be more inclined to advice of a Written Warning." The human resources consultant told Lambert to draft the Written Warning for review, and also obtained confirmation that no profanity was used during the incident.

On May 2, 2022, Lambert issued a Written Warning to Anisimova – a corrective action more severe than the previously contemplated Documented Coaching. It stated:

> This document serves as a Written Warning to Sasha Anisimova for failing to uphold Starbucks policy regarding How We Communicate and our company values specific to connecting with dignity and respect.
>
> On March 27th, 2022, Sasha grew frustrated with how busy the store was getting. Sasha went into the back of house to tell the shift lead that they needed help and the conversation escalated to the point where both partners were yelling at one another. This yelling could be heard in front of house by both partners and customers in the café.
>
> As outlined in our OPS Excellence F[i]eld Guide (pg 20-21) partners are expected to be able to confront the reality of a situation – good and bad – and resolve conflict constructively. Partners are also expected to seek

[8] In its brief, the Respondent provides a description of the events of March 27 that comes largely from the testimony of Damay "May" Gonzalez, who was the store manager for another location (later promoted to regional operations coach) but was providing temporary backup assistance to Lambert on the day of the Anisimova-Pyne argument. Gonzalez was neither present at the Glencoe store to witness the argument, nor was she one of the management officials responsible for deciding on the discipline Anisimova received based on that incident. I do not rely on Gonzalez's account in reaching my findings about either what happened on March 27 between Anisimova and Pyne, or what version of events the Respondent based its decision to issue the written warning. At any rate, there is no meaningful factual discrepancy between Anisimova's account of the March incident, and the account of it that Lambert provided to human resources staff and which is recounted in the May 2 corrective action.

[9] In these communications with the human resources staff, Lambert treats a "documented coaching" as something less than a corrective action, but the corrective action form itself designates "documented coaching," "written warning" and "final written warning" all as forms of corrective action. Compare GC Exhs. 16 and 51.

> and understand others' perspective by soliciting input and actively listening. We stray from these values when we struggle to build positive working relationships grounded in trust and respect.
>
> Our How We Communicate policy found in the Partner Guide (pg 43) states partners are expected to communicate with other partners and customers in a professional and respectful manner at all times.

GC Exh. 16. Lambert and Anisimova both signed the corrective action form. Schmehl testified that Pyne received the same corrective action as Anisimova, Tr. 513, but Schmehl did not testify about any of the process, timing, or details of that as it related to Pyne, and no corrective action document for Pyne was presented at the hearing.

Anisimova Emails Schmehl to Request Bargaining on August 12: As mentioned above, on June 15 the Union was certified as the collective bargaining representative of employees at the Glencoe store. In an August 12, 2022, email, Anisimova informed district manager Schmehl that "[o]ur Union has demanded and continues to demand collective bargaining over unilateral changes." Anisimova also stated that the Union had waived bargaining over the Glencoe employees' receipt of the wage increase granted to other stores in the district. Anisimova proposed days to meet, and also requested contact information for the regional manager – the official to whom Schmehl reported. GC Exh. 33. Schmehl received this August 12 email from Anisimova, but made no response to it or to the request for bargaining. Tr. 557. A store manager from another a union-represented store in the district, testified that, to her knowledge, the Respondent had not bargained with the Union at any store in the district, including her own. Tr. 599.

Anisimova Absence on August 14**:** On August 1, Alessa took over as the Glencoe store manager. On August 11, less than 2 weeks later, Glencoe store employees engaged in a 1-day strike that was organized and publicized by Anisimova.

On Sunday, August 14, Anisimova was scheduled to work the opening shift, from 6 am to 2 pm, at the Glencoe store. Several hours before that shift was scheduled to start, Anisimova communicated by text with the shift supervisor scheduled for that shift, Ryder Meilstrup-Eady. Anisimova asked if the store would be open that day. GC Exh. 20. Meilstrup-Eady responded "Nope I called off."[10] Anisimova texted a response to Meilstrup-Eady complaining that she had not already been informed that the store would be closed. Meilstrup-Eady responded, "Yeah he expected me to tell everyone even though he's the store manager." Ibid.

August 15 Anisimova Raises Bargaining Issues with Alessa*:* On August 15, a day when Anisimova was not working, she initiated two conversations with Alessa – one by phone and, later, one in person at the store. Recordings of both of these

[10] The shift supervisors and the store manager are the only staff members who have keys to open the store for a shift. Tr. 50-51.

conversations, and transcripts prepared by a court reporting service, were received as exhibits at the hearing. GC Exhs 21 and 22.

The phone conversation was very brief. Anisimova identified herself to Alessa and stated: "I'm just calling to get a bit more information about a situation with one of my union employees. Um, so, from my understanding, a disciplinary hearing was held without a union representative this morning; correct?" Alessa refused to answer, but rather stated, "if you would like to come to the store and talk about it, you can." When Anisimova attempted to continue the conversation on the phone, Alessa said "this call is over" and hung up while Anisimova was talking. GC Exh. 21, Tr. 100.

Later that day, Anisimova came to the store to discuss the matter, as Alessa had invited her to do. Their in-person conversation was joined by Damay "May" Gonzalez (a regional "operations coaches" who provides guidance to store managers)[11] and by S. Topping (a barista at the store). Gonzalez stated that she did not consent to the conversation being recorded and wanted to make sure that Anisimova was not doing so. GC Exh. 22. Anisimova responded that she did not need permission to record the conversation. Anisimova identified herself as a union representative, stated that she wanted to bargain over management's changes to store hours and over a pay issue, and represented that she had already approached the store manager about bargaining. Gonzalez declined to address bargaining, which she said was "not part of my job description," but stated that she would "find out" whose responsibility it was. Neither Gonzalez nor anyone else from the Respondent followed up with Anisimova to provide information regarding who to contact about bargaining. Tr. 261-262.

Then Anisimova turned to the issue that she had attempted to discuss with Alessa by phone earlier that day. She stated, "I want to find out is why my employee was threatened with termination today despite her not having a union representative present." Alessa responded that the employee had not asked for a representative during the meeting and that he would not discuss the matter with Anisimova. Anisimova stated that the employee did request a representative and had given Anisimova permission to discuss the matter with management. Alessa stated that if Anisimova had "an issue with whatever happened, your union should contact Starbucks." Anisimova responded "I am the union . . . . I'm contacting Starbucks right now." To which Alessa responded, "the conversation is over." GC Exh. 22.

At this point, Gonzalez stepped in, stating "let me take over." Gonzalez made reference to the employees' *Weingarten* rights[12] and represented that the Respondent would honor those rights. Anisimova stated that the employee asked her to look into this because the employee did want union representation at the meeting. She asked if the Respondent would either give her information about what had happened or set up a meeting with the employee and herself. Alessa and Gonzalez declined to do either of

[11] Gonzalez was present to provide support to Alessa who, she opined, was not well-trained enough to manage a store with all the "operational challenges" that the Glencoe store had. Tr. 482.

[12] See, supra, footnote 5.

those things. Topping, the other barista who was present, asked if the employee could use email to request a meeting. Alessa responded that email was not an acceptable form of communication. GC Exh. 22(b).[13]

Alessa testified that Anisimova was yelling during both the phone conversation and the in-person conversation on August 15. Tr. 88-91, 123-124, 434-435. As noted previously, recordings of those conversations were received as exhibits at the hearing. GC Exh. 21a and 22a. I have listened to those recordings multiple times and find that Anisimova did not speak in a manner during either conversation that could reasonably be characterized as yelling. Rather, when faced with dismissive and unhelpful responses from management, Anisimova firmly asserted that, as a representative of the Union, she was entitled to raise matters regarding bargaining and Section 7 rights. Based on my review of the recordings, I find that Alessa's attempt to characterize Anisimova conduct as yelling or otherwise improper were self-serving and reflect negatively on Alessa's credibility as a witness regarding disputed matters. See also Tr. 282 (Anisimova testifies that her recollection is that she did not yell at Alessa on August 15).[14]

On August 15, Alessa Requests that Human Resources Consult on his Desire to Fire Anisimova: On the same day as the August 15 exchanges discussed above, Alessa contacted the Respondent's human resources department for a consultation. The human resources report on the consultation states that Alessa was asking to separate Anisimova. As of this time, Alessa had only been working with Anisimova for about 2 weeks. The report states that Alessa provided the following details to human resources along with his request to separate Anisimova: Anisimova had failed to appear for work on August 14 without properly calling in (no-call/no-show); Anisimova was the union representative; Anisimova was the leader of the strike; Anisimova had come to store on one occasion "as a union representative for [a co-worker]"; and that Anisimova had recorded her conversation with Gonzalez and himself without their permission. GC Exh. 52(c); see also Tr. 431-432. The consultation continued over the next two weeks, was supplemented with allegations of subsequent

[13] Anisimova had communicated with the prior store manager, Lambert, using email, and was not aware of any employer policy prohibiting email communications. Tr. 262. The Respondent's partner resource manual states that Starbucks email may be used for business purposes. GC Exh. 11, Bates Page 000294. When pressed at trial, Alessa could not identify any basis for his claim to Anisimova that email was not an acceptable way for employees to communicate with him about bargaining unit concerns. Tr. 440-442. The only circumstance in which the record shows that the Respondent would not permit email communications about business matters was when an employee was notifying management that he or she would be absent or late. Ibid.

[14] In addition, I find that Anisimova was a particularly forthcoming and candid witness based on her demeanor and testimony. In several instances, she declined to give self-serving testimony or provided unfavorable testimony. See, e.g., Tr. 209 (Anisimova resists the General Counsel's attempt to illicit testimony that she had been promoted to a leadership position as a barista trainer); Tr. 239 (Anisimova agrees that she raised her voice during the exchange with Pyne that was the basis for the May 2 written warning).

misconduct, and ultimately resulted in the approval of Alessa's request to fire Anisimova.

Anisimova Raises Staffing Concern with Alessa on August 17: Anisimova contacted Alessa by phone on August 17, 2022, about a staffing issue. There is no evidence that Anisimova knew at this time, or at any time prior to September 2, that Alessa was already seeking approval to fire her. Anisimova made a recording of the call, but only her side of the call is audible on the recording. This recording, and a transcript prepared by a court reporting service, were made part of the record. GC Exh. 23. The call was very brief, and the transcription of the entirety of what Anisimova said is as follows:

> ANISIMOVA: Hey, it's – I just got a call from two of the employees working, and they're saying that there's going to be two people on the floor after 5:30. And I just wanted to know what your plan to make sure they're not using the leads too much, because that's kind of unacceptable.
>
> This is Sasha.
>
> This is a business – this is a business question.
>
> This is a business question.

GC Exh. 23. Alessa responded to Anisimova by telling her not to call him on his phone. Tr. 267-268.

