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

RELIANCE PLUMBING, SEWER AND DRAINAGE, INC.

and

PLUMBERS LOCAL 130, UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL–CIO

Cases 13–CA–328849
13–CA–334657
13–CA–338726
13–CA–353855

Christina Hill and *Ava Szoke, Esqs.*,
for the General Counsel.
Michael Holmes and *Cynthia Sauter, Esqs.*,
for the Respondent.
Tyler McCaffery, Esq.,
for the Charging Party.

DECISION

GEOFFREY CARTER, Administrative Law Judge. In this case the General Counsel asserts that, in 2023 and 2024, Reliance Plumbing, Sewer and Drainage, Inc. (Respondent) violated the National Labor Relations Act (the Act) by, in response to employees' decision to unionize: making statements and engaging in conduct that had a reasonable tendency to coerce employees in the exercise of their Section 7 rights; enforcing disciplinary rules more strictly; unilaterally changing employees' terms and conditions of employment in retaliation for employees' engaging in union and protected concerted activities, and/or without first notifying the Union and affording an opportunity to bargain; constructively discharging three employees; and failing and refusing to bargain in good faith with the Plumbers Local 130, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO (Union) during negotiations for an initial collective-bargaining agreement. As explained below, I have found that Respondent committed several, but not all, of the violations alleged in the complaint.

STATEMENT OF THE CASE

This case was tried in person in Chicago, Illinois, on April 7–10, 2025. The Union filed the unfair labor practice charges in this case on the following dates:

Case	Filing Date	Amendment Date(s)
13–CA–328849	October 27, 2023	December 12, 2023 June 26, 2024
13–CA–334657	January 30, 2024	
13–CA–338726	March 27, 2024	June 26, 2024
13–CA–353855	October 31, 2024	

On March 6, 2025, the General Counsel issued an "Order Further Consolidating Cases and First Amended Consolidated Complaint." Through that document, hereafter referred to as the amended consolidated complaint, the General Counsel alleged that Respondent violated Section 8(a)(1) the Act by engaging in the following conduct:

(a) In about late September 2023, threatening to fire employees because they tried to form a union;

(b) On about September 27, 2023, making statements about refusing to hire job candidates who were affiliated with the Union in an attempt to restrain or coerce employees in exercising their Section 7 rights;

(c) On about October 18, 2023, threatening employees with the loss of existing privileges and benefits in order to discourage union membership or support;

(d) On about October 18, 2023, interrogating employees about their union activities;

(e) On about October 24, 2023, threatening to suspend or discharge employees because of their support for the Union;

(f) On about October 24, 2023, physically attacking employees in order to discourage their union activities;

(g) On about October 31, 2023, coercing employees in the exercise of their Section 7 rights by suggesting, when offering employees a job, that they not join the Union;

(h) On about November 14, 2023, threatening to demote and fire employees because of their support for the Union; and

(i) On about February 5, 2024, threatening to reduce employees' job responsibilities and hours because of their support for the Union.

In addition, the General Counsel alleged that Respondent violated Section 8(a)(3) and (1) of the Act by engaging in the following conduct because employees formed and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in those activities:[1]

[1] In its posttrial brief filed on June 3, 2025, the General Counsel withdrew the complaint allegation that Respondent, between September 27 and October 3, 2023, violated Sec. 8(a)(3) and (1) of the Act by

(a) On about October 12, 2023, initiating a policy or practice of enforcing its disciplinary rules for attendance and lost and/or damaged work products more strictly for employee Julian Robledo than in the past;

(b) On about October 24, 2023, reducing the hours of its helpers and apprentice plumbers;

(c) On about October 24, 2023, delaying the hiring of employee Rafael Suteu by one week;

(d) On about October 24, 2023, giving all of its employees a 1–day suspension;

(e) On about October 24, 2023, terminating its sponsorship of employee Antonio Oakley's plumbing apprenticeship license;

(f) On about December 21, 2023, constructively discharging employee Angel Alvarez by significantly reducing his hours;

(g) On about December 29, 2023, constructively discharging employee Julian Robledo by significantly reducing his hours;

(h) On about February 3, 2024, eliminating certain job responsibilities for first and second year apprentice plumbers and for non-licensed plumbers; and

(i) On about March 6, 2024, constructively discharging employee Antonio Oakley by canceling his apprenticeship license, eliminating job responsibilities, and reducing his hours.

Finally, the General Counsel alleged that Respondent violated Section 8(a)(5) and (1) of the Act by engaging in the following conduct:

(a) On about October 24, 2023, implementing a rotation system for its helpers and reducing the hours of its helpers without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent regarding the conduct or its effects;

(b) On about October 24, 2023, terminating its sponsorship of employee Antonio Oakley's plumbing apprenticeship license without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent regarding the conduct or its effects;

(c) On about February 3, 2024, eliminating certain job responsibilities of first and second year apprentice plumbers and for non-licensed plumbers without prior notice to the

refusing to consider for hire or hire seven applicants for employment because the applicants joined and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in those activities. (GC Posttrial Br. at 1.)

Union and without affording the Union an opportunity to bargain with Respondent regarding the conduct or its effects;

(d) On about February 8, 2024, increasing the wage rate of employee Rafael Suteu without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent regarding the conduct or its effects; and

(e) From about January 16 through October 18, 2024, failing and refusing to bargain in good faith with the Union for an initial collective-bargaining agreement by bargaining with no intention of reaching an agreement (surface bargaining), insisting on proposals that were predictably unacceptable to the Union, and engaging in regressive bargaining.

