JD–02–25
Deltona, Florida

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

AMAZON.COM SERVICES LLC

and Case 12-CA-308502

ANTHONY MUNDORFF, and Individual

Dallas L. Manuel II, Esq., for the General Counsel
Samuel M. Schwartz-Fenwick and Matthew A. Sloan, Esqs.,
(Seyfarth Shaw LLP), Chicago, IL, for the Respondent

DECISION

STATEMENT OF THE CASE

MICHAEL A. ROSAS, Administrative Law Judge. This case was tried on May 7, August 8 and 9, and September 19, 2024. Based on timely filed charges, the General Counsel issued a complaint on October 24, 2023 alleging that Amazon.com Services LLC (the Respondent) violated Section 8(a)(1) of the National Labor Relations Act (the Act)[1] by: (1) since at least August 27, 2022,[2] maintaining a rule, the "MyVoice Terms of Use," applicable to employee online use of the Respondent's My Voice digital platform; (2) on or about February 8, 2023, posting a notice on the My Voice platform at its Deltona, Florida warehouse facility (the MCO2 facility) informing employees that comments that violated the code of conduct or called out another associate in a negative way will be removed; and (3) on September 8, issuing a final written warning to employee Anthony Mundorff because he engaged in protected concerted activity by: (a) on various dates since April 2021, supporting the appeals of disciplinary actions imposed on coworkers and urging managers and supervisors to improve wages, work hours, scheduling, safety, and other terms and conditions of employment; (b) on or about August 13, writing the phrases, "OSHA," "Teamsters," and "ALU" with a dry erasable marker on a work cart used by MCO2 employees; and (c) on or about August 24, sending an email to the Respondent's leadership concertedly complaining about working conditions at the MCO2 facility and seeking a wage increase for the employees at that facility.

The Respondent denied the material allegations of the complaint and asserts that: (1) MyVoice's Terms of Use advance a legitimate and substantial business interest, which it is unable to advance with a more narrowly tailored rule; (2) the complaint fails to state a claim upon which relief can be granted; and (3) the remedies sought in the complaint are not appropriate.

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[1] 29 U.S.C. § 158(a)(1).
[2] All dates are in 2022 unless stated otherwise.

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

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a Delaware limited liability company with its principal office and place of business in Seattle, Washington and a distribution and warehouse facility in Deltona, Florida (MCO2 or the facility), has been engaged in the retail sale of consumer products and logistics for delivery of the same throughout the United States. Annually, the Respondent's business operations derived gross revenues in excess of $500,000, and purchased and received at MCO2 goods valued in excess of $5,000 directly from points located outside the State of Florida. 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.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Respondent's Operations

MCO2 is a fulfillment center where orders from Respondent's customers are received, fulfilled, and then shipped to customers. The facility is a three story, approximately 1.4 million square feet warehouse structure with approximately 1,000 to 1,200 employees. Employees relocate and move merchandise around the facility in yellow carts.

The following individuals were employed at the relevant times by the Respondent as statutory managers, supervisors, or agents: Jeff Bezos—Executive Chairman of the Board; Andrew Jassy—President and Chief Executive Officer; Will York—Senior Operations Manager; Stephen Waller—MCO2's General Manager and/or Site Leader; Douglas Wheeler—MCO2 Loss Prevention Department Leader; Erica Gipson—MCO2 Human Resources Manager; Paul Moulton—Area Manager; Kris Buse—Senior Human Resources Business Partner; Joshlyn Gutierrez-Aguilar—Human Resources Business Partner; and Ethan Puig—Loss Prevention Specialist.

B. The Relevant Policies and Practices

1. MyVoice

Since at least August 27, the Respondent has made available an online digital whiteboard called MyVoice at certain facilities in the United States, including MCO2. Through their personal electronic devices or company computers, employees can engage with site leadership by posting general questions and comments regarding MCO2 operational improvements and workplace concerns. Employees access MyVoice by logging into a multipurpose work app called "A-to-Z." On MyVoice, associates can post anonymously or with their name and login handle about workplace issues and receive responses from site leaders and other managers. With the exception

of employees who work at multiple facilities, employees can only view MyVoice posts made at the facility where they work.

Since at least June 16, the Respondent has maintained the following "Terms of Use" governing the use, access, and interaction with the MyVoice platform by employees at MCO2 and the Respondent's facilities throughout the United States. The following provisions are at issue:

> Rule No. 2: You refrain from using the MyVoice platform for defaming any other individual and/or sharing your own or others' personal and/or confidential information.[3]

> Rule No. 3: You agree to not make any statements or comments or indulge in any conversation that in any way is abusive, vulgar, offensive, racist, personal attacks of any kind[], discriminatory and/or constitutes harassment of any individual or other persons.[4]

> Rule No. 5: You agree to maintain confidentiality about the comments and responses provided on the MyVoice platform and refrain from sharing any information with unrelated parties who do not have access to the MyVoice portal.[5]

2. Security Standards of Conduct

The Respondent's Security Standards of Conduct "inform the [Respondent's] employees, third-party contractors, and visitors of actions that may result in risks to safety, property damage or financial loss and the potential resulting actions." The security standards provide examples of "activities or actions that nay result in risks to safety, property damage, or financial loss, which will generally result in corrective action." However, they "are only guidelines" and "are not intended to be all-inclusive or exhaustive."[6]

The Security Standards of Conduct are investigated and enforced by the Loss Prevention Team. Violations fall into three categories depending on the severity of the potential risk to

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[3] Senior Manager of Product Management, Technical Ashley Corkery described the business purpose of Rule No. 2 for restricting the employees from sharing confidential information "such as maybe their Social Security number or medical information, because we don't have a mechanism in the product to hide such information if it is shared. So we couldn't protect any confidential information if it were posted." Corkery explained that employees with questions that required disclosure of such information would be addressed to Human Resources through the MyHR tool. (Tr. 237-238.)

[4] Rule 3 is not specifically alleged to be unlawful. However, it was relied upon by the Respondent as the premise for the allegedly unlawful February 8, 2023 MyVoice post..

[5] Corkery testified that there were two business purposes for Rule No. 5's restriction on the dissemination of MyVoice posts: "The first [reason] is that every comment and response contains an employee's badge photo, their work alias, which might equate to an email address, and their employee name. And so if -- for every associate or responder on the board. And so if -- we want to ensure that employee information is only accessible to those who should have access to it and that it's not shared with anyone who shouldn't have access to the information. And then the second reason would be to protect any Amazon data or technical information or trade secrets, if any posts contained such information." (Tr. 238-240.)

[6] R. Exh. 1.

associates or loss to the Respondent and/or its property. "The level of correction of action will vary depending on the potential severity of the incident and the behaviors involved."

Category One Security Infractions (Section 10) apply to actions or behaviors that expose the Respondent's property to severe risk of injury or financial loss. These types of violations "may result in corrective action up to and including immediate termination of employment."

Category Two Security Infractions (Section 11) apply to actions and behaviors "that could result in significant injury or present a risk of property damage or the loss of retail merchandise." Final written warnings are usually issued for these types of violations but repeat infractions may result in termination.[7] Examples of a Category Two Security Infraction include, in pertinent part:

> 11.1.1: Defacing company property with graffiti that is not gang related, or with content which is not threatening, discriminatory, or harassing" is classified as a Category 2 offense.

Category Three Security Infractions (Section 12.1) apply to actions that present a risk of injury, property damage, loss of retail merchandise, or other financial loss, but do not rise to the level of a Category One or Category Two Security Infraction. "Category Three Security Infractions usually result in corrective action beginning with coaching as a first offense. Subsequent infractions within a 90-day period may result in progressive discipline up to and including termination of employment."

C. Anthony Mundorff's Concerted Activities

1. Mundorff's speaks with coworkers about health and safety issues

Anthony Mundorff, worked as an hourly full-time warehouse associate in the Pack Department at MCO2 from April 2021 until the end of October 2023. In that capacity, Mundorff took products from storage cages, placed them in boxes, and loaded the boxes onto a line leading to the Ship Department. On November 9, 2023, Mundorff transferred to the Respondent's facility in Staten Island, New York, where he remains employed.

Between Summer 2021 and October 2023, Mundorff was approached by coworkers about numerous health and safety concerns, including. (1) excessive heat and inadequate fans on the ship dock; (2) inadequate time for restroom breaks; (3) employees assessed time-off or disciplined for taking excessive restroom breaks; and (4) employees being injured at a high rate due to "struck-by-hazards"[8] and "tripping hazards." The employees with whom he collaborated included Hilton Castillo, Richard Mobley, "Melvyn," "Paulina," "Naomi," and "Samaria." In response, Mundorff met with numerous managers and supervisors. They included York, Waller. Wheeler, Gipson, Charles Struth (Inbound Manager), "John" and "Hayley" (Safety Department supervisors), and

[7] Mundorff, Waller, and Wheeler referred to the Respondent's progressive disciplinary policy, which was not produced. (Tr. 122-123, 286, 462-463.) In contrast to Category Three infractions, however, the prescribed discipline for Categories One and Two infractions does not provide for progressive discipline or coaching for a first offense. (R. Exh. 1 at 4-8; Tr. 123.)

[8] Mundorff defined "struck-by-hazards" as stored merchandise and obstructions that stuck out into aisles, thereby endangering employees. (Tr. 93-94.)