Alessa testified that Anisimova was yelling during this call and that she said that he "ha[d] to shut down the business and we cannot keep two partners by themselves after certain hours." He further testified "she was yelling, like, that's what needs to be done, and cannot keep two partners there by themselves." Tr. 93-94. I find that Alessa's account is false. First, the recording shows that, contrary to Alessa's claim, Anisimova did not state that Alessa had to shut down the business, but rather asked how he planned to address the staffing concern. On its face, staffing could have been addressed without closing the store by, for example, having additional staff report to work or by limiting the service "channels" (in-store, mobile ordering, drive-through) in operation. Tr. 140. In addition, having listened carefully to the recording, I conclude that Alessa falsely claimed that Anisimova yelled during the call. Anisimova did not speak in a manner that could reasonably be characterized as yelling, or even as the use of an improperly raised voice. GC Exh. 23(a).

***Anisimova Calls Gonzalez on August 17 and Attempts to Raise Concerns about Alessa*:** On August 17, Anisimova called Gonzalez. Anisimova asked "to share some concerns in regards her store manager," Alessa. Tr. 468-469. Gonzalez said she was not the right person,[15] and advised Anisimova to contact her district manager, Schmehl. Anisimova stated that she was not comfortable discussing the matter with Schmehl. Gonzalez advised Anisimova that if she did not want to contact district

[15] Gonzalez conceded, however, that in her position as regional operations coach, she was authorized to advised store managers about matters that needed improvement. Tr. 484-485.

manager Schmehl, the other option was to call the Respondent's "Ethics and Compliance" phone line.

On August 19 Alessa Gives Anisimova Feedback Coaching About August 14 Absence: On August 19, Alessa told Anisimova that he wanted to talk to her about her absence on Sunday, August 14. He stated at the outset of this conversation that he did not consent to Anisimova recording their conversation, and asked if she was doing so. Anisimova stated that she did not have tell him if she was recording the conversation. Anisimova did, in fact, record the conversation and that recording, and a transcript prepared by a court reporting service, were introduced at the hearing. GC Exh. 24.

Regarding her absence on August 14, the recording shows that Anisimova explained to Alessa, "I was informed we were closed and I did not get contacted from you . . . otherwise. The shift[supervisor] that day informed me that we were closed for that morning." Anisimova found the text exchange from August 14 and read part of it to Alessa, and told him that her understanding was that the scheduled store "opener" had "called off, [and] there wouldn't be any opener." Alessa said that it is up to him, not the shift supervisor, to decide if the store is closed, and that he had come to the store that morning to fill-in for Meilstrup-Eady by opening the store.[16] Alessa told Anisimova, "you're saying Ryder[Meilstrup-Eady] told you we were closed. That's all I need to know." Anisimova attempted to show Alessa the text messages with Meilstrup-Eady regarding the closure, but Alessa declined to look at them because, he testified, "it's not to me to look at the text messages." Tr. 80. Anisimova told Alessa that there had been a more general "communication breakdown" and that employees had been coming in and finding that there was no one there to open the store as scheduled. Anisimova testified that she walked away from the meeting thinking that she was not receiving a corrective action and that her August 14 absence "had been completely addressed." Tr. 253-254. Alessa testified that the purpose of the August 19 conversation was to give Anisimova "feedback and coaching." Tr. 79.

Anisimova Interacts with Multiple Managers in the Café on August 25: On August 25, the Glencoe store was visited by, in addition to Alessa, multiple other managers –Tara Duma/Whipple[17] (a manager from another store), Schmehl, Gonzalez, and a regional manager/director. These managers were meeting with one another at a table in the café – the same area where customers eat and drink. That day, Anisimova approached the table where the managers were gathering on multiple occasions. During these conversations, Anisimova raised "grievances and issues within the store that weren't being addressed." Tr. 582-583 (Whipple).

The first time Anisimova approached the table on August 25, the managers present were Alessa and Whipple. Anisimova asked about the discipline that those

[16] Alessa testified that he had not notified the staff that he would be doing this. Tr. 76.

[17] This individual now uses the name Tara Duma, not Tara Whipple. Tr. 572-573. Since almost all references to her last name in the testimony of others, and in the documentary evidence, is to "Whipple," I will use that name in this decision.

managers had delivered earlier in the day to a bargaining unit employee – alleged discriminatee Ramirez. Tr. 581. After this exchange, Anisimova returned to her regular work duties.

Anisimova completed her pending tasks, and again approached the table where the managers were seated. Tr. 295. At this time, Alessa and Whipple had been joined by Gonzalez. Tr. 296-297. Anisimova stated to the group of managers that the Respondent had refused to communicate with her about the problems that the unit employees, including herself, were having. Tr. 293-294, 299. She asked that the managers address this problem either by setting up a meeting with her or providing her with contact information for the company officials she could approach about bargaining. Tr. 274, 297-298. The managers responded by telling Anisimova that they were having a meeting and that she should not be present there at all, and that she had to return to work. Tr. 274-275, 298. Alessa also stated, "this conversation is over." Ibid. Anisimova informed the managers that she was going to call the Respondent's internal complaint line to complain that managers had been stonewalling regarding bargaining. Tr. 307-308. Anisimova went to the back of house area, away from customers, to make or continue this call after a manager instructed her to do so. Tr. 307-309, 517-518.[18]

About 15 to 30 minutes later, Anisimova returned to the group of managers seated in the café -- a group that now also included Schmehl in addition to Alessa, Whipple, and Gonzalez. Tr. 299-300. Anisimova recorded the ensuing exchange, and that recording, along with a transcript of the recording, were received as evidence.[19] GC Exh. 25. Anisimova told the managers: "I need my break. Will I be able to get that?" Alessa did not tell Anisimova that she could take a break, or acknowledge her need for break, but rather told her to return to her workstation. Anisimova stated, "I need a break soon . . . . There's only three of us on the floor."[20] Alessa did not tell Anisimova that she could take her break then, or state when the break would be possible, but rather stated "I'll take care of it," and again told her to return to work. Anisimova persisted, asking whether Alessa was "going to be able to send" her on her

[18] Both Anisimova and Whipple testified that customers looked over to observe interactions that day. Tr. 276, 583-584. Whipple asserted that these customers were looking because Anisimova was yelling, but Whipple conceded that none of the customers spoke to her or otherwise indicated what behavior, or whose behavior, had attracted their attention. Tr. 578, 586, 609-610. As discussed below, Whipple also testified that Anisimova was yelling during all the conversations on August 15, but when she was confronted with a recording of a conversation that day she was forced to concede that Anisimova was not yelling. Tr. 596-597.

[19] This transcript, unlike other recording transcriptions submitted as exhibits in this case, was prepared by staff of the Board's Regional Office, not by a court reporting service. I received it, over the objection of the Respondent, based on my conclusion that it reflects the content of the recording, and that discrepancies between the recording and the transcript are not significant enough to bear on its meaning relative to the issues in this case.

[20] When the store is operating all channels – i.e., in-person, mobile ordering, drive-through – it is not possible for an employee to take a break when there are only three staff members on the floor. Tr. 140. Thus, in order for Anisimova to take a break in this instance, it appears that a manager would either have to help on the floor or agree to suspend one or more of the service channels.

break. Again, Alessa did state when Anisimova would be permitted to take a break, but rather told her to return to her work. Anisimova noted Alessa's refusal to respond to her statement that she urgently needed a break, and Alessa responded "I will take care of it so go back to your position." Anisimova told Alessa to "stop talking to me like that," and he again stated "Go back to your position." At this point, Anisimova again emphasized the urgency of her need, stating "I need a break right now." In response, Alessa did not state if, or when, Anisimova could take a break, but rather repeated once more that she had to "go back" to work. Anisimova responded, "I'm having anxiety" and "need a break right now." Alessa still did not allow Anisimova to take a break, but rather stated that he would "take care of it." At this point Schmehl – Alessa's superior – stepped in, and told Anisimova, "If you need a break, then you can go on break." Ibid. Anisimova left the area to take her break. The recording of this exchange shows that the back and forth took approximately 1 minute.

Around the time that Anisimova went on break, a man who had recently entered the store spoke to her. Tr. 301, 303. Anisimova had not met this man before and he was not wearing anything that indicated an association with the Respondent. Anisimova did not want to involve someone who she believed to be a customer in the conversation with managers, and told him not to worry, that she was just having some union issues with her managers. Tr. 301, 303, 305. The man said something critical to Anisimova, along the lines of "you're wasting your time" or "this isn't worth it." Tr. 301, 303, 306. Anisimova asked the man if he was a manager, and he informed her that he was the regional manager – a management position one level above district manager. Anisimova explained that she had mistaken him for a customer and shook his hand. Tr. 303.

There was conflicting testimony on the subject of whether Anisimova "yelled" during the August 25 interactions with managers. Anisimova testified that she did not yell during any of these interactions. Tr. 282-283. Alessa and Whipple both testified that Anisimova had yelled and Whipple testified, further, that Anisimova's yelling was consistent throughout the interactions that day. Tr. 83, 95, 581-582, 596, 600. Based on my review of the record, including the recording of the final August 25 exchange, and the testimonies and demeanors of the witnesses, I find that Anisimova did not yell during any of the exchanges with managers that day. First, I note that while Whipple claimed that Anisimova's yelling was consistent through all the interactions, the recording of the final exchange shows that Anisimova was speaking in a way that no honest witness could characterize as yelling. GC Exh. 25.[21] Indeed when Alessa and

[21] During one of the August 25 exchanges, Whipple told Anisimova that she was "uncomfortable" with the way Anisimova was speaking to her. Tr. 298. According to Anisimova, she attempted to address Whipple's discomfort by reducing her speaking volume, but Whipple denies that Anisimova did so. Tr. 298 and 582-583. I credit Anisimova's testimony over Whipple's in this regard. For the reasons already discussed, I find that Anisimova was a very credible witness, and that Whipple gave inaccurate, self-serving, testimony. See, supra, footnotes 14 and 18.

Whipple were confronted with the recording at the hearing, both were forced to concede that Anisimova had not been yelling. Tr. 141, 596-597.[22]

Anisimova Asks Alessa to Bargain on August 28*:* On August 28, Anisimova asked Alessa to set up a meeting for bargaining. Alessa said "we will set up a meeting." Anisimova asked to schedule the meeting, and Alessa responded by repeating that "we will set up a meeting" and directed her to return to work. Tr. 279. According to Alessa's contemporaneous written account, this exchange took "a good minute." GC Exh. 55. Anisimova did not refuse a direction to perform any specific task during this brief exchange, but did repeat her request for bargaining after Alessa told her to return to work. Tr. 283. A customer who overheard the exchange complained about Alessa's conduct, stating that Alessa was being rude to Anisimova and should be fired. Tr. 277-278; GC Exh. 55. When the customer approached Alessa with this complaint, Anisimova returned to her job duties. Tr. 278. Despite Alessa's statement that "we will set up a meeting," he never offered Anisimova any dates to bargain. Tr. 280.