Respondent filed a timely answer denying the alleged violations in the amended consolidated complaint.

On the entire record,[2] including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and Respondent,[3] I make the following

FINDINGS OF FACT[4]

I. JURISDICTION

Respondent, a corporation with an office and place of business in Northbrook, Illinois, has been engaged in the business of providing emergency plumbing services for its residential and commercial customers, excavating water and storm sewer piping that may need repairs, and providing residential and commercial HVAC services and installation. During the 12 months

[2] The transcripts and exhibits in this case generally are accurate, but I hereby make the following corrections to the record: p. 279, l. 11: "car" should be "card"; p. 298, l. 10: Mr. Holmes was the speaker; p. 723, ll. 14-17: Ms. Hill was the speaker except for the word "No."; p. 727, ll. 7, 9: "percent" should be "cents"; p. 800, ll. 12, 18: "Opie" should be "Oakley"; p. 828, l. 14: Mr. McCaffery was the speaker; and p. 828, l. 15: witness Charles Burns was the speaker. I also note that at my request, the General Counsel submitted the following exhibits with additional redactions: GC Exhs. 6 and 38. To the extent that earlier, unredacted versions of those exhibits remain in the electronic file, agency personnel should take appropriate measures to ensure that those versions are not improperly disclosed to the public.

[3] In reviewing Respondent's posttrial brief, I noted that Respondent provided several case citations that do not exist. (See, e.g., R. Posttrial Br. at 8, 31, 34 (citing "*Southern Bag Corp.*, 316 NLRB 901, 906 (1995)"; R. Posttrial Br. at 28–29, 32, 39 (citing "*NLRB v. TRMI Holdings*, 344 NLRB 804, 812 (2005)"); R. Posttrial Br. at 35–36 (citing "*Regal Cinemas, Inc.*, 370 NLRB No. 49 (2020)"); R. Posttrial Br. at 36 (citing "*Chevron U.S.A., Inc.*, 311 NLRB 132, 135 (1993)"); and R. Posttrial Br. at 37 (citing "*Wayron, LLC*, 360 NLRB 1182 (2014)").) Regardless of whether these citations to nonexistent cases resulted from artificial intelligence error or human error, I emphasize that all attorneys should ensure that the legal authorities they cite are accurate and reliable.

[4] Although I have included several citations in this decision to highlight particular testimony or exhibits in the evidentiary record, I emphasize that my findings and conclusions are not based solely on those specific citations, but rather are based on my review and consideration of the entire record for this case.

preceding the filing of the amended consolidated complaint, a representative period of time, Respondent purchased and received goods at its Northbrook, Illinois facility that are valued in excess of $50,000 and came directly from points outside the State of Illinois. 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. Respondent also admits, and I find, that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. Respondent's Operations

To provide services to its customers in the relevant time period, Respondent relied on staff in the following positions:

> Licensed plumbers (plumbers): individuals who have an active journeyman plumber's license in the State of Illinois and can perform tasks such as installing pipes and servicing plumbing systems. A plumber may sponsor up to two apprentices who are working towards obtaining a license: either two apprentices in their third year or above; or one first/second year apprentice and one third year (or above) apprentice;
>
> Apprentice plumbers (apprentices): individuals who are sponsored by an active licensed plumber and are working towards obtaining their journeyman plumber's license after completing five years in apprentice status. Apprentices may perform plumbing tasks under the supervision of a plumber;
>
> Technicians: individuals who are not licensed plumbers but in Respondent's view have sufficient experience to be assigned one of Respondent's vans/trucks and go out on their own for service calls;[5]
>
> Helpers: individuals who assist plumbers, apprentices, or technicians on service calls by carrying supplies and tools and assisting with other tasks as directed by the plumber, apprentice, or technician; and
>
> Excavators: individuals in all classifications described above who worked as part of Respondent's underground division or "dig crew," performing tasks such as repairing underground sewers and installing flood controls.

(Tr. 27, 62–64, 66–69, 83, 189–190, 447–448, 474, 476, 544, 566, 577–578, 581–584, 785, 799–800, 823–824, 870–871, 970–972; see also CP Exh. 5 (listing apprentices that Respondent's plumbers were sponsoring before the representation election on October 24, 2023); Tr. 971–972.)

[5] During the trial, witnesses sometimes referred to technicians and/or apprentices as "plumbers." (See, e.g., Tr. 820–822 (discussing CP Exh. 5 and its listing of technicians as "plumbers").) I will only use the term "plumber" in this decision to refer to employees who are licensed plumbers.

During the relevant time period, Respondent had three licensed plumbers on its staff: owner and president Alex Ortega; plumber Marco Ortega; and plumber Florencio Sanchez. Marco Ortega and Sanchez primarily worked on excavation projects. Charles Burns worked in the office as Respondent's office/operations manager. Respondent admits, and I find, that Alex Ortega and Charles Burns are Respondent's supervisors under Section 2(11) of the Act and Respondent's agents under Section 2(13) of the Act.[6] (Tr. 63, 227, 236, 393, 416, 448, 546–547, 580, 584–585, 630, 747–748, 775, 777, 800, 830–832; GC Exh. 1(y) (par. 4); CP Exh. 5.)