"Gene" (Manager of Reliability, Maintenance, and Engineering). Mundorff, a vocal supporter of the Amazon Labor Union (ALU), also posted employees' health and safety complaints on MyVoice. His protected activity was widely known at MCO2, including facility leadership.[9]

2. Mundorff takes employees' complaints to OSHA

During the summer of 2022, Mundorff was still meeting with numerous managers and supervisors about safety issues. At one point, he was on light duty due to a workplace injury to his left arm. By the end of June, Mundorff informed Senior Operations Manager York that he and other employees would be contacting the Occupational Safety and Health Administration (OSHA) if their complaints about warehouse conditions were not adequately addressed. York trivialized Mundorff's warning and dared him to go ahead and call OSHA. Mundorff immediately went outside the facility, called OSHA, and spoke at length with an agency representative. He detailed numerous workplace issues within MCO2 relating to ergonomics, health, safety, and other matters.[10]

As a result of Mundorff's call, OSHA launched an investigation on July 18 into the working conditions at MCO2. Shortly thereafter, Mundorff approached the OSHA inspection team while they spoke with York and offered to share information. The representatives took Mundorff's contact information and said they would be in touch. They met separately with Mundorff in the MCO2 manager's conference room later that day, but not until after he was pulled into a break room where Respondent's attorneys questioned him as to why he was speaking with OSHA. In the meeting with the inspection team, Mundorff detailed his ongoing workplace complaints. Other employees were also interviewed in the same manner, first by Respondent's attorneys and then by the inspection team.[11]

3. OSHA's findings

The OSHA safety investigation lasted several weeks and was based on the following allegations filed with OSHA's Jacksonville office regarding the ergonomics at MCO2:

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[9] The Respondent asserts that Mundorff's testimony was generally unreliable because of his admitted drug use and difficulties processing information, events, and details. However, it does not dispute that Mundorff submitted these complaints to MCO2 management and encouraged others to voice these workplace concerns. In fact, the Respondent admits "that at various material times during his employment at the MCO2, Mundorff engaged in concerted activities which he asserted were on behalf of co-workers." (GC Exh. 1(p); Tr. 63-65, 79, 83-85, 89.) Moreover, Joshlyn Guitierrez-Aguilar, a Human Resources associate, testified that "Mundorff was very vocal" in promoting the union and safety concern at MCO2 and that MCO2 leadership knew about those activities prior to August 2022. (Tr. 324-328.)

[10] Mundorff testified that he suffered several workplace injuries at MCO2 prior to June, including injuries to his knees, back, and left arm. However, he specifically referred to his left arm as the reason for receiving workers' compensation and then being placed on light duty. (Tr. 85-87, 124-127.)

[11] Mundorff testified that he mistakenly thought that the attorneys in the initial meeting were OSHA representatives. However, there is no evidence that the attorneys misrepresented themselves. (Tr. 127-131, 216-217.).

Workers face immense pressure to meet the pace of work and production quotas at the risk of sustaining musculoskeletal injuries, which are often acute.

Evidence that injuries may not have been reported, because Amazon's on-site first-aid clinic ("AmCare") is not staffed appropriately, which our investigation has revealed would otherwise be an important mechanism by which Amazon gathers injuries to report.

On January 17, 2023, OSHA issued the Respondent three “hazard letters” resulting from its July 18 safety inspection.[12] The first letter found that MCO2 employees had been “exposed to a high risk of serious musculoskeletal disorders when routinely working in the following process paths specific to [MCO2].” The letter identified MCO2 jobs with a high level of ergonomic risk and issued several approaches to address the problems. They included a worksite ergonomic assessment to identify hazards, training and education for exposed employees, hazard prevention and control, medical management improvements. The letter concluded with a request for an action plan from the Respondent within 60 days.[13]

The second letter addressed employees’ complaints about working in excessive heat and proposed several voluntary improvements: providing personal protective clothing and equipment, engineering practice controls, administrative and work practice, and health screening and acclimatization.[14]

The third letter addressed employees’ complaints regarding MCO2’s AMCARE Unit, now called the Wellness Center, and reported the following findings: inadequate supervision of clinical personnel with appropriate clinical skills; inadequate coordination with workers’ compensation; and 16 process deficiencies, including inadequate record-keeping and practicing beyond the scope of a staff member’s license.[15] The letter concluded with a request for the Respondent to respond within 60 days as to the steps taken to reduce these hazards.[16]

D. Mundorff Expresses His Frustration by Writing on Defective Carts

Not included in the safety concerns expressed to OSHA was the condition of the metal yellow-colored carts used by warehouse employees to move goods around the facility. Broken carts posed a threat to employees if they had sharp, jagged metal exposed and were supposed to be taken out of rotation by affixing a red tag to them. The red tag required a description of the defect or problem, the date, and the name of the person who affixed the tag. The red-tagged carts

[12] Mundorff testified that the OSHA “fines were posted” at MCO2 as the result of the July inspection. However, the January 17, 2023 hazard letters made no mention of monetary penalties. However, the January 18, 2023 press release letters did mention that the Respondent “faces a total of $60,269 in proposed penalties for these violations” for MCO2 and two other facilities. The amount attributable to each facility was not stated. (Tr. 89.)

[13] GC Exh. 23 at 1-4.

[14] Id. at 5-7.

[15] The OSHA findings did not specifically refer to Mundorff’s complaints about his workplace injuries and missing reports of previously reported workplace injuries. It is undisputed, however, that he was interviewed and reported those concerns to OSHA’s inspection team. (Tr. 86-88.)

[16] Id. at 12-15.

were then supposed to be taken to the RME department for repair or replacement. If red tags were not available, it was customary at MCO2 for employees to write the same information directly on the cart in erasable marker. In fact, employees often wrote on carts with erasable markers to describe their content, destination, and applicable customer promise times. Other markings have also included smiley faces, employee commentary about their jobs, and racist remarks.[17]

While on light-work duty accommodation during the summer of 2022, Mundorff's responsibilities including assessing the operating status of equipment used in the facility. After speaking with RME and several managers about the defective carts, the "plan" was for Mundorff to send up to 14 defective carts to RME at one time for repair or replacement. In practice however, carts that Mundorff red-tagged were not being taken out of service. In some instances, he saw employees simply remove the red tags and put the carts back into rotation. Mundorff did not mention the problem to any managers or supervisors at that time.[18]

On August 13, Mundorff identified several carts that needed to be red-tagged. However, there were no red tags available. Mundorff asked RME and others for red tags but they did not have any. He then went and obtained an erasable marker from Alex Aguayo, a process assistant.[19] After Aguayo reluctantly gave him the marker, Mundorff proceeded to write on multiple spots on five broken carts. He wrote "red tag" and a description of the carts' defects. However, instead of signing his name, Mundorff wrote "OSHA," "Teamsters," and "ALU" (Amazon Labor Union).[20]

Later that day, Area Manager Ashley Green internally messaged Loss Prevention Site Leader Doug Wheeler, attaching photographs showing several yellow carts with the words "red tag" written on the outside of the carts in dry erasable marker. Senior Human Resources Business Partner Kris Buse was also copied on the message.[21]

E. Mundorff Complains to Senior Management on August 24

After expressing his concerns about unsafe yellow carts, Mundorff spoke with other employees in his work group and ascertained their workplace concerns. On August 24, Mundorff incorporated those concerns into an 11-page email to Respondent's corporate leadership—Bezos and Jassy—and MCO2 managers complaining about numerous workplace issues that had been ignored. He began the email by expressing his disagreement with his assignment to the Pack Department in 2021-2022 and accused managers of continuously retaliating against him for speaking up about unsafe working conditions. Mundorff explained that he had a "medical accommodation on

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[17] Mundorff's testimony regarding the use of erasable markers by employees to write "red tag" and nonwork-related comments on warehouse carts is undisputed. (Tr. 105-113, 341.)

[18] Mundorff's testimony about the removal of tags from broken carts is also undisputed. (Tr. 108-114.)

[19] A process assistant is akin to a lead employee. (Tr. 311).

[20] Mundorff testified that he was "frustrated" by the removal of the red tags from and continued use of broken carts, so "[i]stead of me signing my name at that time, out of, you know, just trying to get it addressed and attention," he added "ALU," "OSHA," and "Teamsters." (Tr. 114-117, 119-120.)