Respondent Discharges Anisimova on September 2*:* By August 28, the Respondent's human resources department staff had decided to approve Alessa's request to separate Anisimova. GC Exh. 57(b) (separation is planned for the "Week of August 28"). On September 2, 2022, Alessa, and a second manager, Kipp Magnan, who Anisimova did not know, informed Anisimova, by phone, that the Respondent had decided to discharge her. Anisimova asked if the discharge was anti-union retaliation. Magnan told Anisimova that she could contact the human resources department (PRSC). Schmehl testified that the discharge decision was made by herself, Alessa, the human resources department, and the legal department Tr. 520-521.

The Notice of Separation, dated September 1, stated that the reasons for the termination were: (1) Anisimova's treatment of Alessa and (2) her absence on August 14 (the Sunday shift, discussed above, when shift supervisor Meilstrup-Eady told Anisimova the store would be closed). Regarding the treatment of Alessa, the separation notice stated:

> Sasha[Anisimova] has violated our Mission and Values on multiple occasions by communicating disrespectfully with the Store Manager including repeatedly yelling at her Store Manager, on several occasions

[22] This is the third instance – the others being Alessa's previously discussed testimony regarding August 15 and 17 – in which Alessa falsely testified that Anisimova was yelling. Although one such instance of inaccurate testimony could be seen as innocent, I find that the repeated false testimony is indicative of Alessa's bias and his fundamental unreliability as a witness. In addition, Alessa was an unusually evasive witness. See, e.g., Tr. 56-57, 60, (evasive on the subject of whether "demotion" is an available form of discipline), Tr. 63-65 (evasive on the subject of whether the Respondent considers barista trainers to be "leaders"); Tr. 414 (evasive on the subject of whether he knew that Anisimova was the leader of the employee August 11 strike); Tr. 414-415, 449-451 (vague on the subject of how he gained access to a union chat group). I do not credit Alessa's testimony regarding any disputed matter with respect to which there is credible contrary evidence in the record.

while customers were present, disrupting the Third Place and leading to customer complaints. In addition, Sasha refused to perform work when directed to do so by her Store Manager,

These violations included the following:

- August 15, 2022, yelling at the store manager, [Alessa], over the phone and in person in the store.
- August 17, 2022, called the store manager, [Alessa's] personal phone, yelling over the phone.
- August 25, 2022, yelled at the store manager, [Alessa], in front of another store manager and customers in the café, yelling at other members of management.
- August 28, 2022, talking very loud to the store manager, [Alessa] and refusing to engage in assigned tasks.

As stated in our Partner Guide:

"At Starbucks, Our Mission and Values are at the heart of everything we do. We treat each other with dignity and respect and connect with transparency. We embrace diversity and inclusion to create a place where we can each be ourselves. Discrimination, harassment and retaliation have no place at Starbucks, and no partner is expected to tolerate prohibited conduct while at work or when engaged in work-related activities."

Sasha[Anisimova] had previously received a written warning on May 22, 2022,[23] for failure to abide by our Mission and Values.

For the above stated reasons, Sasha[Anisimova]'s employment is separated effective immediately.

GC Exh. 26. Alessa first testified that the conduct that the separation notice described for any single date would not, on its own, have warranted discharging Anisimova, but he subsequently adjusted his testimony and stated that the incident described for August 25 would have warranted discharge on its own. Tr. 83-84.

The documentary evidence shows that this disciplinary action was based on an investigation that began on August 15 when, at Alessa's request, the Respondent's human resources department opened a consultation about discharging Anisimova. GC Exh. 52(d). The consultation report states that Alessa was seeking Anisimova's "separation." Regarding the "details" of Alessa's request to separate Anisimova, the consultation report set forth the following on August 15:

[23] The Written Warning was actually issued on May 2, not May 22. R Exh. 16; Tr. 84.

> Alessa "states that [Anisimova] is the union representative for the store; Alessa "states that [Anisimova] NCNS [no-call/no show] on 8/14; Alessa "states they did not call the partners to inquire if they were showing up"; Alessa "states that they have not talked to [Anisimova] about the NCNS; Alessa "states they are going to talk with [Anisimova] on their next shift; Alessa "states that [Anisimova] came into the store as a union representative for [co-worker]"; Alessa states "[Anisimova] is leading the strikes"; Alessa "states that [Anisimova] came into the store and [Alessa] stated they don't consent to recording the conversations"; Alessa "states that [Anisimova's] phone was on the counter and then flipped it over to turn off the recording"; Alessa "states that Operations coach [Da]May [Gonzalez] . . . witnessed the recording [by Anisimova]."

GC Exh. 52(c). Also mentioned, is the warning that Anisimova received in May 2022.[24]

The August 16 entry in the human resources consultation report states that Alessa was advised to speak with Anisimova to find out the reason she was absent on August 14. This entry also states that Alessa reported that Anisimova was in the store on August 15 to act as union representative and recorded the conversation. The entry for August 19, states that the "DM and SM" (i.e., district manager Schmehl and store manager Alessa), wanted to move forward with firing Anisimova. GC Exh. 52(c). The entry notes that Anisimova had stated that the reason she was absent on August 14 was that the shift supervisor had stated that he was not working. The entry for August 19, also reports that Alessa said that: "on 8/15 [Anisimova] came to store wanting to speak with him to represent [co-worker]"; Anisimova also "called [Alessa] yelling to discuss another partner asking questions about bargaining"; Anisimova "admitted to recording the meeting"; "on 8/20 [Anisimova] was yelling at him stating she needed a witness in order speak with him about her [no-call/no-show]."

The human resources department report states that, on August 22, it was setting up a "legal consult." The August 29 entry in the human resources report states that the legal consultation took place and that Alessa "shared several violations for M&V [Mission and Values], N[o-]C[all/]N[o-]S[how], recording partners without authorization, and violation of food mark out policy." GC Exh. 52(b). Separation was the course advised for Anisimova. Another legal consultation was conducted the following day when a draft separation document was reviewed. GC Exh. 52(a).[25] The report for

[24] Aside from that written warning, Anisimova had received no prior discipline at the Respondent. She never received a final written warning or suspension.

[25] Communications from the human resources staff show that as of August 30 a justification that was "pull[ed] from the sep[aration] notice" was different than the one ultimately used in the separation notice that issued on September 2. First, the separation notice that human resources staff quoted on August 30 does not use "yell" to describe Anisimova's behavior, but the explanation in the final notice of separation, delivered just days later, inserts the word

August 31 states that Kipp Magnan, a district manager, would help present the separation notice to Anisimova, and the report for September 2 states that Magnan did so. GC Exh. 52(a).

V. RAMIREZ: UNION ACTIVITY AND TERMINATION

Alleged discriminatee Ramirez[26] started working for the Respondent as a barista at the Glencoe location in January 2020. In early 2022, Ramirez was promoted to barista trainer – meaning that Ramirez was also one of two or three of that store's employees responsible for training new baristas. Ramirez engaged in a number of overt union activities. These included: being one of the 20 employees who signed the "Dear Kevin" letter that notified the Respondent of Glencoe store employees' intent to unionize, GC Exh. 12(c), wearing a union pin to work, Tr. 340, and participating in the employee strikes in August and September, including by walking on a picket line outside the Glencoe store. Tr. 352-353. In an August 11 news report, Ramirez was quoted as saying that, given "how it treats" employees, "it is ironic the company refers to employees as 'partners'." GC 17(e).

August 15 and Written Warning: Soon after Alessa took over as store manager in early August, tensions began to develop between Alessa and Ramirez. On August 15, two interactions occurred that were cited as the basis for a written warning the Respondent issued to Ramirez on August 25, 2022.[27] In the first instance, Alessa

"yelling" or "yelled" five times to describe Anisimova's conduct. Compare GC Exh. 26 and GC Exh. 57(b) ("Summary of Situation: (Pull from the sep. notice)"; see also Tr. 563 ff. Second, although Anisimova's recording of conversations was not one of the stated justifications listed in the final notice of separation, the language that human resources staff pulled a few days earlier from the draft separation notice states that Anisimova "violated our policy of personal video recording of our partners," including "the store manager and other members of management without their consent." Ibid.

[26] The Complaint identifies this individual as Asher Ramirez. Ramirez is also referred to in the record as Nik Asher, Asher, Nik, and Ramirez. Ramirez's legal name is Julie Ramirez. Tr. 334.

[27] The General Counsel does not allege that the August 25 written warning was discriminatory or otherwise in violation of the Act, and therefore, I confine my discussion of it to the most important, and largely undisputed facts relating to it. The charge regarding the Respondent's treatment of Ramirez was filed on January 31, 2023, GC Exh. 1(c), and so the August 25, 2022, disciplinary action would have been within the Section 10(b) charging filing period had the parties decided to challenge it. There was, I note, a good deal of contradictory testimony about conduct engaged in by Ramirez and managers on the day that the written warning was presented, but Ramirez's conduct on August 25 was not cited as a basis for either the written warning or the subsequent discharge, and the manager's conduct that day is not alleged to be a violation of the Act. I note that the brief of the Respondent's counsel asserts that the decision to discharge Ramirez was based on incidents, including ones occurring on August 25, but the Respondent cites to no testimony or documentation showing that Ramirez's conduct on August 25 was a reason for the decision to terminate her. Brief of Respondent at Pages 4 and 16. To the contrary, the notice of separation, drafted by Alessa, cites September 16, September 30, and October 18, as the dates upon which Ramirez engaged in the conduct upon

directed Ramirez to take a break. The break was one to which Ramirez was entitled during the shift, but which was not scheduled for a specific time. Tr. 391, 626-627. Ramirez initially refused Alessa's direction to take a break. When Alessa pressed Ramirez on the matter, Ramirez threatened to walk off the job. Alessa responded, "If you want to leave, you can leave." Ultimately, Ramirez did not walk of the job, but took the break as Alessa had directed. Ibid. The second incident on August 15 occurred after Ramirez returned from the break. In that instance, Ramirez observed that Alessa was not present in the area where the staff was working and Ramirez, speaking over the radio-headset system that employees use to communicate at the store, stated that Alessa, the "man who's supposed to lead us," had "abandoned" the staff. Tr. 627-628. Alessa heard this communication over the radio and responded by telling Ramirez that employees had to be respectful to each other when using the radio. Ibid.

On August 25, Alessa delivered a written warning to Ramirez. Whipple accompanied Alessa when he delivered the warning because of concern that delivery of the discipline "would not go well." Tr. 574. The written warning was issued on August 25, but reports that it was created on August 16, and cites only the conduct, discussed above, occurring on August 15. R Exh. 8. On August 25, when Alessa and Whipple told Ramirez that they would be meeting, Ramirez asked to have a union representative or an emotional support person present. The managers would not permit Ramirez to have either a union representative or an emotional support person present when they delivered the written warning. Tr. 361, 592-593.[28] Although the Respondent's policy is not to issue corrective action to employees in front of customers, Alessa and Whipple presented the written warning to Ramirez in the presence of customers. Tr. 366, 588-589. While Alessa was discussing the written warning, Ramirez began making statements critical of management, and objecting to the disciplinary action. Ramirez walked away before Alessa had finished discussing the warning. Tr. 402, 635-637.