When recruiting licensed plumbers, Respondent includes the ability to run jobs and train apprentices among plumbers' job responsibilities. To facilitate the apprentice sponsorship process, Respondent maintains a list of unlicensed employees who are next in line to be sponsored by one of Respondent's three licensed plumbers, and assists with the paperwork needed to notify the Illinois Department of Public Health that an apprentice is being sponsored.[7] (Tr. 65–66, 192–200, 800, 822–824, 893–895, 966–969, 973–974, 979–980; GC Exhs. 28, 31 (p. 4); CP Exh. 2 (p. 1) (discussing apprentice sponsorship status and noting that Respondent filled out and submitted an application regarding sponsorship); CP Exh. 5 (apprentice sponsorship list that was in place before the October 24 representation election).)

B. August/September 2023: Union Organizing Campaign Begins

In about early August 2023, Respondent proposed changing the method for compensating plumbers, technicians, and helpers from an hourly framework to a framework that would pay employees by the job.[8] Several employees were unhappy with the proposal and decided to approach the Union to discuss the possibility of unionizing. (Tr. 201–203, 228–229, 549–550, 582–583, 585, 630–631, 868.)

On about August 14, 2023, employees Angel Alvarez, Antonio Oakley, Jo. Robledo, Julian Robledo[9] met with union organizer Alberto Garcia at the union hall to discuss Respondent's compensation proposal and other issues.[10] Each of the four employees signed a union authorization card at the meeting. Starting in about September 2023, employees began

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[6] Respondent denied that plumber Marco Ortega is a supervisor or agent under the Act. (GC Exh. 1(y) (par. 4).)

[7] Owner Ortega referred to sponsorship as being "on a card," which means that the apprentice is formally sponsored by a licensed plumber (i.e., the plumber's license is the "card"). (See, e.g., Tr. 870–871, 888.)

[8] Owner Ortega and employee witnesses disagreed about whether the proposed new framework would have employees earning a 15 percent commission for each job they completed versus being paid for each job based on a predetermined estimate of how long the job should take (i.e., if the predetermined estimate says a job should take 1 hour, the employee gets paid for 1 hour regardless of how long the job takes). (Compare Tr. 201–202 with Tr. 868–869.) This disagreement is not material to my analysis.

[9] Unless otherwise indicated, all references in this decision to "Robledo" refer to helper Julian Robledo.

[10] Helper Julian Robledo began working for Respondent in August 2020, when he was about 21 years old. (Tr. 576–577, 580, 656.) Helper Angel Alvarez began working for Respondent in June 2022, when he was about 19 years old. (Tr. 543, 546.) Collectively, Julian Robledo, Alvarez, technician Antonio Oakley, Julian Robledo, and Jo. Robledo were the "younger guys" working for Respondent. (Tr. 557–558, 582–583.)

meeting with union organizers on a weekly basis. (Tr. 29–33, 70, 203–204, 547–548, 585–587; see also Tr. 449–450 (noting that employees communicated with each other about the organizing campaign).)

On about September 21, 2023, the Union filed a representation petition and also hand-delivered a copy of the petition to Respondent. Through the petition, the Union sought to represent Respondent's employees in the following appropriate bargaining unit:

> All full-time and regular part-time service and underground plumbers, technicians, helpers, and excavators employed by [Respondent] at its facility currently located at 1848 Techny Rd., Northbrook, IL 60062; but excluding all other employees, professional employees, managerial employees, clerical employees, confidential employees, guards, and supervisors as defined by the Act.

(Tr. 33–34, 204, 811; GC Exhs. 1(w), (y) (par. 8(a)); see also Tr. 65 (noting that there were about 10 employees in the proposed bargaining unit).)

In about late September, dispatcher Nathon Perez was working in the office when he overheard a discussion between owner Alex Ortega, office manager Burns, and employee R.B (each of whom was in the office hallway). Ortega indicated that he could not believe that employees were organizing against him and that, while he could not pinpoint who it was, he had an idea. Ortega stated that once he found out, he would cycle out that employee and any accomplices.[11] (Tr. 406–407, 412–413.)

[11] Neither owner Ortega nor office manager Burns specifically addressed this late September conversation when they testified, so Perez' testimony stands unrebutted. I add, however, that to the extent that Burns broadly denied participating in a system designed to rotate out Union-supporting employees (see Tr. 778–779), I did not find that testimony to be credible. Burns demonstrated a tendency to flatly deny activity that could implicate Respondent of wrongdoing, even in circumstances that defied logic. For example, Burns denied ever being "involved in any conversations regarding the Union with members of management" even though Respondent was in the middle of a union organizing campaign and Burns had a confrontation with employees minutes after the representation election on October 24 (i.e., it stands to reason that Burns and Ortega spoke about the Union in connection with those events). (Compare Tr. 777 with FOF, sec. II(B), (E)(1)–(2), infra.) Similarly, Burns denied that Respondent had unlicensed employees perform plumbing work that required a license even though in February 2024, Respondent took several steps to stop having unlicensed employees perform work that required a license. (Compare Tr. 805, 828 with FOF, sec. II(H)(3), infra.) I also give little weight to owner Ortega's testimony that he did not recall ever threatening to fire an employee for supporting the Union. (See Tr. 833.) Ortega's testimony does not rebut what Perez described during trial; rather, Ortega only indicated that he did not recall threatening to fire anyone. Further, Perez' testimony is corroborated by other evidence showing that Ortega made similar remarks demonstrating his animus towards employees who were seeking to unionize. (See, e.g., FOF, sec. II(C)(3), infra (Ortega told applicant Rafael Suteu on October 24 that the union organizing campaign resulted from younger employees stabbing Ortega in the back).)