[21] It is unclear when Green discovered the marked-up yellow carts or messaged Wheeler since her message to Wheeler was not produced. (Tr. 419-420.) However, the photographs were attached to the subsequent investigative report, which noted that the incident was referred to Wheeler "[p]er management escalation." (R. Exh. 3 at 5-7.)

file" and a "medical cannabis card," which managers ignored. He asserted that MCO2 managers York, Waller, and Buse "made the choice to remove me and even tried to fire me for having medical marijuana in my system. Once HR realized that I had a legal accommodation on file (because they forgot), they moved me to the pack department and halted the termination process."[22]

Mundorff urged the creation of a worker led group discussion with management to address the issues expressed in the email, which were shared by other employees. They included: leadership's lack of accountability; unresolved safety issues; labor law violations; discipline and injuries resulting from impractical production rates; excessive workloads; a lack of employee training; higher pay and benefits; plummeting employee morale; excessive heat and lack of circulation; intimidation of employees to provide deceptive company attorneys with written statements during the OSHA inspection; and a hostile work environment for female employees.[23]

F. Mundorff is Disciplined for Writing on the Yellow Carts

On August 14, Wheeler assigned Ethan Puig, a loss prevention specialist, to investigate the incident involving the writing on the yellow carts.[24] Wheeler provided Puig with Green's message and the attached photographs. Starting with the date and time stamp in the photographs from Green, they reviewed video from MCO2's internal camera security system on Puig's laptop. Puig gradually rewound the video, following the carts' path through the facility until he observed Mundorff and another employee, Jose Noguera, handling the carts on the third floor of the mezzanine on August 13. The video then showed Mundorff and Noguera scribbling on carts between 9:06 and 9:12 a.m. Mundorff wrote on the exterior and interior of the carts, while Noguera is seen writing only on the outside.[25]

On August 19, without interviewing Mundorff, Puig provided Wheeler with the following inspection report and recommended disciplinary action:

> Per management escalation, it was reported on 08/13/22 graffiti was discovered on multiple carts. Upon investigation of the reported concern, it was discovered that on 08/13/22 at approximately 09:11hrs, Amazon Associate Anthony Mundorff (mundoant) is seen bringing 5 empty carts to the VRC near P-3-M270 of the pick mod on the 3rd floor as seen by camera number 3074 and 3072. At approximately 09:13hrs, Mundorff is seen writing graffiti on multiple different spots of 5 different carts. At 09:19hrs Mundorff is seen via camera number 3042 loading the carts into the VRC. Most of the graffiti written on the carts is illegible via camera footage, however the graffiti that is legible is read "Red Tag" on all of the carts and "ALU" on 2 of the carts. Based on camera footage, the cart numbers appear to include TSCART388, TSCART398, TSCART114, TSCART297, and TSCART361. Upon conducting the investigation, it was also discovered that employee Juan Carlos Noguera (noguerju) also wrote graffiti on a cart at 09:19hrs as seen by camera

[22] GC Exh. 9.

[23] The Respondent did not dispute that Mundorff's letter resulted from his concerted activity with coworkers. (Tr. 96-98.)

[24] Wheeler testified that he has investigated "a lot" of other violations of the security standards of conduct. (Tr. 439-451.)

[25] R. Exh. 17.

> number 3074. The graffiti Noguera wrote on the cart is not legible via camera footage. Amazon Associate Saribeth Rosa witnessed Noguera writing graffiti on the cart observed via camera footage. By the time the incident was reported, the graffiti had already been cleaned.
>
> Based on Amazon Security Standards of Conduct Line 11.1.1 "Defacing company property with graffiti that is not gang related, or with content which is not threatening, discriminatory, or harassing." I recommend a final written warning for both Noguera and Mundorff for Human Resources to deliver.[26]

On August 26, with Wheeler's approval, Puig emailed Human Resources ("PXT"), recommending that Noguera and Mundorff be issued final written warnings "for the graffiti incident that was escalated to myself and [Wheeler]." The body of the email was virtually identical to Puig's report, except that it omitted the reason for the investigation—"Per management escalation."[27]

During the morning on August 31, Buse, MCO2's Human Resources manager, asked Joshlyn Gutierrez-Aguilar, a Human Resources associate, to gather more information:

> Hi Joshlyn, can you please get with Ethan or Doug to see if they have statements from Haley, AM, and if they can send us the video of Anthony and Juan writing on the carts to add to the Exact case? I have already seen the video of Anthony writing on the carts. I believe Haley already STU'd with both AA's and they admitted to it, if not let's STU with them with Haley and Mike Lumley. Then proceed with the Final Warning for both with Mike L. leading it.[28]

At 12:00 p.m., Gutierrez-Aguilar interviewed Aguayo. Aguayo told Gutierrez-Aguilar that he gave Mundorff the erasable marker because "we were out of red tags for the carts." He explained that "it is standard for PA's and PG's to write on the carts with dry erase. We usually write the CPT times, the areas the carts are going (example: singles, multis, etc.)." Aguayo denied knowing, however, that Mundorff "was going to write those things. But the associate had asked me to get in touch with my manager while we got more red tags. So the dry erase was a temporary fix."[29] He provided a similar version of the incident in his written statement:

> I was upstairs in the mezz at urc 314 when an AA came & notified me that there was no more red . . . tags available & asked me if I could reach out to leadership about getting more red tags in mezz. I asked leadership about the tags which they said were going to go

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[26] The report incorrectly lists the times that Mundorff and Noguera wrote on the carts since the video ended at 9:12:24 a.m. (R. Exh. 3 at 5; Tr. 420-432.)

[27] Incredibly, Wheeler testified that neither he nor Puig made any effort to ascertain the meaning of "ALU" before recommending discipline. (R. Exh. 4; Tr. 414-415, 433-437, 457-460.) Moreover, although he recommended discipline, he responded evasively when asked whether he considered applying the Respondent's progressive discipline policy—"I simply make a recommendation. I don't apply the discipline." (Tr. 462-463.)

[28] Exact is a Human Resources tool used to document investigations. (GC Exh. 30; Tr. 302-304.)

[29] Gutierrez-Aguilar testified that Aguayo "corroborate[d] that he had given Mundorff a dry erase marker to write red tag." (Jt. Exh. 3(B) at 8; Tr. 305-306, 309-311.)

> get. The AA had [no] cards to red tag with him & asked me if he could use my marker to write "Red Tag, Do Not Use" since no red tags were available. I did give him my marker to red tag the carts.[30]

5 At 1:30 p.m., Mundorff was called into a meeting with Gutierrez-Aguilar and Area Manager Michael Lumley. Asked why he thought he was called to the Human Resources office, Mundorff replied that he did not know but asserted "it was because he is being retaliated against for speaking up." After being told that the meeting was in regard to writing found on yellow carts, Mundorff admitted that he wrote "red tag" and "don't use" on carts because no red tags were 10 available. He also explained that he got the marker from Aguayo and that Aguayo would be reaching out to their manager for more red tags. Mundorff initially refused to admit that he wrote anything else because he did not want "to admit to something that may incriminate me." Asked if he was sure because there was camera footage, Mundorff replied that he "wrote *those things* because I wanted the carts to be fixed." (emphasis in original). Gutierrez asked Mundorff to 15 elaborate and he then admitted to writing "ALU," "Teamsters," and "OSHA." Mundorff explained that he wrote those additional comments "out of frustration and concern for the safety of associates" due to the delays in repairing red-tagged carts. He insisted he was being retaliated against and suggested Gutierrez read his August 24 email to Bezos and Jassy.[31]

20 Following her interviews with Mundorff and Aguaya—she did not interview Noguera—Gutierrez-Aguilera "[c]onfirmed" the allegation that Mundorff "vandalized yellow carts in the Mezzanine by writing on them with an erasable marker other words besides [red] tag related verbiage."[32] She arrived at that finding based on the following analysis:

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> After conducting the investigation it was found that associates in the mezzanine experience encounter yellow carts that should be out of service "red tag". There is a red tag process for these carts when an actual tag are placed on carts. On this day, there was a shortage of tags which is when the associate Anthony asked for a dry erase marker to write on the carts "red tag". To which the process assistant said yes and handed the 30 associate the marker. Due to the Process Assistant a member of leadership handing them the marker was seen as a sign of permission to write on the carts.[33]

On September 1, Mundorff asked to meet with Buse. Buse and Waller met with him at 5:00 p.m. In his notes of the meeting, Buse reported Mundorff's admission that "he wrote, with erasable 35 markers given to him by PA Alex, 'ALU' and another union on the carts while red tagging carts during time he red tagged carts last month."[34]

At 7:42 p.m. on September 1, Gutierrez-Aguilar submitted her report to Buse. Aware that Mundorff was a strong union supporter and openly advocated regarding workplace issues, she

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[30] GC Exh. 35.

[31] Gutierrez-Aguilar's version of Mundorff's interview is undisputed. (Tr. 303-320; Jt. Exh. 3(B) at 7-8.)

[32] In response to a leading question, Gutierrez-Aguilar testified that she did not interview Noguera because it was determined at some point that he only wrote "red tag" on the carts (Tr. 306.)

[33] Jt. Exh. 3(B) at 6-7.

[34] Buse's written account of the meeting is undisputed. (Jt. Exh. 3(B) at 8.)

noted the "b]ackground" that "[p]revious to this incident [Mundorff] has expressed interest in promoting union efforts at [MCO2]."[35] Her "Overall Conclusion" stated the following:

> After concluding the investigation, it was concluded that Anthony had received the dry erase marker from his process assistant, Alex Aguayo, to write red tag on the parts that need repairing, which is standard work. However, Mundorff admitted to writing additional things on the card, such as OSHA, Teamsters, and ALU, which would be considered graffiti to Kris Buse, PXT, Stephen Waller, site lead, and Joshlyn Gutierrez, PXT. He was also seen on video writing these things, which was witnessed by Kris Buse, PXT senior VP, and Doug Wheeler, loss prevention manager. The video has been permanently saved by LP. As a result, the allegation and policy violations were substantiated.[36]

After Buse provided Wheeler with the information obtained during the Human Resources investigation, Wheeler maintained his recommendation that Mundorff be issued a final written warning because, in addition to writing "red tag" on the outside of the carts, he admitted to writing comments on the inside of carts which served no business purpose. In Noguera's case, however, Wheeler rescinded his recommendation for a final written warning because he wrote only "red tag" on the outside of carts, which did serve a business purpose.[37] That decision was not documented.[38]

On September 2, Buse updated Gipson, MCO2 Acting Human Resources Manager about his September 1 meeting with Mundorff. He reported that Mundorff admitted writing "ALU, Teamster and OSHA on the carts." Although "his Lead told him to write on the carts with erasable markers for red tagging purposes," Buse stated that he and others in Human Resources were "still recommending a Final Warning. Are you still in agreement?" Gipson replied, "Yes."[39]

G. Mundorff is Issued a Final Warning

Waller, then the Site Leader and currently MCO2's General Manager, was well aware of Mundorff's workplace advocacy through MyVoice posts and direct complaints to managers and supervisors, and the August 24 letter to corporate leadership and MCO2 management. As the final

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[35] Guitierrez-Aguilar admitted that "Mundorff was very vocal" in promoting the union and safety concerns at MCO2 and "had written . . . on the MyVoice board, like several streams of communications where he had communicated that." Guitierrez-Aguilar also conceded that "it was widely known" in the facility—and she had even spoken with MCO2 leaders about it—that Mundorff was involved in those activities prior to commencing her investigation. (Tr. 324-328).