September 16: On September 16, Ramirez had an interaction with a customer that is cited in the notice of separation as one of the bases for that action. The evidence shows that on this date both store manager Alessa and district manager Schmehl were present in the store and were meeting with shift supervisor Cara Parker. A customer approached Ramirez with a complaint about how long she had been waiting for an order and/or a question about modifying a drink order. Ramirez responded by noting that there were only two persons working and that when the order came up in the queue it would be easier to address the customer's concern. The customer became upset and began to use profanity and yell at Ramirez and the other barista on-duty, Leeann Harwick. Tr. 367-368. The customer also referred to Ramirez with pronouns that were

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which the decision is based. GC Exh. 31. That document recites that the Respondent delivered a prior written warning to Ramirez on August 25 (based entirely on August 15 conduct) but does not cite any conduct on August 25. During his testimony, Alessa referenced Ramirez's "continuous" disrespectful behavior, Tr. 658-659, but did not state that this references behavior on dates other than those identified in the notice of separation that he drafted.

[28] During a prior discussion, when Alessa gave Ramirez feedback about an incident that day, Ramirez was permitted to have a co-worker present for emotional support. Tr. 359.

not those Ramirez uses, and the customer continued to do so after Ramirez stated that the customer was using the wrong pronouns. At some point Leon Wyrzykowski, a barista who was in the store but on an official break, approached the customer and asked her to be patient since there were only two baristas working. Tr. 369-370. The customer used profanity and yelled at Wyrzykowski. Ramirez told the customer that unless she stopped talking to staff in that manner she would be asked to leave the store. Tr. 367-368.[29] The customer continued yelling and using profanity, and Ramirez asked her to leave the store. Ibid. Ramirez did not shout at the customer. Tr. 375.

Subsequently, Alessa ushered the customer back to the service counter where Ramirez was working. Alessa's intention was to issue a refund to the customer. When Alessa and the customer returned to the service counter, the customer complained to Alessa about Ramirez and continued using profanity and the same pronouns she had previously used for Ramirez. Wyrzykowski attempted to engage with the customer, and Alessa told Wyrzykowski to stop. Tr. 370. At first Wyrzykowski refused to disengage, stating that since he was on a break he did not have to accept Alessa's direction.[30] Tr. 647-648. Eventually district manager Schmehl stepped in and led the customer away from the service counter. Tr. 523-524. That day, Ramirez filed an incident report regarding what had happened. Tr. 377.

September 30: The separation notice also cites Ramirez's conduct on September 30 as a basis for the action. When Ramirez arrived for work that day, Alessa was on-duty, but was not present in the work area to assign Ramirez to a particular workstation. Tr. 378-380, 405. Unbeknownst to Ramirez, Alessa had exited the store to dispose of trash. When Alessa came back into the store, Ramirez made a critical statement to him, remarking on Alessa's absence and stating that employees needed him and did not know where he had gone. Tr. 380. Alessa responded that he did not abandon his position, that the employees knew where he was. He criticized the way Ramirez was talking to him and told Ramirez to take a break. Tr. 406, 654-655.

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[29] Alessa testified that if a customer is cursing at employees, it is appropriate for the employees to ask the customer to either stop that behavior or leave the store. Tr. 173.

[30] Alessa testified that Ramirez, as well as Wyrzykowski, refused to follow his direction to stop engaging with the customer. Tr. 155-156, 646, 649-650. Ramirez testified that, to the contrary, they had stopped talking to the customer and returned to job tasks as soon as the customer returned to the counter with Alessa, and that Alessa never directed Ramirez to disengage, Tr. 376-377. In addition, the notice of separation states that Ramirez was yelling at the customer; but Ramirez denies yelling at the customer. Tr. 375-376. As part of its evaluation of the incident, the Respondent obtained statements from four employees who witnessed the September 16 incident – Harwick, Parker, Ramirez, and Wyrzykowski. GC Exh. 32. None of those statements describe any misconduct by Ramirez or confirm Alessa's assertion that Ramirez refused an order to disengage or yelled at the customer. They report that it was the customer who was engaging in misconduct by, inter alia, using profanity and yelling at staff. Schmehl testified about the interaction and did not state that Ramirez refused a direction from Alessa to disengage. Tr. 522-523. Based on the evidence, and my assessment of the demeanor and credibility of the witnesses, I credit Ramirez's testimony that she neither refused an order from Alessa to disengage, nor yelled at the customer.

The exchange continued when Ramirez went to the back of house area to take a break and Alessa followed Ramirez there. Ramirez did not yell during the exchange, Tr. 381,[31] but did use profanity in the back of house area, telling Alessa "you abandoned your fucking station again," Tr. 654-655.[32]

October 18: The final date cited in the separation paperwork as a basis for the decision is October 18. Prior to that date, Ramirez contacted Schmehl to schedule a meeting about the incident report that Ramirez filed on September 16 and to express Ramirez's concerns about store manager Alessa. Schmehl declined to schedule a meeting, but said they could discuss Ramirez's concerns the next time she visited the Glencoe store. Tr. 383. Schmehl's refusal to schedule the meeting for a particular time annoyed Ramirez, who hung up while Schmehl was attempting to continue the conversation. Tr. 384. On October 18, Schmehl visited the store and offered to meet with Ramirez. Tr. 384-385. The two were in an area of the store that is used by customers. Tr. 387. Ramirez asked to have a union representative present during the discussion, but Schmehl refused that request, and suggested that they meet in the back of house area. Ramirez declined to do so without another employee present, and told Schmehl: "Look, I've been working with a boss in a situation where I don't feel safe for weeks, and you've done nothing about it this far. So no, I don't trust you." Tr. 385. Schmehl reacted by getting ready to leave and expressing a willingness to meet with Ramirez during her next visit. Tr. 385, 532-533. When Ramirez asked why they could not meet at a pre-scheduled time with a union representative or other witness present, Schmehl said that her understanding was that the Respondent never scheduled grievance meetings or allowed employees to have a union representative present at meetings during which discipline was not being contemplated. Tr. 384, 530. Schmehl also said that Ramirez would not be allowed to have an emotional support person present because Ramirez had not sought that type of accommodation from the human resources department. Tr. 531. This response aggravated Ramirez, who yelled either "fuck you" or "fuck this,"[33] and "I quit" at Schmehl, then left the service area. Ramirez made these final remarks loudly enough for customers and other staff to hear. Tr. 533.

Ramirez did not actually leave the vicinity of the store and, shortly after the exchange with Schmehl, Ramirez retracted the resignation during a conversation with

[31] The notice of separation, which was prepared by Alessa and reviewed by the Respondent's human resources staff, Tr.658-659, states that Ramirez yelled at Alessa during the September 30 interaction. I credit Ramirez's testimony that she did not yell. As fully explained earlier in the factual findings regarding Anisimova, the record shows that Alessa repeatedly testified that Anisimova was yelling during conversations, when the recordings of those conversations definitively show that Anisimova was not yelling. Given Alessa's demonstrated proclivity to falsely claim that employees were yelling at him, I do not credit any such claim by Alessa when, as in the case of Ramirez, there was credible evidence contradicting the claim that an employee yelled.

[32] I credit Alessa's testimony that Ramirez said this. Ramirez testified that "it's possible that I did" use profanity, but that she did recall doing so. Tr. 381-382.

[33] Ramirez testified that the statement was "fuck this," Tr. 386, 387, but Schmehl testified that Ramirez said "fuck you," 532-533.

shift supervisor Parker. Tr. 561. Ramirez was approached by Alessa, who directed Ramirez to go home. Ramirez responded, "As soon as you tell me what rules I've broken, I'll leave. But until then I'm going to work my shift." In defiance of Alessa's direction to leave the store, Ramirez worked the remainder of the scheduled shift. Tr. 386.

***Ramirez Discharged on October 28*:** Alessa and Schmehl, as well as the Respondent's human resources and legal departments, participated in the decision to terminate Ramirez's employment. Tr. 535. Schmehl opened a human resources investigation into Ramirez's October 18 conduct. Tr. 561. Alessa drafted the separation notice, which was reviewed by the human resources department. Tr. 658-659. The Respondent delivered the separation notice to Ramirez on October 28, 2022, at the Glencoe store. Ramirez was working when Alessa asked to meet. Ramirez asked to have a union representative present. Alessa refused the request, but eventually allowed Ramirez to have an emotional support person present after being shown a written policy providing for that. Tr. 345-346, 349, 659-660. Although Alessa was present, it was Erin Lind, a store manager from a different store in the district, who actually delivered the separation notice. Ramirez asked Lind for details about the discharge decision, but Lind said she was only there to witness the delivery of the separation notice and did not have details. Tr. 619.[34] Ramirez tried to dispute the accuracy of the version of events set forth in the separation notice, and Lind advised Ramirez to contact the human resources phone number on the back of the notice of separation. Tr. 347-348, 663-664.

The notice of separation for Ramirez stated:

> This document is a Notice of Separation for BAR[ISTA] Asher[Ramirez] for violating our Mission and Values and the How we Communicate policy and creating a Respectful Workplace.
>
> - On 09/16/2022, Asher shouted at a customer and told customer to leave the store. Asher yelled, "Your behavior is unacceptable, and you need to leave." After being directed by the S[tore]M[anager] to disengage with the customer so the SM could handle the situation, Asher was insubordinate and refused to do so, instead continuing to engage with the customer, which escalated the situation with the customer.
> - On 09/30/2022, Asher yelled at SM [Al]Essa, said "you abandoned your fucking position again."
> - On 10/18/22, Asher raised his voice and stated "I quit, Fuck you" to D[istrict]M[anager] Paige Schmehl in the F[ront]O[f]H[ouse], with customers present.

[34] There was testimony about difficult interactions between managers and Ramirez surrounding the delivery of the notice of separation, but those interactions played no part in the discharge decision, which had already been made.

> Previously, Asher Ramirez was received [sic] a written warning for violation of Starbuck's Misson and Values on 08/25/2022.
>
> For the above reasons, the employment of Asher Ramirez is separated effective immediately.

GC Exh. 31.

VI. Evidence Regarding Discipline of Comparator Employees

According to the Respondent's partner guide, the available corrective responses to an employee who violates the Respondent's policies are, in order of mildest to most severe – verbal warning, documented coaching, written warning, final written warning, demotion, suspension, and separation. GC Exh. 10 Pages 47-48; Tr. 58-60. The Respondent may also deal with an employee's performance or conduct problems by issuing a "development plan" to the employee. Tr. 196. The Respondent's practice is to employ the lowest level of corrective action that it expects will create a positive change, although "there is no guarantee . . . that corrective action will occur in any set manner or order," and "in cases of serious misconduct immediate separation from employment may be warranted." Tr. 58, 60-61; GC Exh. 10 at Page 47-48, GC Exh. 11 at Page 116-117.