C. September/October 2023: Union Organizers Apply for Job Openings with Respondent

1. September 25: Respondent posts job openings

On September 25, 2023, Respondent posted on Craigslist about job openings in various positions. The Craigslist posting stated as follows, in pertinent part:

> Top Plumber, Apprentice Plumbers Helper, Excavator, Laborers . . . Huge Opportunity . . . For 2023–24! . . .
>
> Are you a qualified Plumber, Apprentice Plumbers Helper, Excavator, [Laborer] looking for a challenging role and a fresh start with a growing Plumbing and Excavating Company? Then this role could be the one you have been looking to get . . . for thinkers who use their hands too. . . .
>
> We're the Northshore's #1 Plumbing Company and our business is booming. We've got so many projects on the go that we need more skilled hands on deck! Both our commercial and residential maintenance client calls are ringing off the hook! And we have big plans to make 2024 a great year! . . .
>
> Here's why working with us will be the best career move you ever make
>
> > Payment terms shall be discussed during the interview process.
> >
> > You get a company vehicle to take home if you qualify.
> >
> > Get up to a $1000 in tool allowance after first review.
> >
> > If you're relocating we'll help with any moving costs up to $1,000
> >
> > . . .
>
> Here's what we need from you.
>
> > [Service plumber – criteria include having service plumbing and drain cleaning experience of at least 5 years, and being able to work unsupervised, run jobs, and train apprentices]
> >
> > [Apprentice plumber or Excavating laborer – criteria include being 21 years old with at least 3 years of work experience]
>
> If you think you've got what it takes then apply now via email with a copy of your DL and brief cover letter (with a photo of yourself) telling us why you are the right person for the job. Please include a photo and email it to [Alex Ortega's company email address]

> This is a workplace that cares about teaching, learning, safety and a positive work environment, this is not a Union Shop; ask about the retirement plans health insurance [Respondent] offers.

(GC Exh. 31 (noting that applications would close on November 30, 2023); Tr. 396–397, 663, 724–725, 843, 979–983; see also Tr. 587, 638–639 (Julian Robledo testimony that Respondent was hiring in September 2023 because one of the company's vans was empty and Respondent needed someone to run service calls; Robledo notified union organizer Alberto Garcia about the job opening).)[12]

2. September 27–October 3: Union organizers apply to work for Respondent

After discussing the matter internally, on September 27, four union organizers applied to work for Respondent in response to the Craigslist posting about job openings. An additional three union organizers applied to work for Respondent on about October 2–3. At least six of the seven union organizers indicated on their application paperwork that they were union organizers and that they hoped to promote the Union and/or rights under the National Labor Relations Act to Respondent's employees if hired (i.e., as pro-union "salts"). In addition, the union organizers who applied in person each wore union apparel when they visited Respondent's office. The seven union organizer applicants are described below:

Name	**Application Method**	**Plumber's License**	**Years of Experience**
Alberto Garcia	Online and in person (Sept. 27)	Active	22 years
Matt Langendorf	Online (Oct. 2)	No (Inactive)	15+ years
Jennifer MacDonald	Email and in person (Sept. 27)	Active	23 years
Joseph Mondia	Email and in person (Sept. 27)	Active	18+ years
Jon Riley	Online (Oct. 3)	Active	5+ years
Paul Rodriguez	Email and in person (Sept. 27)	Active	22+ years
Cameron Smith	[Union organizer Garcia saw Smith enter Respondent's facility on about	[No evidence about this in the record]	[No evidence about this in the record]

[12] I do not credit Alex Ortega's testimony that he was not looking to fill any jobs when he posted the job opening announcement on Craigslist. (Tr. 845, 910–911, 977–978.) Ortega's testimony on that point conflicts directly with the representations in the job posting about Respondent's hiring needs, and is also undermined by the fact that Respondent hired an applicant (Rafael Suteu) who applied in response to the Craigslist posting. In addition, Ortega subsequently admitted during trial that he wanted to hire someone if "it was somebody fitting my criteria that I wanted, yes, at the moment." (Tr. 978, 981–982; see also Tr. 980.)

	Oct. 3, but did not see what happened after that]		

(GC Exhs. 7, 29, 32–36; Tr. 34–40, 43–49, 155–158, 164–165, 176–181, 290–294, 303, 310, 314–315, 320–326, 329, 334, 336, 354–358, 360–362, 371–375, 396–398, 416–417, 490–495, 497–498, 503–504, 507, 510, 514–518, 527–529, 776, 838, 947; see also GC Exh. 30 (November 3, 2023 email that Riley sent to Alex Ortega to follow up on his job application; Ortega replied that the position was filled and that he would keep Riley's resume on file because Respondent might have an opening in the next month or two); GC Exh. 37(b) (p. 2) (October 31, 2023 email that Rodriguez sent to Alex Ortega to follow up on his job application); GC Exh. 38 (November 1 and December 11, 2023, and January 15, February 25, and April 30, 2024 emails that MacDonald sent to Respondent to follow up on her job application); Tr. 42, 158–160, 169, 183 (Garcia testimony that he also emailed Respondent to follow up on his application), 324, 332–333 (Langendorf testimony that he emailed Ortega to follow up on his application).)[13]

Shortly after four union organizer applicants dropped off their resumes on September 27, Ortega expressed some excitement to dispatcher Perez upon hearing that Respondent received an application from a female plumber (MacDonald). A little later, while Ortega was in his office and Perez was sitting in his cubicle in the main part of the office, Perez overheard Ortega saying words to the effect of "this is a no, this is a no, this is a no" and/or "no, no, this one doesn't work" as Ortega looked through the resumes.[14] Respondent admits that the union organizer applicants were the only applicants to submit materials on September 27. (Tr. 399–402, 413–414, 418, 440, 888, 946–948.)