[36] Jt. Exh. 3(B) at 1.

[37] Wheeler also testified that it did not matter that "ALU" stood for "Amazon Labor Union." (Tr. 473-74). According to Wheeler, it was also inconsequential that Mundorff used a dry erasable marker to write something other than "red tag" because "[n]othing in 11.1.1 states how something needs to be defaced. It just states that if company property is defaced, it is a violation of the security standard." (Tr. 437-439).

[38] The Respondent's decision, supportive reasoning, or rationale to forego discipline of Noguera was not documented. (Tr. 354.)

[39] Incredibly, although her response is stated in their internal messages, Gipson, the Respondent's party representative, could not recall whether she agreed with Buse's recommendation. (GC Exh. 33; Tr. 393-398.)

step in disciplinary process, he approved the recommendation to issue Mundorff a final written warning after being presented with the findings of the investigation into the August 13 incident.[40]

On September 8, Buse and Lumley, Mundorff's area manager at the time, issued him the final written warning for the August 13 incident. The discipline was based on the following "Summary:"[41]

> On August 13, 2022, you violated the Security Code of Conduct by writing graffiti on mezzanine yellow carts. [You] were instructed to write on the carts by a PA for red tag purposes but not for other purposes as you admitted to doing so. As a result of this violation, you are being provided a Final Written Warning progressive discipline.[42]

Mundorff refused to sign the final written warning but provided his response in the "Associate Comments" section of the form:

> This write up is retaliation and senior leadership including HR is trying to fire me illegally. I explained why I wrote union names on the cart to be fixed. It was because senior leadership refuses to fix unsafe equipment,. We asked for red tags but management didn't provide them, The same unsafe carets kept being put in rotations. I decided to not only write red tag but include names like OSHA and unions to garnish the attention of our leadership to resolve the issue. Now I'm being retaliated against amongst many other situations because I chose to write OSHA and names of unions vs writing just ref tag and don't use. This is also because [I'm] pro union and spoke to ISGA. This is absolutely retaliations and I plan on appealing this. I also plan on filing a formal complaint with NLRB for retaliation.

Shortly thereafter, Mundorff appealed his final written warning pursuant to the Respondent's Appeal Policy.[43] Ordinarily, a site leader, such as senior operations manager or the site's General Manager, or a panel can hear an appeal. Mundorff requested that a panel hear his appeal, but due to the COVID-19 pandemic, Gipson and York informed him that the panel option was not available. After his request for a panel was denied, Mundorff requested that his appeal be heard by leadership from another site. The request was granted, and a senior operations manager at Respondent's facility in Jacksonville, Florida, Bobby Woltman, heard the appeal.[44]

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[40] I did not consider Waller's denial that he considered Mundorff's union and workplace advocacy in approving the discipline to be credible. He insisted that the non-red tag writing was "nonwork-related nomenclature" tantamount to "vandalism," and still required someone to clean up" the messages, but had nothing to do with Mundorff's protected concerted activities. (Tr. 261-266.) Based on the recent OSHA investigation and Gutierrez-Aguilar's acknowledgement that management knew of Mundorff's protected activity and union advocacy, there can be no doubt that Waller knew what the writing meant.

[41] Jt. Exh. 2.

[42] Although Mundorff was "provided a Final Written Warning progressive discipline," the record is devoid of any evidence regarding the specific details of "progressive discipline" as that term is used in the Security Standards of Conduct. (Tr. 404-405, 418.)

[43] Mundorff's testimony regarding his options for an appeal hearing before a panel or senior site leader was undisputed. (GC Exhs. 11-12; Tr. 112, 219, 140-142, 155-157, 360-363.)

[44] Under the Respondent's policy, the September 8 final written warning is no longer part of Mundorff's

On November 9, Woltman heard Mundorff's appeal. He denied the appeal on the same day, noting that Mundorff "admitted to writing on the Mezz cart, confirmed they were not told to write on the cart, and confirmed they knew they were suppose[d] to write on the cart."[45]

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H. Mundorff Post-Disciplinary Activities

While his appeal was pending, Margarita Olivera, a Human Resources escalations investigator, followed up with Mundorff regarding the various issues raised in his August 24 letter to management. Between approximately September 23 and October 18, Mundorff discussed, mostly by email, numerous complaints about retaliation, increased pay and benefits, workplace safety, at MCO2 and nationally, and the denial of a panel for his appeal.[46]

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Following his exchanges with Olivera, Mundorff focused again on broken yellow carts. On November 25, he requested on MyVoice that "management communicate to the team to stop taking red tags off yellow carts that are unsafe." Attributing the cause to employees' concerns about being able to meet their production rates if they did not have enough carts available, Mundorff asked management to address the problem. On December 7, Mundorff complained on MyVoice that red-tagged carts were being put back into rotation without being fixed, noting: "For the record, writing on yellow carts with erasable marker is NOT defacing property or vandalism." He also complained about problems with the air conditioning, fans, and a broken electrical box.[47]

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On December 12, Waller replied on MyVoice. He thanked Mundorff for his comment, confirmed that writing the "defect on the cart . . . "is not vandalism, and he was ordering more red tags for Mundorff to use and I will order more red tags for you to use." Waller also stated that he followed up with "Gene on his interaction with you and asked that he mend your relationship. Thank you for prioritizing everyone's safety by red tagging the carts"[48]

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I. Comparable Disciplinary Practices

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Prior to September 8, there is no record of the Respondent's investigation and enforcement of the Security Standards of Conduct relating to the defacement of company property by an employee.[49] On September 7, Wheeler permanently banned an individual from MCO2 for affixing

employment record because more than 90 days elapsed since that discipline issued. (Tr. 360.)

[45] Jt. Exh. 4; GC Exh. 20.

[46] The General Counsel asserted that these exchanges with Olivera were relevant to show the continuity of Mundorff's protected concerted conduct for which he was disciplined on September 8. (GC Exhs. 13(A)-(H); Tr. 148-152.) However, they have no relevance to the Respondent's decision to discipline Mundorff on September 8.

[47] GC Exh. 14.

[48] GC Exh. 15.

[49] Gipson and Wheeler credibly testified that an employee was terminated for writing "man" on a public display in front of the facility containing pictures of two well-known black females during Black History Month. (Tr. 363-364, 368-369, 470.) However, neither witness specified the year that it happened. Nor were any records produced regarding the incident. Accordingly, although I find that the incident occurred, there is insufficient evidence to conclude that happened *prior to* September 8. (Tr. 364, 368-369, 470.)

a sticker containing the words "dirty bitch" in Creole to an MCO2 board on September 1. However, the individual was not an employee; he was employed by the Respondent's contractor. Moreover, Wheeler immediately acted without referring the matter to Human Resources or otherwise applying the Security Standards of Conduct.[50]

In September 2023, Wheeler was interviewing Mundorff as a witness in an unrelated investigation. During the interview, Mundorff informed Wheeler that he discovered a white supremacist symbol on a box or rack at MCO2 more than a year earlier. Mundorff did not specify the date or location where he saw the symbol. Nor did he report it to anyone at the time.[51]

J. The Respondent's Regulation of MyVoice

1. Rule No. 2

Ashley Corkery, as Senior Manager of Product Management, Technical, manages, repairs, adapts, and enhances MyVoice based on user experience. However, neither she nor anyone else trains managers at the Respondent's facilities about how to interpret or apply the MyVoice Terms of Use. Nor are there guidelines on how to interpret and apply them. Thus, facility managers are left to their own subjective interpretations to enforce the MyVoice Terms of Use.[52]

According to Corkery, the Respondent's business purpose for Rule No. 2 is to prevent a user's "personal or confidential information, such as Social Security numbers and medical information" from being disseminated; employees may share their personal and confidential information only with Human Resources personnel through the MyHR internal link.[53] She considers "defaming any other individual to include "comments that maybe call out another associate in a negative way, as a personal attack."[54]

Subjects that Corkery considers "confidential" include any company data—even if it pertains to an employee's own working conditions or those shared with others, medical information, Social Security number, phone number, or login information of either an employee or a posting responder.[55]

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[50] Contrary to the Respondent's contention, there is no indication that Wheeler applied the Security Standards of Conduct in quickly banning the non-employee. (Tr. 439-443; R. Exh. 5.)