The parties introduced evidence of discipline that was issued to other employees for conduct and attendance violations. The evidence regarding other employees disciplined for conduct-based issues is as follows. Alessa gave Wyrzykowski a final written warning for his part in the September 16 incident with an irate customer that was also cited in Ramirez's termination. R Exh. 11. The discipline for this incident was not issued to Wyrzykowski until October 25, well over a month after the incident occurred. Tr. 667. In addition, the Respondent showed that Gonzalez, while a store manager in the district, terminated an employee at another store where a representation petition was pending, on April 14, 2022, based on that employee having used profanity to criticize a co-worker in the presence of customers. R Exh. 3, Tr. 480-481, 498-499.

The record contains the following examples of how Alessa addressed other employees' attendance issues. On October 25, Alessa gave a documented coaching to A. Dubisky for not staying for his opening shift after Dubisky saw a sign stating that the store was closed. Alessa noted that Dubisky's action was based on "a miscommunication and misunderstanding." GC Exh. 41, Tr. 181. This coaching concerned an absence on August 19, but it was not delivered to Dubisky until over 2 months later. See GC Exh. 41 (at signature lines). On October 23, 2022, Alessa gave employee Leeann Harwick a final written warning, based on a pattern of irregular attendance that included 13 absences in the prior 2-month period, and after she had previously received a written warning for attendance deficiencies. GC Exh. 42 and GC Exh. 43; Tr. 187 ff. The record also includes an undated final written warning prepared for employee A. Wilson by Alessa, based on multiple attendance issues – one no-

call/no-show, four tardies, and two "call outs." GC Exh. 40, Tr. 177-178.[35] In addition to the attendance-based discipline issued by Alessa, the record shows that store manager Lambert, gave employee S. Topping a writing warning based on a no-call/no show. GC Exh. 44; Tr. 188.

DISCUSSION

I. SECTION 8(A)(3)

A. WRITTEN WARNING TO ANISIMOVA ON MAY 2

The General Counsel alleges that the Respondent discriminated on the basis of union activity in violation of Section 8(a)(3) and (1) of the Act when it increased the severity of discipline it issued to Anisimova on May 2, 2022, from a documented coaching to a written warning. Allegations that an employer discriminated against an employee based on union activity, and which turn on motivation, are properly analyzed using the framework set forth by the Board in the *Wright Line* decision. 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied, 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.,* 462 U.S. 393 (1983). Under the *Wright Line* framework, the General Counsel bears the initial burden of showing that the Respondent's decision was motivated, at least in part, by employees' union or protected concerted activities. The General Counsel can meet its initial *Wright Line* burden by showing that: (1) the employee engaged in union or other protected activity, (2) the employer knew of such activities, and (3) the employer harbored animosity towards the union or other protected activity. *Spike Enterprise, Inc.*, 373 NLRB No. 41, slip op. at 3 (2024); *Camaco Lorain Mfg. Plant,* 356 NLRB 1182, 1184-1185 (2011); *ADB Utility Contractors,* 353 NLRB 166, 166-167 (2008), enf. denied on other grounds, 383 Fed. Appx. 594 (8th Cir. 2010); *Intermet Stevensville,* 350 NLRB 1270, 1274-1275 (2007); *Senior Citizens Coordinating Council,* 330 NLRB 1100, 1105 (2000). If the General Counsel establishes discriminatory motive, the burden shifts to the employer to demonstrate that it would have taken the same action even in the absence of the protected activity. *Spike Enterprise*, supra, slip op. at 4; *Camaco Lorain*, supra; *ADB Utility*, supra*; Intermet Stevensville*, supra; *Senior Citizens*, supra.

I find that the General Counsel has made the required initial showing regarding the three elements of the discriminatory discipline claim with respect to the written warning. The evidence shows that Anisimova not only engaged in union activity, but that she was the leader and public face of the union campaign at the store. There is no doubt that the Respondent knew this. Anisimova signed the January 18 employee letter that announced the organizing campaign at the Glencoe store and she transmitted that letter to the Respondent from an email account that identified Anisimova as the sender. By March, Anisimova had told both district manager Schmehl and store manager Lambert that she was the union organizer for the Glencoe store. The evidence shows

[35] Wilson did not receive this discipline because she resigned before it was issued. Tr. 178.

not only that the Respondent knew about Anisimova's lead role with the Union, but that this role was referenced in the Respondent's decision-making process. In the March 2022 consultation with human resources staff that Schmehl initiated about possible discipline for Anisimova, Schmehl noted that Anisimova's conduct took place while Anisimova was raising questions regarding the Respondent's anti-union training sessions at the store. Schmehl specifically acknowledged that Anisimova's conduct could be viewed as "passion for the union." Similarly, when Lambert consulted with human resources staff about the discipline that Schmehl and herself were contemplating for Anisimova based on the March 27 exchange with Pyne, Lambert made a point of reporting that Glencoe was a "petitioned" store and that one of the two employees was "heavily involved in the union."

I also find that the General Counsel has demonstrated that the Respondent harbored animosity towards Anisimova's union activity. I note, first, that Schmehl was found by the Board in two recent cases to have engaged in unlawful antiunion conduct at other stores in District 366. *Starbucks Corp.*, 373 NLRB No. 44, slip op. at 1 n.3 (2024); *Starbucks Corp.*, 372 NLRB No. 122, slip op. at 3 (2023). "[I]t is well established that the Board can rely on prior decisions which involve the same parties and similar issues to establish animus." *New York Paving, Inc.*, 371 NLRB No. 139, slip op. at 5 n.11 (2022), enfd. 2023 WL 7544999 (D.C. Cir. 2023). I find that the prior Board decisions attributing animus to the Respondent based, inter alia, on Schmehl's antiunion conduct, are sufficient to meet the General Counsel's prima facie burden of establishing animus regarding the discipline of Anisimova. Schmehl took part in the decision to issue that discipline and had already reacted to Anisimova's questions about the Respondent's antiunion training by consulting with human resources about discipline for Anisimova.

In addition to the evidence of antiunion motivation set forth above, the General Counsel has shown that union activity was a motivating factor by referencing the Respondent's own records of the decision-making process that led to the written warning. Store manager Lambert told human resources staff that she "would like to proceed with just a documented coaching" but, given that a union petition had been filed at the store and that Anisimova was "heavily involved in the union," and after consulting with Schmehl, she was seeking advice on whether they needed "to move to a corrective action." The human resources staff responded 9 days later, advising Lambert to raise the discipline level to a written warning, and directing her to submit a draft of the written warning for review. This evidence indicates that Lambert and Schmehl were motivated by the union activity when they decided to ask human resources whether corrective action beyond the planned documented coaching was necessary. This independently supports finding that the decision to impose discipline greater than the documented coaching resulted, at least in part, from Anisimova's union activity.

Since, the General Counsel has established all three elements of its initial *Wright Line* burden with respect to the decision to issue the May 2 written warning to Anisimova, the burden shifts to the Respondent to show that it would have taken the

same disciplinary action even absent Anisimova's union activity. *Spike Enterprise*, supra; *Camaco Lorain,* supra; *ADB Utility*, supra; *Intermet Stevensville*, supra; *Senior Citizens*, supra. I find that the Respondent has not carried its burden. The Respondent's evidence regarding supposed comparators was not impressive. It showed that Gonzalez, who was a store manager at the time, separated an employee at a different store in District 366. That discipline concerned an employee who used profanity to disparage a co-worker and did so in front of customers – whereas Anisimova did not use profanity and was out of view of customers in the back of house area of the store at the time of her misconduct. The Respondent also relies on Schmehl's testimony that Pyne received a written warning for his part in the argument. For multiple reasons that evidence is entitled to little weight. First, Pyne himself had publicly engaged in union activity – he was a signatory of the letter that informed the Respondent of the intent of Glencoe store employees to seek union representation. GC Exh. 12. Thus the discipline issued to him is of somewhat diminished weight in meeting the Respondent's burden of showing that it treated employees the same regardless of whether they supported the union effort. Second, the Respondent did not introduce Pyne's notice of correction and Schmehl did not discuss the details of the decision to discipline him. The Respondent did not show Pyne's prior disciplinary history or discuss what the Respondent had concluded about his culpability for the argument with Anisimova. This makes a comparison of the disciplinary actions quite imprecise for purposes of meeting the Respondent's burden in rebutting the strong prima facie case presented by the General Counsel. At any rate, that evidence leaves open the very real possibility that the Respondent disciplined Pyne to justify the action against Anisimova. The Board has recognized that a violation is shown when an employer disciplines not only the target of its antiunion animus, but also disciplines other "pawn" employees to "justify taking the same action against a union supporter." *Corliss Resources*, 362 NLRB 195, 197-198 and n.16 (2015).

I note that the dispute is not whether Anisimova engaged in misconduct when she and Pyne raised their voices during an argument at the store. Anisimova did not deny this misconduct. The evidence, however, in particular Lambert's communications to human resources, indicate that the Respondent would have chosen a less harsh disciplinary response in the absence of Anisimova's union activity.

For the reasons discussed above, I find that the Respondent discriminated based on union and/or protected concerted activity, in violation of Section 8(a)(3) and (1) of the Act, when it issued the May 2, 2022, written warning to Anisimova.

B. Discharge of Anisimova on September 2

The Complaint alleges that the Respondent violated Section 8(a)(3) and (1) of the Act by discharging Anisimova because she assisted the Union and engaged in concerted activities. The General Counsel argues that this violation has been established under the *Wright Line* framework, while the Respondent's defense cites

both *Wright Line*, and the alternate standard set forth in *Atlantic Steel Company*, 245 NLRB 814, 816 (1979). See Brief of General Counsel at Page 44-45; Brief of Respondent at Pages 28-29. The *Atlantic Steel* analysis is appropriate when the employer defends a disciplinary action based on the employees' alleged misconduct in the course of otherwise protected union or concerted activity. In such circumstances motivation is not at issue and the question is whether, in the course of the otherwise protected activity, the employee engaged in conduct egregious enough to cause him or her to forfeit the Act's protection for that activity. *Atlantic Steel*, supra; see also *Lion Elastomers*, 372 NLRB No. 83, slip op. at 1, 2 (2023) (Board re-affirms *Atlantic Steel* standard). If it is determined that the misconduct alleged by the employer did not cause the employee to lose the protection of the Act for that activity, the causal connection between the discipline and the employee's protected activity is established and "the inquiry ends" with a finding of violation. *Nor-Cal Beverage Co.*, 330 NLRB 610, 611-612 (2000).