There is no dispute that Respondent did not interview or offer employment to any of the union organizers who applied to work for the company. Had they been hired, the union organizers planned to work full time for Respondent and fulfill their union employment responsibilities (beyond organizing activities with Respondent's employees) after hours. (Tr. 42, 45–47, 49–50, 161–162, 182–183, 292, 297–298, 307–308, 324–326, 341, 344–345, 366–368, 383, 385, 403, 495–496, 499–500, 519–521.)

[13] Garcia, MacDonald, and Mondia emailed their applications to Respondent's general email address, which is handled by dispatcher C.W. (GC Exhs. 7, 36(b), 38; Tr. 893–895 (Alex Ortega explaining that C.W. is his right-hand person and that he identifies C.W. as a member of management).) Rodriguez provided a copy of his driver's license as part of his initial application package (see GC Exh. 37(b) (p. 1); Tr. 526), while MacDonald provided a copy of her driver's license in a November 1, 2023 followup email (see GC Exh. 38; Tr. 359). The remaining five union organizer applicants did not provide a copy of their driver's license to Respondent. (Tr. 160, 306.)

[14] Perez testified that Alex Ortega also stated, "Fuck, she's with the Union" as he looked through resumes on September 27, and that Ortega also stated (in around the same timeframe) that he was looking to hire someone who was not with the Union because it would be too much of a headache to deal with the Union. Ortega denied saying anything along those lines. (Compare Tr. 400, 402 with Tr. 888.) Since Perez and Ortega were equally credible in their testimony on these details, I have given the benefit of the doubt to Respondent and find that Ortega did not make these particular statements.

3. October 6–31: Respondent decides to hire Rafael Suteu

On about October 6, 2023, at the suggestion of the Union, Rafael Suteu applied to work for Respondent as an apprentice by submitting an online application in response to the Craigslist posting. Suteu provided a copy of his resume with his online application and did not provide a copy of his driver's license. Suteu did not indicate on his application materials that he had any affiliation with the Union. (Tr. 47–49, 175, 251–253, 267–269, 272, 284–285; GC Exhs. 44–45; see also Tr. 49, 271–272 (explaining that Suteu was not a licensed plumber and had about 3 years of experience as an apprentice).)

Also on about October 6, Suteu visited Respondent's office and asked to speak to Alex Ortega about the job opening. Since Ortega was not in the office, Suteu left, but a few minutes later received a telephone call from Ortega. (Tr. 251–252, 266, 272–273; see also Tr. 963 (dispatcher C.W. forwarded Suteu's resume to Ortega), 844, 908, 981–982 (Ortega testimony that right away he could tell that Suteu had what Respondent was looking for, including 2 to 3 years of service experience).)

A few days later, Suteu met with Ortega at Respondent's office for an interview. Suteu provided Ortega with a copy of his resume, and Ortega described the work that Suteu would perform if hired. Ortega also explained that before Respondent could decide on hiring him, Suteu would need to provide references and a physical, and complete a drug screening. Suteu agreed to complete those steps and waited for Respondent to follow up. (Tr. 252–254, 273–274; see also Tr. 900 (Suteu took his drug test on about October 15, 2023).)

On about October 24, Ortega telephoned Suteu and advised that everything looked good with Suteu's references, drug screening, and physical and that he wanted to hire Suteu. Ortega noted that it took him a while to follow up with Suteu because the company was going through a union organizing drive and the election was happening that day. Regarding the organizing campaign, Ortega said that he was not happy that a lot of the "younger guys" that he hired stabbed him in the back, and noted that he could take employees' work trucks away but did not want to do that because he would be pictured as a bad guy. Ortega promised to consult with his lawyer to find out whether he was allowed to hire Suteu. (Tr. 254–255, 273–274, 900–901; see also Tr. 887–888 (explaining that it normally takes about 2 weeks for Respondent to receive the results of applicants' drug tests).)

A few days later, on about October 31, Ortega called Suteu again and advised that he would be able to hire Suteu. Ortega stated that Ortega would have the option of either joining the Union or being a nonunion employee. Suteu accepted the position and agreed to start working for Respondent on November 15, 2023, as a helper/technician. (Tr. 256, 265, 438–439, 841, 901, 908–909, 921–922; see also Tr. 270 (noting that Suteu lived about 45–55 minutes away from Respondent's office, and that Ortega never expressed any concern about how far Suteu lived from the office).)[15]

[15] Suteu's testimony about what owner Ortega said to him on October 24 and 31 was unrebutted. During trial, Ortega provided different reasons for why Respondent delayed hiring Suteu between October 24 and November 15. Initially, Ortega testified that there was a delay in getting Suteu's drug test results. When confronted with a question that indicated that Suteu's drug test results were done by

Respondent's explanations for not hiring union organizer applicants

Regarding union organizer MacDonald's application, Respondent wrote "too far" at the top. MacDonald lives approximately 45–60 minutes away from Respondent's office. Other employees for Respondent lived 45–60 minutes away from Respondent's office, including office manager Burns and employee B.A. (and Suteu, as noted above). There is no evidence that Respondent requires employees to have a specific residence or live less than a specific distance from Respondent's office, and Respondent sometimes dispatched employees to work locations directly from the employees' homes. (GC Exh. 11; Tr. 362–363, 414, 440–441, 605–606, 899, 952–957, 982–983, 989; see also Tr. 300, 333–334, 340–341, 345–346 (union organizer testimony that, if hired, they would have arranged accommodations closer to Respondent's office); Tr. 532–533 (noting that union organizer Rodriguez lived about 120–150 minutes away from Respondent's office).)