[51] Wheeler confirmed that Mundorff told him about the racist graffiti. However, there is no evidence that Mundorff reported the discovery to anyone in management in 2022. (Tr. 83-85, 98, 108-112, 451-453.)

[52] Corkery has never been contacted by any supervisors or managers at its facilities to answer questions about how to interpret or apply the MyVoice Terms of Use. (Tr. 233-236, 243-244, 249-252.)

[53] Within the context of Rule No. 2, Corkery considers "personal" and "confidential" information to include an employee's badge photo, work alias, name, address, phone number, and medical information, which would include an employee's report of a workplace injury. (Tr. 236-240, 243, 249-252.)

[54] Corkery testified that "calling out another associate in a negative way" would "[n]ot necessarily" include criticism. However, criticism must be "respectful," although each site "may interpret what a negative comment may be differently." (Tr. 249-250, 255-257.)

[55] In applying Rule No. 2, Corkery conceded that "there may be overlap between personal and confidential." (Tr. 240-243, 251-252.)

2. Rule No. 5

The business purposes for Rule No. 5 are "to ensure that employee information is only accessible to those who should have access to it and that it's not shared with anyone who shouldn't have access to the information," and to protect the Respondent's "data, technical information or trade secrets." According to Corkery, an employee would violate Rule Nos. 2 and 5 by taking a screenshot of their MyVoice post listing the wage rate for warehouse associates and publishing it on social media because it would contain the employee's login information, i.e., photo, name, and work alias.[56]

3. MCO2's Enforcement of MyVoice Terms of Use

During the one-year period from February 9, 2022 to February 7, 2023, 530 "total comments" were posted by 120 individuals on MyVoice. Counting additional comments following an initial post, "total activities" on MyVoice increased to 812. During the same period from 2023 to 2024, there were 657 "total comments" posted by 202 individuals and 3,312 "total activities."[57]

At MCO2, MyVoice posts are reviewed by Human Resources Manager Gipson, the general manager, the site lead, two senior operations managers, and the senior human resources vice president. Senior leadership at MCO2 meet periodically to consider who will respond to employee's posts or whether an employee's post should be hidden from view based on their interpretation of the MyVoice Terms of Use.[58]

In her review of MyVoice posts, Gipson has hidden posts that contain "personal" or "confidential" information, such as medical information."[59] However, during her time at MCO2, neither she nor anyone else in management has ever hidden posts that have been critical of management.[60]

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[56] Asked whether an employee's dissemination outside of MCO2 of wage information posted on MyVoice would violate Rule No. 5, Corkery could not answer. She considered the example to be "very abstract." (Tr. 243-245.) Nevertheless, Corkery considered Rule No. 5 to be "tailored as low as we can get it in this instance, for it to be understood by all users and applicable to associates globally." (Tr. 249.)

[57] With the exception of some posts by "admin users," only employees can make initial posts. Supervisors are unable to make initial posts. (R. Exh. 15; Tr. 375-382.)

[58] Again, the Respondent neither provides written standards nor training to managers at its facilities on how to apply the MyVoice Terms of Use. (Tr. 249, 399-401.)

[59] Gipson recognized that "personal" and "confidential" information "can mean the same thing." (Tr. 369-370, 402-403.)

[60] Gipson testified credibly that she would have known if a post critical about management had been removed because she reviews all hidden posts. (Tr. 369-370, 400-403.) Mundorff's testimony to the contrary regarding safety complaints to management, however, was not corroborated by proof of such posts. (Tr. 69-71.)

On January 11, 2023, Melvyn and Hilton Castillo posted several comments on MyVoice critical of their supervisor.[61] The supervisor's name was listed in the posts. However, one of Melvyn's posts was hidden because it mentioned the supervisor's login handle in violation of the MyVoice Terms of Use. It was reposted by Melvyn on January 13, 2023 without any reference to
5 the supervisor's login handle.[62]

At 7:43 a.m. on February 8, Gipson anonymously published a MyVoice post detailing MCO2's interpretation of the Terms of Use:[63]

10 --You refrain from using the MyVoice platform for defaming any other individual and/or sharing your own or others' personal and/or confidential information. --You agree to not make any statements, or comments or indulge in any conversation that in any way is abusive, vulgar, offensive, racist, personal attacks of any kinds, discriminatory and/or constitutes harassment of any individual or other persons. -You
15 agree to not make any comment or statement that includes any form of hate speech.

At 7:48 a.m., a lead fulfillment associate anonymously responded to Gipson's post by expressing his concerns that the MyVoice Terms of Use were not being enforced:[64]

20 --You agree to maintain confidentiality about the comments and responses provided on the MyVoice platform and refrain from sharing any information with unrelated parties who do not have access to the MyVoice portal . . . Certain AA's are not following the policy or terms for what the VOA board is meant for and it is making the culture and workplace more of uncomfortable to work in. Many statements are tarnishing the reputation for certain
25 managers due to false/exaggerated situations. VOA is not meant for defaming or attacking any employee of Amazon. Positives vibes and good day to all.[65]

At 11:08 a.m., Gipson replied to the lead fulfillment associate's post with an explanation as to the grounds for removing MyVoice posts:[66]

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Thank you for your comment and sharing your frustration. There are certain situations where comments will be removed from the board such as violating the code of conduct or calling out another Associate in a negative way. We agree that the comments should remain respectful and follow the VOA etiquette at all times. If there are certain comments

[61] The General Counsel's contention that Mundorff engaged in protected concerted activity by posting, and urging coworkers to post, work-related comments on MyVoice is correct. However, the record shows that those posts occurred after he was disciplined on September 8. (Tr. 73-79; GC Exhs. 7, 14.)

[62] The posts include an undated one by Mundorff criticizing the removal of Melvyn's post. (GC Exh. 7; Tr. 75-79.)

[63] GC Exh. 8 at 1.

[64] The three hour time difference between exhibits suggests that the anonymous poster, a process associate, was on Pacific time. (GC Exh. 8 at 2; R. Exh. 16; Tr. 370.)

[65] "VOA" stands for Voice of Amazon.

[66] GC Exh. 8 at 4; R. Exh. 16.

that you see that make you feel uncomfortable, please come speak to HR so we can immediately address the situation.[67]

At 11:29 a.m., Mundorff posted the following response to the MyVoice post by the lead fulfillment associate, which Gipson did not respond to:

> Can the manager who put the anonymous VOA board comment up please elaborate on their thoughts. AA's don't have access to these policies you're referring to. Kinda obvious who is writing that one. Nothing I've said nor done has violated any policy.. Everything I'm doing is considered "Protected Concerted Activity" and is protected by the NLRA act and OSHA rights. Amazon policy doesn't come before legal rights. The VOA board is documentation for our issues and complaints being ignored. The NLRB and OSHA is not considered someone who we can't provide that documentation to.[68]

LEGAL ANALYSIS

I. MUNDORFF WAS UNLAWFULLY ISSUED A FINAL WRITTEN WARNING

A. Applicable Law

In proving that an employer unlawfully discriminated against an employee to hinder Section 7 activity, the General Counsel must make a prima facie case that the employee's protected activity was a motivating factor in the adverse employment action. That burden is satisfied with proof that the employee engaged in protected concerted activity, the employer knew of that activity, and the employer bore animus towards that activity. *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 889 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 399–403 (1983); *American Gardens Management Co*., 338 NLRB 644 (2002). If the General Counsel makes that showing, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct. *Intertape Polymer Corp.,* 372 NLRB No. 133, slip op. at 6 (2023), enfd. 2024 WL 276 (6th Cir. 2024).

The causal link may be established by direct evidence or "inferred from circumstantial evidence based on the record as a whole." *DHL Express (USA), Inc.,* 360 NLRB 730, 730 fn. 1 (2014) (inferring animus where employer discharged employee one day after employee engaged in union activity); *Embassy Vacation Resorts*, 340 NLRB 846, 848 (2003) (employers' actions were motivated by union animus where union supporters were suspended less than two weeks after a second election was ordered and discharged a few weeks after union was certified).

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[67] Corker agreed with Gipson's February 8, 2023 interpretation of the MyVoice Terms of Use because employees must not "call out" another person in a "negative way" and posted criticism of others must be "respectful." She conceded that a post critical of a supervisor's lack of responsiveness to employees' safety recommendations "wouldn't need to be hidden," but noted that "they're open to interpretation based on every comment and how a site has interpreted them." (GC Exh. 8 at 5; R. Exh. 16; Tr. 255-257.)

[68] Mundorff conceded that he continued to post on MyVoice. (GC Exh. 8 at 3; Tr. 79-82, 212).

Circumstantial evidence which might support a finding of discriminatory intent might include the timing of the adverse action in relation to the employee's protected activity, the presence of other unfair labor practices, disparate treatment of the discriminatees, the employer's perfunctory investigation, shifting defenses by the employer, and evidence of pretext. *Lucky Cab Co*., 360 NLRB 271, 274 (2014), enfd. Mem. 621 Fed.Appx. 9 (D.C. Cir. 2015) (animus evident from discharge of union supporter two weeks after organizing effort intensified, contemporaneous Section 8(a)(1) violations, disparate disciplinary treatment, shifting defenses, failure to allow discriminatees to respond to allegations of misconduct, falsified documentation and abrupt changes in discipline, and false reasons for discharges); *ManorCare Health Services–Easton,* 356 NLRB 202, 204 (2010) (final written warning to union supporter established by close proximity of time to protected union activities, employer's unlawful interrogation, threats, failure to investigate, departure from past disciplinary policy in basing discipline on an outdated prior warning, and confiscation of union literature); *Windsor Convalescent Center*, 351 NLRB 975, 984 (2007), enfd. in relevant part 570 F.3d 354 (D.C. Cir. 2009) (unlawful motivation for suspensions and terminations of employees for protected and union activities indicated by disparate disciplinary treatment, false or pretextual reasons for the discipline, failure to investigate or ask employees' for their versions of incident before imposing discipline).