I find that the *Atlantic Steel* analysis, rather than the *Wright Line* analysis, is the appropriate one for purposes of deciding whether the Respondent violated the Act when it discharged Anisimova. The notice of separation that the Respondent issued to Anisimova relies on her conduct towards the Store Manager Alessa on four occasions – August 15, August 17, August 25, and August 28. The conduct on each of those dates occurred when Anisimova, as the store's union representative, approached store manager Alessa about union matters. Specifically, on August 15, Anisimova approached Alessa to request bargaining and to raise concerns about Alessa's suspected denial of union representation to a unit employee during a disciplinary meeting. On August 17, Anisimova approached Alessa with concerns that unit employees might be asked to handle a shift without adequate staffing that day. On August 25, Anisimova approached Alessa about a variety of matters, including the discipline issued to bargaining unit employee Ramirez earlier that day and about the Union's request that the managers either bargain with the Union or identify who the Union could contact about bargaining. On August 28, Anisimova approached Alessa and asked to schedule bargaining.

Since the Respondent discharged Anisimova for conduct occurring during the course of these otherwise protected activities, that discharge violated Section 8(a)(3) and (1) unless Anisimova did something in the course of that protected activity that removed it from the Act's protection. Under *Atlantic Steel*, an employee who is engaged in otherwise protected union or concerted activity can forfeit that protection if, in the course of the protected activity, he or she commits sufficiently egregious or opprobrious misconduct. 245 NLRB at 816; see also *Stanford New York, LLC*, 344 NLRB 558, 558 (2005) ("When an employee is discharged for conduct that is part of the *res gestae* of protected concerted activities, the pertinent question is whether the conduct is sufficiently egregious to remove it from the protection of the Act."). The Respondent

contends that Anisimova's attempts to address union concerns with Alessa lost any protections provided by the Act because she "would not stop yelling," repeatedly interrupted managers, and did so in front of customers. Brief of Respondent at Page 29. The Respondent's defense is not supported by the facts present here. As noted above, contrary to the Respondent's contention, Anisimova did not yell during any of the identified exchanges with Alessa. Nor, in fact, did she engage in a refusal to work, an outburst of any kind,[36] or any other behavior that could even be described as "misconduct," much less as misconduct so severe as to forfeit the Act's protection. To the contrary, in the face of Alessa's refusal to respond in any meaningful way to Anisimova's attempts to discuss, or schedule a time to discuss, bargaining unit concerns, Anisimova continued in a resolute and admirably calm manner to raise those concerns while also getting her work done.[37] Indeed, it is shocking that the Respondent would react to learning of these exchanges by disciplining Anisimova rather than by reaching out to her to address the union concerns and Alessa's dismissive refusal to address them.

In reaching the conclusion that Anisimova did not forfeit the Act's protection, I considered the fact that some of her attempts to address union concerns with Alessa occurred in areas where customers were present.[38] I find that the place where these conversations occurred does not weigh against continued protection since the evidence shows that the Respondent had limited Anisimova's other options for the conversations. For example, on August 15 and August 17, Anisimova attempted to discuss union matters with Alessa during phone calls – a method that would have kept the discussions far from the hearing of customers – but Alessa declined to discuss those matters by phone. When Alessa was asked, during an exchange with Anisimova and another employee, if email could be used to discuss, or schedule for discussion, the union's concerns, Alessa stated that email was not an acceptable form of communication. He disallowed use of email for the union-related communications even though the Respondent's policies permit the use of its email for business purposes. When Anisimova approached Alessa in person to schedule a meeting over union matters at other times, Alessa would either ignore the request or state that he would schedule a meeting at some unspecified future date and then fail to do so. Anisimova also contacted district manager Schmehl by email on August 12, 2022, to seek negotiations, but Schmehl did not respond to the request. Likewise, Gonzalez, a regional operations coach, told Anisimova on August 15 that she would find out who Anisimova could

[36] In *Atlantic Steel*, the Board stated that one of the factors that bears on whether the employee forfeited the Act's protection is "the nature of the employees' outburst." 245 NLRB at 816. In this case, Anisimova did not even have an outburst.

[37] Under *Atlantic Steel*, 245 NLRB at 816, the "subject matter" of Anisimova's communications also weighs in favor of continued protection since those communications concerned matters central to collective bargaining rights of employees. They did not involve name-calling or personal attacks.

[38] In *Atlantic Steel*, the Board stated that whether misconduct is sufficiently egregious to forfeit the Act's protection depends on a number of factors, including the place where the conduct occurred. *Atlantic Steel*, 245 NLRB at 816.

contact about bargaining, but Gonzalez did not subsequently provide Anisimova with any such information. Against this backdrop, the fact that Anisimova approached Alessa about union matters in the café area of the store cannot reasonably be offered to meet the Respondent's burden of showing egregious misconduct. Thus, even if the record showed that Anisimova's union-related communication was an "outburst" – and it does not show that – the location of that communication would not weigh in favor of finding that Anisimova forfeited the Act's protections.

Under *Atlantic Steel* analysis, once it is found that the employer based its disciplinary decision on an employee's protected activity, and that the employee did not forfeit that protection, a violation is established and "the inquiry ends." *Nor-Cal Beverage Co.*, 330 NLRB at 611-612. Thus, I find that the Respondent violated Section 8(a)(3) and (1) of the Act when it discharged Anisimova. I note that the same result is reached if I consider the allegation using the *Wright Line* analysis. As previously discussed with respect to the May 2 written warning, the record shows that the General Counsel has met all three elements of its initial *Wright Line* burden. With respect to Anisimova's discharge, subsequent events make the prima facie case of discrimination even stronger. In addition to the union activity that the Respondent knew about when it issued the May 2 written warning to Anisimova, by the time the Respondent discharged Anisimova it also recognized that she had been a leader of the August 11 strike and that she had provided union representation to employees at the store. Since the General Counsel has made the initial *Wright Line* showing, the burden shifts to the Respondent to show that it would have discharged Anisimova even absent the protected union activity. *Spike Enterprises*, supra; *Camaco Lorain,* supra; *ADB Utility*, supra; *Intermet Stevensville*, supra; *Senior Citizens*, supra. The Respondent has not come close to doing that. The overwhelming majority of the justifications that the Respondent gives for terminating Anisimova reference occasions of her protected union advocacy and the Respondent has not shown that it would have made the same discharge decision if it was not relying on those patently unlawful justifications and on the prior, discriminatory, May 2, written warning. As noted previously, the Respondent did not show that any of those instances of union advocacy involved misconduct by Anisimova.

Moreover, the record shows that Alessa had started the process of discharging Anisimova before almost all of the incidents that he, and the Respondent, now rely on to justify the discharge. Specifically, on August 15, just over 2 weeks after Alessa arrived at the Glencoe location, he contacted the human resources department seeking to discharge Anisimova. Thus, Alessa started the discharge process shortly after meeting Anisimova and before the August 17, 25 and 28 incidents that he now claims were bases for the discharge decision. Tellingly, when Alessa made the August 15 request to discharge Anisimova, the "details" that he relied on for his request focused largely on her union activity. He informed human resources, inter alia, that Anisimova was the union representative for the store, that she was the leading the employee strikes, that

she had come to the store to represent a bargaining unit employee, and that she had recorded a conversation with him concerning bargaining unit matters. I find that Alessa had already decided to try to discharge Anisimova rather than tolerate her union advocacy, and that the subsequent conduct relied on at the time of the separation was a transparent attempt to gin up an excuse for the unlawful discharge.

Any possible justifications for Anisimova's discharge that do not implicitly reference her protected activity are, to say the least, unimpressive. The notice of separation states that Anisimova failed to show up for a scheduled shift on August 14. As discussed above, however, the Respondent knew that Anisimova had been told by the shift supervisor who was scheduled to unlock the store for that shift that the store would be closed and no one from the Respondent told Anisimova otherwise. I consider it implausible that the Respondent would have imposed any discipline at all, much less discharge, for Anisimova's absence under those circumstances. At any rate, the evidence shows that the Respondent had addressed other single absences, even if completely unjustified, with either a documented coaching or a written warning. Even employees who had serious patterns of attendance deficiencies received final written warnings, not discharge as their penalty. In addition, I considered that although Anisimova's interaction with Alessa and other managers on August 15 was mostly about union issues, she arguably was advocating for herself alone when she requested assistance so that she could take a break without leaving the store short-staffed. Even assuming that this request was not bargaining unit-related, and can be separated out from the union and concerted concerns she raised during the same series of interactions with managers, the evidence showed that Anisimova did not yell or otherwise engage in misconduct while making the request. Indeed, she maintained admirable composure while Alessa repeatedly refused to address her request and continued to do so after Anisimova stated that her need for a break was urgent and that she was having an episode of anxiety. Even district manager Schmehl, who was present, found Alessa's responses unsatisfactory, and stepped in to overrule Alessa, by approving Anisimova's request for a break.

For the reasons discussed above, I find that the Respondent discriminated on the basis of union and protected concerted activity when it discharged Anisimova on September 2, 2022.

C. Discharge of Ramirez

The Complaint alleges that the Respondent discriminated on the basis of union and concerted activity in violation of section 8(a)(3) and (1) of the Act when it discharged Ramirez on October 28, 2022. Since the conduct that the Respondent cites for discharging Ramirez did not occur in the course of protected activity, this allegation is properly analyzed under the *Wright Line* framework discussed previously.

I find that the General Counsel has established the elements of a prima facie case under *Wright Line*. Ramirez had previously engaged in protected union activity as a signatory to the January 28 letter informing the Respondent of employees' complaints about working conditions and of their intent to seek union representation at the Glencoe store. In addition, Ramirez participated in both the August and September strikes, walked in the union picket lines outside the Glencoe store on those occasions, was identified by name and quoted in a news report about the union effort, and wore a union pin to work. I also find that the managers who made the decision to terminate Ramirez were aware of at least some of these union activities. Although the record does not show that managers commented to Ramirez about the union activities, it is reasonable to infer that, given the small size of the facility, Ramirez's union sympathies and her public union activities were generally known, especially to Alessa who had probed information that appeared in the union chat group. Tr. 414-415, 449-451. See *Well Dairies Cooperative*, 110 NLRB 875, 891 (1954) ("The courts and the Board have long held that an employer's knowledge of union activities by its employees is inferable where these activities are conducted in a small plant, particularly where as here there is evidence of probing by supervisors to obtain information concerning the union activities of employees.").[39] The Respondent's antiunion animus, and in particular that of Alessa and Schmehl, is demonstrated not only by the evidence identified during the discussion of Anisimova's discipline and discharge, but by the Respondent's unlawful discrimination against Anisimova. I note that while the General Counsel has made the prima facie showing, it is not a particularly strong one. Ramirez was a public union supporter, but was not shown to be, like Anisimova, a recognized leader of the union effort. Rather Ramirez was one among at least 20 public union supporters on a workforce that had voted unanimously for union representation.