During trial, owner Ortega testified that he did not hire the union organizer applicants because, in addition to not wanting to hire employees who lived far away: he was not looking to hire anyone and just had the job posting up as a form of advertising and to have an ongoing flow of candidates; the union organizer applicants had too much experience; and that he preferred to hire younger applicants that he could train because it is "hard to train an old dog new tricks."[16] (Tr. 839–844, 895–896, 946, 955–956, 979–982, 988–989; see also Tr. 840, 845–847 (explaining that Ortega usually hires family, friends, or applicants referred by current employees).)

D. October 2023: Events Leading up to the Election

1. Early October – doctor's note requirement (helper Julian Robledo)

In about early October, helper Julian Robledo requested leave to attend a dental appointment but Respondent took no action on his request. On the day of the appointment, Robledo and technician B.A. finished their assignment early (at around noon) and Robledo went to his dental appointment. (Tr. 604–607, 618, 657; see also Tr. 606 (Robledo was not sure what B.A. did after the assignment, but noted that B.A. usually goes straight home when done for the day).)

The next day, office manager Burns asked Robledo if he had a doctor's note that permitted Robledo to return to work. When Robledo replied that he did not have a note and could have gotten one if Burns had given him advance notice, Burns told Robledo to check his phone, which displayed a text message that Burns sent at around 6 a.m. (30 minutes before Robledo arrived at the office). When Robledo reiterated that he did not have a note, Burns said that Robledo could not work until he provided a doctor's note. Robledo subsequently provided a note from his dentist; it is not clear whether Respondent allowed Robledo to work on the day that

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October 24, Ortega testified that Respondent needed to delay Suteu's start date to match with a payroll period. After questioning about the payroll period, Ortega testified that maybe he didn't want Suteu to "have to deal with anything," although Ortega added that there was nothing to hide from Suteu because Ortega had told Suteu that there was a union election coming up. Ortega then denied delaying Suteu's hire because of the union organizing campaign and election. (Tr. 900–903.)

[16] I would be remiss if I did not observe here that the Age Discrimination in Employment Act (29 U.S.C. 621, et seq.) prohibits employment discrimination against people who are age 40 or older.

Burns requested the note. (Tr. 607–608; see also Tr. 608–609, 638, 656–657 (explaining that Respondent had not previously required Robledo to provide a doctor's note to resume working after a doctor's visit, except for when Robledo had been absent for a while due to a torn ACL).)

2. October 12 discipline - helper Julian Robledo

On September 21, 2023, helper Robledo was working at a job site with licensed plumber Florencio Sanchez. At Sanchez's direction (even though Robledo said he was not comfortable doing the work by himself), Robledo worked on some pipes at the site and in the process accidentally crossed the water lines such that hot water came out of the cold water tap, and cold water came out of the hot water tap. Sanchez did not inspect Robledo's work. The next day, the customer complained about the crossed water lines, which required Respondent to send someone else to the job site on about September 22 to correct the problem. (Tr. 615–617, 636, 655–656, 881–883; CP Exh. 3; see also Tr. 621, 655–656 (Robledo was not a licensed plumber at the time of this incident).)

On October 12, Alex Ortega met with Robledo and issued a written warning, citing the following rationale based on the September 21 job site incident:

> Did a re-pipe at a job and I did not ask questions to senior, plumber, he crossed the hot and cold water lines and customer was upset. We had to return next day and remove all the piping.

(CP Exh. 3; Tr. 620–621.) During the meeting, Ortega asserted that Robledo should have spoken up at the job site and refused to work on the pipes because he was not licensed. Moving beyond the September 21 incident, Ortega added that: Robledo's attendance had been poor recently and that he could not miss any days moving forward;[17] and Robledo constantly broke or lost company equipment, such as a company iPhone that Robledo lost (in around early 2021), a company iPad that had a cracked screen (in about summer 2023), and a company van key fob that had to be replaced due to water damage (in about summer 2023). Ortega and office manager Burns had Robledo sign a payroll deduction authorization agreement for Respondent to deduct a total of $94 from Robledo's next two paychecks to reimburse the company for replacing the key fob. (Tr. 590–602, 616–617, 636–638, 649, 654–655, 873–874, 877, 881, 883–884, 938–940, 943–945; GC Exh. 9;[18] see also Tr. 221–222 (technician Oakley notified Respondent that he lost a card scanner; Respondent did not require Oakley to pay for the cost of the item), 594–596 (noting that when Robledo reported the lost iPhone and cracked iPad screen, office manager

[17] Ortega testified that Robledo always arrived to work 15 minutes late even though Robledo lived 5 minutes away from the office. Ortega added that he previously had a conversations with Robledo about this issue but probably did not write Robledo up for attendance. (Tr. 873–874, 941–942.) There is no evidence that Respondent issued Robledo a written warning or other written discipline before October 2023.

[18] Robledo wrote "I love Reliance [smiley face]" inside of a heart that he drew on the bottom of the payroll deduction agreement. During trial, Robledo explained that he wrote that comment and drew the heart as a joke because he did not think Respondent should have had him spend a day getting the key fob fixed. (GC Exh. 9; Tr. 637, 641–642.)

Burns simply stated that Robledo should not worry about it and that Respondent would take care of it).)[19]

Ortega "verbally disciplined" plumber Sanchez based on the September 21 crossed water lines incident, and did not issue written discipline to Sanchez because he had never had an issue and had just gotten his plumber's license recently. (Tr. 883, 943; see also Tr. 655–656, 983–984.)