If the evidence as a whole "establishes that the reasons given for the [employer's] action are pretextual—that is, either false or not relied upon—the [employer] fails by definition to show that it would have taken the same action for those reasons, absent protected conduct, and thus there is no need to perform the second part of the *Wright Line* analysis." *Golden State Foods Corp.*, 340 NLRB 382, 385 (2003).

B. The Respondent Knew of Mundorff's Protected Concerted Activity Prior to August 13

Prior to August 13, Mundorff, a vocal supporter of the ALU, engaged with coworkers regarding various health and safety concerns relating to: (1) excessive heat and inadequate fans; (2) inadequate time for restroom breaks; (3) issuing discipline or assessing time off for restroom breaks; and (4) employee injuries due to aisle obstructions and tripping hazards. As a result, Mundorff met with numerous managers and supervisors about these concerns. He also expressed his dissatisfaction with management's response by posting employees' health and safety complaints on MyVoice. Mundorff's advocacy for the union and workplace health and safety was widely known throughout MCO2, including Waller, Wheeler, Buse, and Gipson.

Management was receptive to Mundorff and addressed some, but not all, of his complaints. During the summer of 2022, Mundorff continued to press managers and supervisors about the aforementioned safety issues. By the end of June, he warned Senior Operations Manager York that he would be contacting OSHA if their complaints about warehouse conditions were not adequately addressed. After York dared him to call OSHA, Mundorff carried out his threat and reported numerous workplace issues within MCO2 relating to ergonomics, health, and safety.

The OSHA investigation began on July 18 and lasted several weeks. In the report that issued months later, OSHA's findings addressed numerous health and safety complaints that had been raised by employees: the pressure to meet the pace of work and production quotas at the risk of sustaining musculoskeletal injuries; the exposure to a high risk of serious musculoskeletal

disorders regarding jobs with a high level of ergonomic risk; working in excessive heat; the quality of medical treatment and inadequate record-keeping by first aid clinic personnel; and inadequate coordination with workers' compensation.

During or after the OSHA inspection, Mundorff was assigned to light duty due to a shoulder injury. He was tasked with the responsibility of assessing the condition of equipment used in the facility, including red-tagging broken yellow carts. Mundorff eventually became frustrated that red-tagged carts, which posed a risk to of injury to employees if they had jagged metal edges, were not being taken out of rotation and repaired. On August 13, he expressed that frustration by writing in erasable marker, "OSHA," Teamsters," and "ALU" in addition to "red tag," on five broken carts. It is undisputed that the use of an erasable marker, in the absence of actual tags, to write "red tag"—along with other information (name of writer, the cart's destination, and customer promise time)—was consistent with the facility's practice.

Section 7 of the Act provides that, "employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain 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 ." *Meyers Industries, Inc. (Meyers I),* 268 NLRB 493, 497 (1984) (concerted activities must be "engaged in with the authority of other employees, and not solely by and on behalf of the employee himself"); *Fresh & Easy neighborhood Market, Inc.,* 361 NLRB 151, 152 (2023) (Section 7 activity must be both concerted and engaged in for the purpose of "mutual aid or protection").

Although the record established that Mundorff was merely doing his job and did not collaborate with coworkers about defective carts, his actions on August 13 were clearly a continuation of his workplace advocacy regarding pending health and safety issues. See *Constellium Rolled Products Ravenswood*, LLC, 366 NLRB No. 131, slip op. at 3 (2018) (employee's actions in writing "whore board" on an overtime sign-up sheet was an "extension and outgrowth" of the employees' ongoing disagreement with management over its unilateral implementation of a new overtime scheduling system); *Mike Yurosek & Son, Inc.*, 306 NLRB 1037, 1038 (1992) (noting that "individual action is concerted where the evidence supports a finding that individually expressed concerns are logical outgrowth of the concerns expressed by the group"), supplemented by 310 NLRB 831 (1993), enfd. 53 F.3d 261 (9th Cir. 1995).

Moreover, Mundorff's Section 7 activity in writing in erasable marker, "OSHA," Teamsters," and "ALU," was not so egregious as to lose the protection of the Act. "It is the employer's burden, not only to assert this affirmative defense, but also to establish that the employee's interference with production or operation was the actual reason for the discipline." *Continental Group, Inc.*, 357 NLRB 409, 411-412 (2011). Rather than obstruct business operations or result in damage to property, the erasable markings highlighted the broken carts that needed to be taken out of rotation and repaired. The proper procedure in those instances was for the word "red tag" and other information to be written on the cart. On August 13, Mundorff wrote "red tag," but instead of other information, he wrote OSHA," Teamsters," and "ALU." In either case, the writing was going to be erased anyway. The impact on the Respondent's operations was nonexistent.

B. Mundorff's Discipline Was Motivated By Unlawful Animus

The Respondent's animus towards Mundorff's protected activity is demonstrated in several respects. First, Respondent initiated its investigation into Mundorff's conduct soon after he took up York on his dare and contacted OSHA, then approached OSHA investigators when they arrived at MCO2, and reiterated his health and safety concerns when they interviewed him. Additionally, the September 8 discipline issued just 15 days following Mundorff's August 24 letter to leadership. See *Bannum Place of Saginaw, LLC*, 370 NLRB No. 117 at p. 3, fn. 12 (2021), enfd. 41 F.4th 518 (6th Cir. 2022) (intervals of three to five weeks between discharge and filing of representation petition, unlawful threats and interrogation, and upcoming election evidence of animus); *Evenflow Transportation, Inc.*, 358 NLRB 695, 697 (2012), affirmed and adopted 361 NLRB 1482 (2014) (inference of animus appropriate based upon timing, where layoff occurred "within a few weeks of the renewal of the organizing campaign" and soon after unlawful interrogation).

Second, the Respondent failed to conduct a meaningful investigation. See, e.g., *Cintas Corp. No. 2*, 372 NLRB No. 34 at p. 6-7 (2022), quoting *Green Apple Supermarket of Jamaica, Inc.*, 366 NLRB No. 124 at p. 17 (2018), enfd. 805 Fed.Appx. 65 (2d Cir. 2020) ("an employer's failure to conduct a fair and full investigation into the incident causing the employee's discharge and to give the employee the opportunity to explain […] before imposing discipline is a significant factor in finding discriminatory motivation).

Wheeler and Puig completed an investigation based on video and witness confirmation that Mundorff and Noguera wrote on the carts with erasable markers, and concluded that they violated Security Standards of Conduct 11.1.1—"Defacing company property with graffiti." Without interviewing Mundorff or Noguera, they recommended that both employees be issued a final written warning. However, after being informed by Human Resources that employees routinely used erasable markers to "red tag" broken carts, Wheeler withdrew his recommendation that Noguera be disciplined because he only wrote "red tag" on the carts. However, he maintained his recommendation that Mundorff be disciplined because he also wrote "ALU," Teamsters," and "OSHA." General Manager Waller, fully aware as to what those words meant and Mundorff's expressed interest in promoting union efforts at [MCO2]," agreed with the decision to issue Mundorff a final written warning on the ground that those inscriptions did not serve a legitimate business purpose.

Finally, Mundorff was disciplined, while Noguera was not. Contrary to the General Counsel's contention, Mundorff was not treated disparately. Noguera only wrote "red tag" on the carts; Mundorff went further with inscriptions referring to OSHA, whose staff was currently investigating employees' health and safety complaints at MCO2, and expressing support for two labor organizations—ALU and Teamsters. Nevertheless, the Respondent recognized that the "red tag" writing, which it recognized as legitimately business related, would also need to be wiped off. That demonstrated that it was the content of Mundorff's inscriptions—not the defacement of company property or the time spent by staff wiping off the writing—that motivated the Respondent to discipline Mundorff.

For the foregoing reasons, the General Counsel has made a *prima facie* showing that the Respondent issued Mundorff a final written warning on September 8 because he engaged in

protected concerted activity. Accordingly, the burden of proof shifts to the Respondent to demonstrate that it would have issued the same discipline to Mundorff even in the absence of his protected concerted activity.

D. The Respondent Failed to Show That it Would Have Disciplined Mundorff in the Absence of His Protected Conduct

The Respondent failed to meet its burden of persuasion for several reasons. First, that was clear from the Respondent's eventual acknowledgment that the use of an erasable marker to write on defective carts is not defacement or graffiti, and served a legitimate business purpose; as previously noted, the red-tag notation, as well as the protected speech, had to be erased. Second, there is no record of the Respondent disciplining an employee prior to September 8 for defacing its property with graffiti even though it is undisputed that employees have written other markings, including smiley faces, employee commentary about their jobs, and racist remarks.

Based on the preponderance of the evidence, the Respondent violated Section 8(a)(1) of the Act by issuing Mundorff a final written warning on September 8.