Since the General Counsel has met its initial *Wright Line* burden with respect to Ramirez's discharge, the burden shifts to the Respondent to show that it would have taken the same action even absent Ramirez's union activity. *Spike Enterprises*, supra; Camaco *Lorain,* supra; *ADB Utility*, supra; *Intermet Stevensville*, supra; *Senior Citizens*, supra. In this case I find that the Respondent has met that burden. The evidence showed that Ramirez engaged in a pattern of insubordination and profanity directed at managers. The Respondent previously attempted to address Rameriz's insubordinate behavior by issuing a written warning on August 25, citing, inter alia, Ramirez's refusal to take a break when directed to do so by Alessa, and Ramirez's threat to walk off the

[39] The Board applies the "small plant" inference even to facilities that are substantially larger than the Glencoe store, which had a staff of 20 to 30 persons. See, e.g., *ADB Utility Contractors*, 353 NLRB at 181 ("small plant" theory "permits the inference of knowledge of union activity from the fact that there are 59 employees in the unit") and *Wells Dairies*, supra ("small plant" inference applied to activities concentrated among a group of 50 employees in a workforce of 200).

job rather than follow Alessa's direction. As noted earlier, the Complaint does not challenge the legitimacy of that prior, recent, written warning. After receiving that discipline, Ramirez continued to engage in insubordinate conduct. That conduct extended not only to the store manager, but to the store manager's superior, district manager Schmehl. In October, Schmehl had a phone conversation with Ramirez about meeting to discuss Ramirez's complaints, but Ramirez hung up while Schmehl was trying to continue the discussion. When Schmehl tried to talk to Ramirez about those complaints in-person during a visit to the Glencoe store, Ramirez yelled at Schmehl – "fuck you" or "fuck this, and "I quit." Ramirez did this in the presence of customers and other staff. Subsequently on the same day, Alessa directed Ramirez to leave the store for the rest of the shift, but Ramirez defied his direction, continuing to work and stating that unless Alessa could state "what rules I've broken . . . I'm going to work my shift." On September 30, Ramirez had a disagreement with Alessa, during which Ramirez told him that he had "abandoned" his "fucking station." Ramirez's pattern of insubordination, especially when coupled with instances of profanity directed at a district manager in the presence of customers and continuing unabated after a prior written warning, called for a very serious disciplinary response.

Although the comparator evidence is very thin, it does show that six months earlier the Respondent terminated an employee in the same district for using profanity about another staff member while customers were present. If anything, Ramirez's conduct was more severe than that employee's since Ramirez directed profanity at a district-level manager, declared that she was quitting, and defied an order to leave the workplace. The General Counsel did not show any instance in which the Respondent retained an employee who engaged in comparable misconduct, much less any who engaged in such misconduct shortly after receiving a written warning for similar behavior. I find that the Respondent has met its responsive *Wright Line* burden of showing that it would have terminated Ramirez even absent their protected activity.

I find that the record does not show that the Respondent discriminated on the basis of union or protected concerted activity, or otherwise violated Section 8(a)(3) and (1) of the Act, when it discharged Ramirez on October 28, 2022.

II. SECTION 8(A)(1): MAINTENANCE OF WORK RULES

Respondent maintains two rules that the General Counsel alleges are overbroad and interfere unlawfully with employees' exercise of their Section 7 rights. One, the Respondent's "how we communicate" rule, provides that "Partners are expected to communicate with other partners and customers in a respectful manner at all times." The other, the Respondent' "commitment to a respectful workplace" rule states that "[w]e treat each other with dignity and respect and connect with transparency." As

discussed above, the Respondent relied on the "how we communicate" rule and the "respectful workplace" rules when it took discriminatory adverse actions against Anisimova in violation of Section 8(a)(3) of the Act. In addition to arguing that these rules were discriminatorily applied, the General Counsel alleges that they facially interfere unlawfully with employees' protected activity in violation of Section 8(a)(1) of the Act.

In *Stericycle, Inc.*, the Board set forth the standard for determining whether an employer's maintenance of a work rule inhibits employees' protected activity in violation of Section 8(a)(1) of the Act where, as here, the work rule does not expressly restrict protected activity and was not adopted in response to such activity. 372 NLRB No. 113, slip op. at 1-2 and n.3 (2023).[40] Under *Stericycle*, the General Counsel must "prove that a challenged rule has a reasonable tendency to chill employees from exercising their Section 7 rights." Slip op. at 2. When evaluating whether the General Counsel has done so, the rule is interpreted "from the perspective of an employee who is subject to the rule and economically dependent on the employer . . . . even if a contrary, noncoercive interpretation of the rule is also reasonable." Ibid. If the General Counsel carries the burden of showing a "tendency to chill," then the rule is presumptively unlawful. Ibid. If the rule is shown to be presumptively unlawful, the employer may avoid a finding that it violated the Act if it shows that the rule "advances a legitimate and substantial business interest and that the employer is unable to advance that interest with a more narrowly tailored rule." Ibid. The Board stated in *Stericycle* that this approach was a version of the approach set forth in *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004), and a rejection of the approach set forth in *Boeing Co.*, 365 NLRB No. 154 (2017).[41]

The Board has held that employer rules prohibiting disrespectful conduct unlawfully chill employees' Section 7 activities. *Casino San Pablo*, 361 NLRB 1350, 1351-1352 (2014); *First Transit, Inc.*, 360 NLRB 619, 620-621 (2014); see also *2 Sisters Food Group*, 357 NLRB 1816, 1817 (2011) (rule that required employees to "work harmoniously" unlawfully interferes with interactions protected by Section 7). The Board

[40] The *Stericycle* decision was issued by the Board on August 2, 2023, prior to the issuance of the Complaint in this case on September 22, 2023. The Board held that the *Stericycle* standard would be applied retroactively to all pending cases in whatever stage. *Stericycle*, slip op. at 13.

[41] The Respondent argues that the *Stericycle* standard violates management's free speech rights and should not be followed. That question is for the Board, not me. My duty is "to apply established Board precedent which the Supreme Court has not reversed." *Waco, Inc.*, 273 NLRB 746, 749 n. 14 (1984); see also *Austin Fire Equipment, LLC*, 360 NLRB 1176 n. 6 (2014). In addition, the Respondent contends that both the structure of the National Labor Relations Board and the statutory provisions protecting the independence of administrative law judges are unconstitutional. Brief of the Respondent at Page 53. The General Counsel argues that these contentions lack merit. Brief of the General Counsel at Page 63. I believe these are also matters properly left to the Board, and I do not comment on them other than to observe that over 85 years ago, in *NLRB v. Jones and Laughlin Steel Corporation*, 301 U.S. 1, 47-49 (1937), the Supreme Court affirmed the constitutionality of the Act creating the NLRB and its administrative adjudicatory process.

explained in *Casino San Pablo* that "the act of concertedly objecting to working conditions imposed by a supervisor, collectively complaining about a supervisor's arbitrary conduct, or jointly challenging an unlawful pay scheme – all core Section 7 activities – would reasonably be viewed by employees as 'disrespectful.'" 361 NLRB 1352. Under this caselaw, the Respondent's rules requiring employees to limit themselves to "respectful" communications with other partners, including supervisors and managers, would reasonably tend to chill employees' exercise of their rights under the Act" and, under *Stericycle*, supra, is presumptively unlawful. That chilling effect is heightened here by the Respondent's reliance on the overbroad rules to discipline and discharge Anisimova in retaliation for protected union activity.[42]

Contrary to the Respondent's contention, Brief of Respondent at Page 46, the chilling effect of these rules is not meaningfully diminished by the statement, on Page 2 of the guide, that the policies in the guide "should not" be interpreted to interfere with employee communications regarding terms and conditions of employment. The Board has recognized that a savings clause, "may, in certain circumstances, clarify the scope of an otherwise ambiguous and unlawful rule." *First Transit, Inc.*, 360 NLRB at 621. In this case, however, the savings clause does not identify either of the challenged rules and is not repeated in proximity to either rule – which appear in the guide roughly 20 pages and 40 pages away from the savings clause. An employee cannot reasonably be required to incorporate the savings clause, or even necessarily to be aware of it, when reviewing the Respondent's rules on disrespectful communications. Moreover, the clause regarding the Act only acknowledges the employees' rights to engage in communications regarding terms and conditions of employment, not the full panoply of rights under the Act and, in particular, does not mention unions or employees' right to engage in union activity. Lastly the same page that includes the savings clause pointed to by the Respondent, also states that management can change *anything* in the guide at "anytime, with or without notice," and can also "separate a partner from employment at any time, with or without notice." Thus, in context, the savings clause would provide, at best, cold comfort to employees even if one assumes that employees had that page in mind when reading rules that appear in distant portions of the partner guide. This is especially true given that the Respondent enforced the rules against Anisimova in ways that showed employees that the savings clause would not safeguard their Section 7 rights.

The Respondent has not rebutted the presumptive violation by showing that the prohibition on disrespect toward supervision "advances a legitimate and substantial business interest" that cannot be advanced "with a more narrowly tailored rule." *Stericycle, Inc.*, supra. Indeed, the Respondent did not present testimony or other

[42] I note, as well, that in multiple instances besides those relating to Anisimova, the Respondent invoked the "how we communicate" rule and/or the "respectful workplace" rule when it disciplined employees who engaged in Section 7 activity. See *Starbucks Corp.*, Case 14-CA-306625, 2024 WL 1832227 (April 25, 2024), *Starbucks Corp.*, Case 27-CA-295554, 2024 WL 466546 (February 6, 2024), *Starbucks Corp.*, Case 19-CA-296765, 2023 WL 8187345 (November 27, 2023), *Starbucks Corp.*, Case 04-CA-294636, 2023 WL 5140070 (August 10, 2023). The lawfulness of the Respondent's maintenance of the "how we communicate" rule is currently before the Board in one of those cases. See Case 04-CA-294636.

evidence showing that its legitimate business interests cannot be addressed with rules that do not interfere with Section 7 activity, or that do so to a lesser degree. Thus, in addition to violating the Act by, as previously found, applying the challenged rules discriminatorily to Anisimova, the Respondent has violated the Act by maintaining the rules.

I find that the Respondent has violated Section 8(a)(1) of the Act by maintaining the facially unlawful "how we communicate" and "respectful workplace" rules, which interfere with employees' exercise of their Section 7 rights.

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

2. Workers United is a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent discriminated based protected union and concerted activity, in violation of Section 8(a)(3) and (1) of the Act, when it issued the May 2, 2022, written warning to Alexandra "Sasha" Anisimova.

4. The Respondent discriminated on the basis of protected union and concerted activity, in violation of Section 8(a)(3) and (1) of the Act, when it discharged Alexandra "Sasha" Anisimova on September 2, 2022.