3. October 18 – discussion with Juan Rivera

On about October 18, technician Juan Rivera was stocking his truck when owner Alex Ortega approached him and, after saying that he was glad Rivera was back with the company, asked if Rivera had heard what was going on with the Union. Rivera said that he did hear about it and asked if Ortega knew who was doing this to him. Ortega replied that he believed it was the "young guys."[20] (Tr. 450–453; see also Tr. 446–448, 450 (noting that Rivera resumed working for Respondent in September 2023 after having left the company in 2022).)

4. October 18 – meeting with employees

Also on about October 18, owner Ortega held a meeting with employees and, as one topic, discussed the pros and cons of unionizing. Ortega stated that unions were historically for people who were mistreated, underpaid, overworked, disrespected, or put in danger, and asked if he did that to employees. Ortega also said that employees should do their research because if they unionized and took training classes provided by the Union, employees would have to pay a lot of money[21] to reimburse the Union for those classes if employees left the Union. Regarding benefits, Ortega stated that employees would pay a lot of their wages towards union dues and health insurance, and that employees would not receive paid time off, holiday pay, holiday

[19] Ortega testified that he previously charged Robledo for breaking or losing company property (see Tr. 874), but I give little weight to that testimony because it is not corroborated by any documentation. Notably, Respondent documented the payment plan that it established with Robledo on October 12. (See GC Exh. 9.)

As an aside, I note that both Robledo and Ortega testified that Ortega had Robledo reimburse him for tools that Ortega allowed Robledo to buy using his (Ortega's) credit card after Robledo's tools were stolen. I have given little weight to that testimony because the tools at issue belonged to Robledo and not the company (i.e., this was not an issue of reimbursing the company for lost or damaged company property). (Tr. 646–650, 875–877.)

[20] Rivera's testimony about this conversation was unrebutted.

[21] Some witnesses testified that Ortega said the reimbursement amount could be as high as $80,000. Ortega denied specifying that amount. (Compare Tr. 207, 229, 455 with Tr. 889–890, 962.) I have given Respondent the benefit of the doubt on this point since employees provided a range of figures for the reimbursement amount and also varied about what the $80,000 figure would apply to. (See, e.g., Tr. 207 (asserting that the $80,000 figure would be used for union dues and providing for the Union). Those inconsistencies suggest that something was lost in translation with Ortega's remarks about reimbursing the Union for training classes.

On a related point, I note that technician Rivera testified that Ortega said employees would have to pay for their own training. (Tr. 455–456, 472–473.) I find that this is another reference to Ortega's statement that employees would have to reimburse the Union for training classes if employees left the Union.

parties, or bonuses if they unionized. (Tr. 205–206, 224, 453–456, 472, 478, 889–890, 961–962; see also Tr. 961 (Ortega testimony that he got the information online about union members having to reimburse the Union for classes).)[22]

Towards the end of the meeting, employees asked for the opportunity to talk among themselves, and Ortega agreed. A couple of minutes later, however, Ortega returned and said that if he had a choice, he would vote "no" for the Union, and that he thought employees should vote "no." (Tr. 456–457, 478–479; see also Tr. 834.)

E. October 24, 2023: Union Election and Related Events

1. Union election

The representation election based on the Union's petition took place on October 24, 2023, from 7 to 9 a.m.. Technician Antonio Oakley served as one of the Union's observers for the election. The Union prevailed in the election with ten employees voting in favor of the Union and four voting against. (Tr 50–51, 204–205, 403, 582, 603, 904; see also Tr. 51, 205 (noting that neither the Union nor Oakley previously indicated to Respondent that Oakley supported the Union).)

2. Confrontation after the election; Respondent sends employees home

After the election votes were counted, union organizer Garcia (and two other organizers) went outside to Respondent's parking lot to congratulate employees for the Union winning the election. A few minutes later, while employees were still in the parking lot waiting to be dispatched to their job assignments, office manager Burns came outside and approached a group of employees, stating something along the lines of "You guys going to go to work, or did you quit, or are you going home?"[23] This prompted an argument between Burns and a few

[22] Ortega broadly denied threatening that employees that they would lose their benefits if they supported the Union. (See Tr. 833.) I give little weight to that denial since Ortega testified about the October 18 meeting and did not deny the specific remarks that employees attributed to him (apart from denying that he told employees that they risked having to reimburse the Union $80,000) even though he was present throughout the trial as Respondent's designee and thus heard all employee witnesses testify. (See Tr. 889–890, 960–962, 989–990.) Similarly, I do not give weight to Burns' testimony that he did not recall management saying that they were going to take away any benefits if employees voted for the Union since Burns later admitted that he could not remember if he attended the October 18 meeting. (Tr. 786, 792.)