II. THE RESPONDENT'S MAINTENANCE AND ENFORCEMENT OF MYVOICE'S TERMS OF USE

A. Applicable Law

In *Lutheran Heritage,* 343 NLRB 646 (2004), the Board assessed overly broad work rules by giving appropriate weight to both employees' Section 7 activities and employer's legitimate business interests in maintaining such rules. Thus, a challenged rule was deemed unlawful if it explicitly restricted Section 7 activity. If the rule did not explicitly restrict Section 7 activity, a rule or policy was deemed unlawful if: "(1) employees would reasonably construe the language to prohibit Section 7 activity; (2) the rule was promulgated in response to union activity; or (3) the rule has been applied to restrict the exercise of Section 7 rights. Id. at 647.

In *Stericycle*, 372 NLRB No. 113, slip op. at 2 (2023), the Board adopted a new approach in evaluating the lawfulness of work rules that "builds on and revises the *Lutheran Heritage* standard" by clarifying how it will evaluate the rule's impact on employees and the employer's business justifications. First, a challenged rule is to be interpreted "from the perspective of an employee who is subject to the rule and economically dependent on the employer, and who also contemplates engaging in protected concerted activity." In that regard, the Board will recognize "that a typical employee interprets work rules as a layperson rather than as a lawyer." Id. at 9. "If the General Counsel carries her burden, the rule is presumptively unlawful, but the employer may rebut that presumption by proving 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." Id. at 2. In assessing the employer's justification for the rule, the Board will consider "the specific wording of the rule, the specific industry and workplace context in which it is maintained, the specific employer interests it may advance, and the specific statutory rights it may infringe." Id. at 13. The Board "will evaluate any explanations or illustrations contained in a rule regarding how the rule does not apply to activity protected by Sec. 7." Id. at fn. 21.

B. The Parties Contentions

The General Counsel contends that Rules 2 and 5 of the MyVoice Terms of Use are unlawfully overbroad and presumptively unlawful under *Stericycle* on the following grounds: (1) they prohibit employees from sharing their own or other's personal or confidential information, including wages, salaries, benefits, or other working conditions; (2) they prohibit employees "from sharing any information with third parties, thereby infringing upon employees' ability to information about share wages, salaries, benefits, or other working conditions with third parties such as the media or labor organizations; and (3) no evidence was presented showing that the foregoing restrictions advance a legitimate and substantial business interest that cannot be advanced by a more narrowly tailored rule. Again, the following rules are alleged to be unlawful:

> Rule No. 2: You refrain from using the MyVoice platform for defaming any other individual and/or sharing your own or others' personal and/or confidential information.
>
> Rule No. 5: You agree to maintain confidentiality about the comments and responses provided on the MyVoice platform and refrain from sharing any information with unrelated parties who do not have access to the MyVoice portal.

The Respondent contends that Rule Nos. 2 and 5 are lawful under *Stericycle* for several reasons: (1) viewed in isolation, neither rule prohibits employees from sharing content relating to their terms and conditions of employment with other employees and third parties; (2) the limitations on posting personal or confidential information and maintaining confidentiality about content do not infringe upon employees' discussion about terms and conditions of employment because MyVoice is not the only means or forum by which MCO2 employees can communicate; (3) Rule No. 2's prohibition against defaming any other individual merely states the law;[69] and (4) they cannot be advanced by a more narrowly tailored rule.

C. Rule Nos. 2 and 5 Are Overbroad

Rule Nos. 2 and 5 are presumptively overbroad. Reasonably construed, Rule No. 2 restricts employees from sharing their personal and/or confidential information with other employees, while Rule No. 5's confidentiality requirement restricts employees from sharing any posted information with third parties, such as such as the media or a labor organization. "An employer rule is unlawfully overbroad when employees would reasonably interpret it to encompass protected activities." *Triple Play Sports Bar & Grill*, 361 NLRB 308, 314 (2014), enfd. 629 Fed. Appx. 33 (2d Cir. 2015).

The Respondent contends that neither rule inhibits employees from posting and disseminating personal or confidential information "because those restrictions are limited to MyVoice and they are free to raise and discuss those issues elsewhere or in any other forum." Nevertheless, it is undisputed that the rules' restrictions on "personal" or "confidential" information would be reasonably construed to encompass personnel-related information such as

[69] The General Counsel does not contest the first portion of Rule No. 2 relating to the "defaming of any other individual."

wages, salaries, benefits, or other working conditions. Such restrictions have been found unlawful. See *Hyundai America Shipping Agency*, 357 NLRB 860, 860 (2011) (rule unlawfully prohibited "[a]ny unauthorized disclosure of information from an employee's personnel file," instructed employees to bring their complaints directly to management, and stated that [c]omplaining to your fellow employees will not resolve problems"); *Triple Play Sports Bar & Grill*, 361 NLRB 308, 314 (2014), enfd. 629 Fed. Appx. 33 (2d Cir. 2015) (confidentiality rule was unlawfully overbroad because "employees would reasonably construe the admonition to keep employee information secure to prohibit discussion and disclosure of information about other employees, such as wages and terms and conditions of employment."); *Cintas Corp.*, 344 NLRB 943, 943 (2005) (prohibition against releasing "any information" about employees unlawful), enfd. 482 F.3d 463 (D.C. Cir. 2007); *Flamingo Hilton-Laughlin*, 330 NLRB 287 (1999) (prohibition on revealing confidential information about "fellow employees" unlawful).

From the perspective of a layperson, the uncertainty created by the rules' reference to "personal" and "confidential" information would, at the very least, lead a reasonable employee to lean on the side of caution and refrain from engaging in or disseminating protected speech. See *Whole Foods Market*, 363 NLRB 800, 803 fn. 11 (2015) ("Employees, who are dependent on the employer for their livelihood, would reasonably take a cautious approach and refrain from engaging in Sec. 7 activity for fear of running afoul of a rule whose coverage is unclear.").

In conclusion, applying the *Stericycle* standard, Rule Nos. 2 and 5 are facially neutral, yet ambiguous and overbroad, and tend to restrain employees from engaging in protected concerted communications concerning workplace concerns. See *Eastex, Inc. v. NLRB,* 437 U.S. 556, 565-566 (1978) (employees' Section 7 rights entitle them to share information with each other and the public for the purpose of mutual aid and protection).

D. The Respondent Failed to Rebut the Presumption that the Rules are Unlawful

The Respondent asserts that Rule No. 2 serves a legitimate business purpose because it: (1) provides "a forum for complaints to be raised with and responded to by management;" and (2) "actually exists to facilitate Section 7 activity." Regarding Rule No. 5, the Respondent contends that it "prevents employees from impacting the privacy of others by publicly posting MyVoice screen shots that contain the likeness (includes photos and user names) of MyVoice posters."

Those reasons fail to demonstrate, however, that Rule Nos. 2 and 5 cannot be advanced by more narrowly tailored rules. MyVoice may be a forum by which employees complain to management. However, it also a serves as a medium for the sharing of workplace information among all MCO2 employees. Indeed, the Respondent recognizes that MyVoice exists to facilitate Section 7 activity. Suggesting that employees are free to share personal or confidential information with management through other channels such as "Amazon HR and Ethics systems" ignores the purpose of Section 7 activity—the right of employees to use an available forum to communicate with each other, labor organizations, and the media regarding their terms and conditions of employment.

The Respondent certainly has a legitimate business interest in ensuring that confidential information, such as trade secrets, proprietary data, and technology, and nonpublic business plans,

are not disclosed to competitors. *Mediaone of Greater Florida,* 340 NLRB 277, 278-279 (2003) (lawful confidentiality policy prohibited the disclosure of "proprietary information, including information assets and intellectual property" and listed "customer and employee information" as an example of "intellectual property); *Lafayette Park Hotel*, 326 NLRB 824, 826 (1998), enfd. 203 F.3d 52 (D.C. Cir. 1999) (employer had legitimate business reason for maintaining confidentiality rule prohibiting "[d]ivulging Hotel-private information to employees or other individuals or entities that are not authorized to receive that information").

It also has legitimate reasons for prohibiting the posting of personal information such as Social Security numbers, governmental identification numbers, company security identification (badge photos), and the medical information of others. Prohibiting employees from posting their names and sharing their own medical information, however, would infringe on protected speech because it could be reasonably construed to preclude the sharing of information about unsafe working place conditions resulting in injuries or impacting their health.

Finally, the Respondent failed to offer any evidence as to why it was unable to add language to the rules explicitly permitting Section 7 activity. Cf. *Motor City Pawn Brokers, Inc.*, 369 NLRB No. 132 (2020) (lawful confidentiality policy stated that it would not be enforced to restrict Section 7 rights, "including, without limitation the right to engage in concerted activities for the purpose of mutual aid and protection")

Based on the ambiguous and overbroad language of Rule Nos. 2 and 5, the Respondent's maintenance of those work rules reasonably tends to chill employees from engaging in Section 7 activity in violation of Section 8(a)(1) of the Act.

III. The Respondent unlawfully enforced MyVoice's terms of use

On February 8, 2023, an employee posted criticism on MyVoice of other employees who were "not following the policy or terms for what the VOA board is meant for and it is making the culture and workplace more of uncomfortable to work in" through posts that were "tarnishing the reputation for certain managers due to false/exaggerated situations." Gipson posted the following reply a few hours later:

> Thank you for your comment and sharing your frustration. There are certain situations where comments will be removed from the board such as violating the code of conduct or calling out another Associate in a negative way. We agree that the comments should remain respectful and follow the VOA etiquette at all times. If there are certain comments that you see that make you feel uncomfortable, please come speak to HR so we can immediately address the situation.