5. The Respondent has violated Section 8(a)(1) of the Act by maintaining the unlawful "how we communicate" and "respectful workplace" rules, which interfere with employees' exercise of their rights under the Act.

6. The Respondent was not shown to have discriminated in violation of Section 8(a)(3) and (1) of the Act when it terminated Asher Ramirez on October 28, 2022.

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

REMEDY

Having found that the Respondent engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. In particular, I shall order the Respondent to offer Anisimova full reinstatement to her former job or, if the job no longer exists, to a substantially equivalent position without prejudice to her seniority or any other rights or privileges previously enjoyed. I shall also order the Respondent to make Anisimova whole for any loss of earnings and other benefits incurred as a result of the unlawful termination of her employment. Backpay shall be computed in accordance with *F. W. Woolworth Co*., 90 NLRB 289 (1950), with interest at the rate prescribed in *New*

Horizons for the Retarded, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center,* 356 NLRB 6 (2010). In accordance with *Thryv, Inc.*, 372 NLRB No. 22 (2022), the Respondent shall also compensate Anisimova for any other direct or foreseeable pecuniary harms incurred as a result of its unlawful conduct, including reasonable search-for-work and interim employment expenses, if any, regardless of whether those expenses exceed the individual's interim earnings. See also *King Soopers, Inc.*, 364 NLRB 1153 (2016), enfd. in relevant part 859 F.3d 23 (D.C. Cir. 2017). Search-for-work and interim employment expenses shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons,* supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra. Additionally, the Respondent shall compensate Anisimova for the adverse tax consequences, if any, of receiving lump-sum backpay awards, in accordance with *Tortillas Don Chavas*, 361 NLRB 101 (2014), and file with the Regional Director for Region 7, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year(s) in accordance with *AdvoServ of New Jersey, Inc.*, 363 NLRB 1324 (2016). The Regional Director will then assume responsibility for transmission of the report to the Social Security Administration at the appropriate time and in the appropriate manner. In addition, pursuant to *Cascades Containerboard Packaging*, 370 NLRB No. 76 (2021), the Respondent will file with the Regional Director for Region 7 a copy of Anisimova's corresponding W-2 form(s) reflecting the backpay award. In addition, the Respondent must rescind the overbroad "how we communicate" and "respectful workplace" rules and notify employees that those rules have been rescinded.

The Board had held that when it is shown that the Board's traditional remedies are not sufficient to effectuate the policies of the Act it is appropriate to order "extraordinary" remedies. *United States Postal Service*, 372 NLRB No. 119, slip op. at 5 fn.13 (2023). In addition to the usual relief, the General Counsel asks that I order a nationwide remedy and also order that the Respondent's employees, supervisors and managers be trained on employee rights under the Act. Brief of the General Counsel at Pages 60-61. The discrimination in this case took place at a single location – the Respondent's Glencoe store. Given this I do not find that the remedy of a nationwide remedy is necessary to effectuate the policies of the Act. I do, however, find that a districtwide remedy is appropriate in this case. In addition to the violations I find at the Glencoe store in District 366, I note that over the past 1-year period the Board has twice upheld findings of unlawful antiunion activity at other stores in the same 10-store district. See *Starbucks Corp.*, 373 NLRB No. 44, slip op. at 1 n.3 and *Starbucks Corp.*, 372 NLRB No. 122, at 2 to 4. I find that a districtwide remedy is appropriate given that the Respondent has an established record of committing unfair labor practices at multiple stores in the district. See *Albertsons, Inc.*, 351 NLRB 254, 384 (2007).

I deny the General Counsel's request that I order training. The General Counsel does not cite any cases in which the Board has ordered training. Instead, the General Counsel supports the request for training by citing cases in which the Board ordered that officials of an employer either gather employees and publicly read a notice referencing the violations and employees' rights, or ordered that such officials attend a public reading of such a notice. See *Pacific Beach Hotel*, 361 NLRB 709, 716 (2014),

enfd. in relevant part 823 F.3d 668 (D.C. Cir. 2016) and *Haddon House Food*, 242 NLRB 1057, 1058 (1979) (requiring public reading of notice by employer's owner), enforcement granted in part and denied in part 640 F.2d 392, 401 (D.C. Cir. 1981) (requiring public reading by a responsible official, but not a specific official, of the employee), cert. denied 454 U.S. 837 (1981). Although I do not accept the General Counsel's suggestion that training be ordered based on the authority approving public notice readings, I do find that, under that and other relevant authority, it is appropriate to order a public notice reading in this case. Notice reading is an appropriate remedy where, as here, the employer has engaged in violations that are sufficiently numerous and serious that a reading is warranted to dissipate the chilling effect of the violations on employees' exercise of their rights under the Act. *Amerinox Processing, Inc.*, 371 NLRB No. 105, lip op. at 2 (2022), enfd. 2023 WL 2818503; *Gavilon Grain*, 371 NLRB No. 79, slip op. at 1 (2022). In this case, I direct that the notice be read to employees at the Glencoe store by the Respondent's district manager for District 366.[43] Alternatively, the Respondent may have an agent of the Board read the notice, but in either case the district manager shall be present. See *Amerinox Processing,* 371 NLRB No. 105, slip op. at 3. In addition, I direct that Alessa be present during the notice reading at the Glencoe store if he is still employed by the Respondent, regardless of whether he is no longer assigned to the Glencoe store. Alessa's unlawful discrimination against Anisimova and blatant disregard for communications from the Union about bargaining unit concerns demonstrated a profound ignorance of employees' statutorily guaranteed rights under the Act, and his presence at the notice readings is appropriate to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended Order.[44]

ORDER

The Respondent, Starbucks Corporation, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) disciplining employees because they engage in union and/or protected concerted activities.

(b) discharging employees because they engage in union and/or protected concerted activities.

(c) maintaining the following overly broad work rules that interfere with employees' rights to engage in Section 7 activity:

[43] District manager Schmehl testified that she is no longer employed by the Respondent. Tr. 535.

[44] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

* How we communicate: Partners are expected to communicate with other partners and customers in a professional and respectful manner at all times.
* Commitment to a respectful workplace: We treat each other with dignity and respect, and connect with transparency.

(d) in any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative actions necessary to effectuate the policies of the Act.

(a) Within 14 days of the date of this Order, offer Alexandra "Sasha" Anisimova full reinstatement to her former job at the Respondent's Glencoe Crossing store, 4585 Washtenaw, Ann Arbor, Michigan, or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or the other rights and privileges she would have enjoyed absent the discrimination against her.

(b) Make Alexandra "Sasha" Anisimova whole for any loss of earnings and other benefits, and for any other direct or foreseeable pecuniary harms, suffered as a result of the discrimination against her, as set forth in the remedy section of this decision.

(c) Compensate Alexandra "Sasha" Anisimova for the adverse tax consequences, if any, of receiving a lump-sum backpay award and file with the Regional Director for Region 07, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar quarters.

(d) Within 14 days from the date of this Order, expunge from its files all references to the written warning issued to Alexandra "Sasha" Anisimova and notify her in writing that this has been done and that the written warning will not be used against her in any way.

(e) Within 14 days from the date of this Order, expunge from its files all references to the discharge of Alexandra "Sasha" Anisimova and notify her in writing that this has been done and that the discharge will not be used against her in any way.

(f) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(g) Rescind, in writing, the above-referenced overly broad rules and either furnish all employees in Respondent's District 366 with inserts for the current Partner Guide

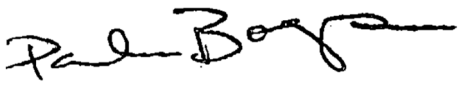
advising that the unlawful rules listed above have been rescinded or publish and distribute to all District 366 employees a revised Partner Guide that does not contain the unlawful rules.

(h) Hold a meeting or meetings during work time at the Glencoe Crossing Store, 4585 Washtenaw Road, Ann Arbor, Michigan, and have the attached notice read to all store employees by the district manager for District 366 in the presence of a Board agent and store manager Mohammed "Essa" Alessa, or read to all employees by a Board agent in the presence of the district manager and Alessa.

(i) Within 14 days after service by the Region post at each of its stores in Respondent's District 366, copies of the attached notice marked "Appendix."[45] Copies of the notice, on forms provided by the Regional Director for Region 7 of the National Labor Relations Board, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notice shall be distributed to employees of District 366 electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed any of the facilities in District 336, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent in District 366 at any time since May 2, 2022.

(j) Within 21 days after service by the Region, file with the Director for Region 7 sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., May 21, 2024



PAUL BOGAS
U.S. Administrative Law Judge

[45] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT interfere with, restrain, or coerce you in the exercise of the above rights.

WE WILL NOT discipline you, terminate your employment, or otherwise discriminate against you for supporting Workers United or another union, and/or for engaging in protected concerted activity.

WE WILL NOT maintain the following overly broad work rules that interfere with your rights to engage in union or protected concerted activity:

* How we communicate: Partners are expected to communicate with other partners and customers in a professional and respectful manner at all times.
* Commitment to a respectful workplace: We treat each other with dignity and respect, and connect with transparency.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer Alexandra "Sasha" Anisimova immediate and full reinstatement to her former job, or if that job no longer exists, to a substantially equivalent position without prejudice to her seniority or any other rights and/or privileges previously enjoyed.

WE WILL make Alexandra "Sasha" Anisimova whole for any loss of earnings and other benefits, and for any other direct and foreseeable harms, suffered as a result of our discrimination against her.

WE WILL compensate Alexandra “Sasha” Anisimova for the adverse tax consequences, if any, of receiving a lump-sum backpay award.

WE WILL file with the Regional Director for Region 7, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years.

WE WILL file with the Regional Director for Region 7 a copy of the W-2 form(s) reflecting the backpay award.

WE WILL remove from our files all references to the written warning issued to, and the discharge of, Alexandra “Sasha” Anisimova and **WE WILL** notify her in writing that this has been done and that those unlawful actions will not be used against her in any way.

WE WILL rescind, in writing, the above-referenced overly broad rules and either furnish you with inserts for the current Partner Guide that will advise you that the unlawful rules listed above have been rescinded or publish and distribute to you a revised Partner Guide that does not contain the unlawful rules.

WE WILL hold a meeting or meetings during work time at our Glencoe Crossing Store, 4585 Washtenaw Road, Ann Arbor, Michigan, and have this notice read to employees of that store by the district manager for District 366, in the presence of store manager Mohammed “Essa” Alessa and an agent of the National Labor Relations Board, or read by an agent of the National Labor Relations Board in the presence of the district manager and Alessa.

STARBUCKS CORPORATION

(Employer)

Dated _____ By_____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board’s Regional Office set forth below. You may also obtain information from the Board’s website: www.nlrb.gov

477 Michigan Avenue, Room 300, Detroit, MI 48226-2543

(313) 226-3200, Hours: 8:15 a.m. to 4:45 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/07-CA-302784 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER (616) 930-9165