"The Board has long held that the standard to be used in analyzing statements alleged to violate Section 8(a)(1) is whether they have a reasonable tendency to coerce employees in the exercise of their Section 7 rights. Intent is immaterial." *KSM Industries, Inc.*, 336 NLRB 133, 133 (2001). In such instances, the Board applies an objective standard and "considers the total context of the alleged unlawful conduct from the viewpoint of its impact on employees' free exercise of

their rights under the Act." *Lush Cosmetics, LLC*, 372 NLRB No. 54, slip op. at 3 (2023) (citations omitted).

The Respondent contends that Gipson's post did not coerce employees for several reasons: (1) a reasonable employee would have construed her comments as a prohibition against criticizing other employees ("associates"), but not management; (2) she was, in essence, referencing Rule No. 3's prohibition against statements that are "in any way is abusive, vulgar, offensive, racist, personal attacks of any kind[], discriminatory and/or constitutes harassment of any individual or other persons; (3) the absence of evidence that anyone at MCO2 has ever removed a MyVoice post that was critical of management; and (4) the significant increase in MyVoice postings by employees after the post, including continued posts by Mundorff.

Gipson's post responded to an employee's criticism of posts that "were tarnishing the reputation for certain managers due to false/exaggerated situations." She stated that posts would be removed for "violating the code of conduct or calling out another Associate in a negative way." The latter portion of that statement referred to criticism of other employees. However, the first part referred generally to the removal of posts that violated the code of conduct. Construed in context with the post Gipson was responding to, the first part of that statement would have led a reasonable employee to lean on the side of caution and refrain from criticizing other employees, supervisors, or managers regarding workplace issues for fear of being deemed disrespectful. See *Casino San Pablo*, 361 NLRB 1350, 1351-1352 (2014) (rule prohibiting "insubordination or other disrespectful conduct" would be reasonably understood "as encompassing any form of Section 7 activity that might be deemed insufficiently deferential to a person in authority")

Moreover, the fact that MyVoice posts have increased and none have been removed due to criticism of management absence is irrelevant. Regardless of whether employees changed their behavior in response to the post is not dispositive. Nor is the subjective interpretation of the post by Gipson and Corkery. "It is well settled that the test of interference, restraint, and coercion under Section 8(a)(1) of the Act does not turn on the employer's motive or on whether the coercion succeeded or failed." *American Tissue Corp.*, 336 NLRB 435, 441-42 (2001) (citing *NLRB v. Illinois Tool Works*, 153 F.3d 811, 814 (7th Cir. 1946)).

In the circumstances, Gipson's February 8, 2023 post unlawfully restrained employees in the exercise of protected speech in violation of Section 8(a)(1).

CONCLUSIONS

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

2. By issuing a final written warning to Anthony Mundorff on September 8, 2022 because he engaged in protected concerted activity on August 13, 2022, the Respondent has violated Section 8(a)(1) of the Act.

3. The Respondent further violated Section 8(a)(1) by: (a) since at least August 27, 2022,

maintaining an unlawfully overbroad rule prohibiting the posting or dissemination by employees of personal or confidential information on its MyVoice digital platform; (2) on or about February 8, 2023, posting a notice on the My Voice platform at its Deltona, Florida facility informing employees that comments that violated the code of conduct or called out another associate in a negative way will be removed.

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

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondent, having discriminatorily disciplined Anthony Mundorff by issuing him a final written warning on September 8, 2022 because he engaged in protected concerted conduct on August 13, 2022, shall remove from its files any references to the final written warning and notify him in writing that this has been done, and that the final written warning will not be used against him in any way.

The Respondent, having infringed upon employees' Section 7 rights to engage in protected concerted activity, shall inform employees of their right to communicate to others about their personal information or the personal information of other employees that they have shared with regarding their wages, hours of work, and other terms and conditions of employment, and to complain about those matters with supervisors and managers. Int his regard, the Respondent will be ordered to rescind Rule Nos. 2 and 5 of the *MyVoice/Voice of Amazon* Terms of Use and provide its employees with a lawfully revised version of the *MyVoice/Voice of Amazon* Terms of Use. The Respondent shall be ordered to mail written notices to all current and former MCO2 employees and other facilities to which our *MyVoice/Voice of Amazon* Terms of Use were made applicable. Additionally, a notice shall be posted at all facilities in the United States of America and its territories where the Respondent makes MyVoice available to employees.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[70]

ORDER

The Respondent, Amazon.com Services LLC, its officers, agents, successors, and assigns, be ordered to:

1. Cease and desist from:

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

(a) Discriminating against and disciplining employees because they engaged in protected concerted activity.

(b) Maintaining and enforcing unlawfully overbroad rules prohibiting the posting or dissemination by employees of personal or confidential information on its MyVoice digital platform;

(c) Informing employees that comments that violate the code of conduct or call out other associates in a negative way will be removed.

(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 action necessary to effectuate policies of the Act:

(a) Within 14 days from the date of this Order, remove from its files any final written warning issued to Anthony Mundorff on September 8, 2022 and notify him in writing that this has been done, and that the warning will not be used against her in any way.

(b) Within 14 days from the date of the Board's Order, rescind Rule No. 2 and Rule No. 5 of the *MyVoice/Voice of Amazon* Terms of Use and provide employees with a lawfully revised version of the *MyVoice/Voice of Amazon* Terms of Use at all locations, and with respect to all current and former employees, within the United States of America and its territories where it has been maintained.

(c) Within 14 days after service by the Region, post at its warehouse facility in Deltona, Florida and all facilities in the United States of America and its territories where the Respondent makes MyVoice available to employees copies of the attached notice marked "Appendix."[71] Copies of the notice, on forms provided by the Regional Director for Region 12, 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. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In addition to physical posting of paper

[71] If the Respondent's office involved in these proceedings is open and staffed by a substantial complement of employees, the notice must be posted within 14 days after service by the Region. If Respondent's office involved in these proceedings is closed or not staffed by a substantial complement of employees due to the Coronavirus Disease 2019 (COVID-19) pandemic, the notice must be posted within 14 days after the office reopens and a substantial complement of employees have returned to work. If, while closed or not staffed by a substantial complement of employees due to the pandemic, the Respondent is communicating with employees by electronic means, the notice must also be posted by such electronic means within 14 days after service by the Region. If the notice to be physically posted was posted electronically more than 60 days before physical posting of the notice, the notice shall state at the bottom that "This notice is the same notice previously [sent or posted] electronically on [date]." 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."

notices, the notices shall be distributed electronically, such as by email, posting on an intranet or internet site, by text message and/or other electronic means, if the Respondent customarily communicates with its employees by such means.

5 (d) Within 21 days after service by the Region, file with the Regional Director for Region 12 a 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. January 7, 2025

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Michael A. Rosas
Administrative Law Judge

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 prohibit you from communicating to others about your personal information or the personal information of other employees that they have shared with you and **WE WILL NOT** prohibit you from communicating with others about posts by anyone on *MyVoice*/*Voice of Amazon* that concern rates of pay, wages, hours of work, and other terms and conditions of employment. **YOU HAVE THE RIGHT** to communicate about rates of pay, wages, hours of work, and other terms and conditions of employment of employees, including but not limited to employee safety conditions, with your coworkers and with outside persons and organizations, and **YOU HAVE THE RIGHT** to complain about those matters with supervisors and managers.

WE WILL NOT direct you to remove posts from *My Voice/Voice of Amazon* because the posts criticize others in a "negative" way. **YOU HAVE THE RIGHT** to criticize others, including supervisors and managers, with respect to the rates of pay, wages, hours of work, and other terms and conditions of employment.

WE WILL NOT discipline you or otherwise discriminate against you because you seek changes to rates of pay, wages, hours of work, safety issues, and other terms and conditions of employment.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of your above stated rights guaranteed under Section 7 of the National Labor Relations Act.

WE WILL rescind Rule No. 2 and Rule No. 5 of the *MyVoice/Voice of Amazon* Terms of Use and **WE WILL** provide our employees with a lawfully revised version of the *MyVoice/Voice of Amazon* Terms of Use.

WE WILL remove from our files any references to the Final Written Warning issued to our employee Anthony Mundorff on about September 8, 2022, and notify him in writing that this has been done, and that the final written warning will not be used against him in any way.

WE WILL mail written notices to all current and former employees of our MCO2 warehouse facility and other facilities to which our *MyVoice/Voice of Amazon* Terms of Use were made applicable, along with the signed and dated Notice to Employees, explaining to those employed by us since June 16, 2022 that they may be entitled to Board remedies if we disciplined or discharged them because we applied Rule No. 2 or Rule No. 5 of the *MyVoice/Voice of Amazon*

AMAZON.COM SERVICES LLC
(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. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy 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 or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Callers who are deaf or hard of hearing who wish to speak to an NLRB representative should send an email to relay.service@nlrb.gov. An NLRB representative will email the requestor with instructions on how to schedule a relay service call set forth below. You may also obtain information from Board's Website: www.nlrb.gov

NLRB REGION 12
201 East Kennedy Boulevard, Suite 530
Tampa, Florida 33602-5824
Tel: (813) 228-2641
Hours of operation: 8:00am – 4:30pm ET

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/12-CA-308502 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 (410) 962-2880.