[23] Witnesses provided varied testimony about what exactly Burns said to employees in the parking lot. Versions of Burns' remarks included:

> Technician Oakley: Burns said, "If you guys don't want to work, get out of here. We're here to work. We don't need you guys at this point." (Tr. 208.)
>
> Technician Rivera: Burns said, "What are we going to do? Were we going to go home or go to work?" (Tr. 459.)
>
> Helper Robledo: Burns said, "Are you guys working today; you don't feel like working today. You could leave if you want to." (Tr. 642.)

employees because employees could not travel to their job sites until Respondent dispatched them (which had not yet happened). As Burns and technician Rivera got closer to each other while yelling, Oakley moved to intervene, extending both of his arms in an attempt to separate Burns and Rivera (Oakley was not certain if he touched Burns when Oakley attempted to separate Burns and Rivera; Burns said Oakley put his hand on Burns' chest). Burns responded by pushing Oakley,[24] yelling, "Don't fucking touch me!" Rivera then put his hand on Burns' chest and another employee, helper Gionni Perez, pushed Burns. More employees approached the area in response, yelling about Burns' conduct. Union organizer Garcia saw the incident and instructed employees to move back from the confrontation. (Tr. 52–54, 173–176, 207–209, 229–230, 404, 436, 457–463, 479–481, 483–484, 635–636, 642–643, 780–782, 792, 794–795, 804–805, 813–817, 826–827, 835–836, 891, 904–905; GC Exh. 4(a) (video recording that included employees stating, "He just pushed Antonio" and Garcia telling employees to back off); see also Tr. 486–487 (noting that Rivera later apologized to Ortega for Rivera's role in the confrontation; Rivera also tried to apologize to Burns but that attempt started another conflict).)

Hearing the commotion, owner Ortega came outside and initially tried to calm the situation down. The following exchange occurred:

Ortega:	Guys listen, listen, I just asked him to come out here and tell you guys listen, we've got jobs
Unidentified employee 1:	[Referring to Burns] You should have seen the way he came! You should have seen the way he came
Unidentified employee 2:	[Referring to Burns] He said, 'are you guys working, or are you guys quitting, what are you guys doing,' yada yada yada

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Burns: testified that he said, "You guys going to go to work, or did you quit, or are you going home?," and later testified that he said, "Are you guys going to work? Are you going to quit?"

Because of the inconsistencies in testimony (particularly from witnesses that the General Counsel called), I have given the benefit of the doubt to Respondent and credited Burns' account of what he said to employees about starting work. I also note that Burns' account is similar to what an unidentified employee described in a video that union organizer Garcia filmed immediately after the confrontation. (See GC Exh. 4(a) (0:32 – 0:37) (employee stating on the video that Burns said, "'are you guys working, or are you guys quitting, what are you guys doing,' yada yada yada").)

[24] Burns gave varied testimony about whether he pushed Oakley, including testifying that he: pushed Oakley's hand away; might have punched Oakley; did not push Oakley; and did not recall. (Tr. 781–782, 804–805, 814; see also Tr. 778 (Burns' testimony in which he denied ever physically attacking anybody who worked for Respondent).) Because of the inconsistencies in Burns' testimony, I have credited the corroborated testimony of other witnesses that Burns actually pushed Oakley when Oakley attempted to separate Burns and Rivera.

In this connection, I note that attorneys and Burns inadvertently said "Ortega" instead of "Oakley" during portions of Burns' testimony about the October 24 incident between Burns and employees. (See, e.g., Tr. 804–805, 814–815.) Where the context of the evidentiary record establishes that the question/answer referred to Oakley, I have so found.

Ortega:	He wasn't supposed to say all that
Garcia:	But he did, but he did, but he did
Ortega:	You see how he has the camera guys [gesturing towards Garcia]. . . . He knows this was going to happen, he knows this was going to happen
Garcia:	I didn't know it was going to happen
	. . .
Ortega:	I wanna get my guys to go out to do these jobs but you screwed up my shit right here right now
Garcia:	I didn't screw up anything up
Ortega:	Ok, not you
Garcia:	Right, we screwed up your shit. . . But we're going to be taking care of all these guys
Ortega:	Yeah, they're going to get a dollar less or a dollar more, that's it. That's all you're here for
	. . .
Garcia:	So then why are you so worried then?
Ortega:	I'm not worried. . . . I'm worried that the guys are all stressed out and need to go to work . . . can you leave so they can get to work please?

(GC Exh. 4(a) (0:28 – 0:49, 1:29–1:53); Tr. 55, 61–62, 174, 904–905.) After a couple of minutes, Ortega decided to send all service employees home because he determined that tensions were too high to dispatch employees to work on job sites. Work therefore concluded for the day, with Respondent paying employees only for the 2 hours devoted to participating in the election. (Tr. 55–56, 61–62, 209, 407–408, 443–444, 462–463, 468–469, 556, 603–604, 634–635, 782, 836–837, 907–908.)

After Respondent sent service employees home, dispatcher Perez was working in his cubicle when he overheard owner Ortega speaking with Burns, employees R.B. and S.S., and Ortega's wife while they were standing in the hallway leading to Ortega's office. Ortega expressed disdain for employees choosing the Union over him and wondered how to move forward. One or more members of the group suggested that Ortega should just get rid of the guys who voted for the Union or find a way to cycle employees out of the company so

Respondent would have a group of employees that was not for the Union. Ortega then said that he wasn't going to do anything illegal (according to Perez, Ortega said this in a "sly" manner). (Tr. 404–406, 425–426, 432–435, 437–438, 444; see also Tr. 437, 444 (explaining that a few minutes later, Respondent sent dispatcher Perez home for the day).)

3. Plumber Marco Ortega stops sponsoring Antonio Oakley as an apprentice

In September 2022, owner Ortega notified technician Oakley that he was next in line to be sponsored by a licensed plumber (so Oakley could count time towards his apprenticeship). Consistent with that promise, owner Ortega subsequently told Oakley that plumber Marco Ortega would sponsor Oakley, and Marco Ortega formally began sponsoring Oakley as an apprentice in November 2022. (Tr. 187–189, 195–200, 210, 894–895, 966–967; GC Exhs. 28, 41; CP Exh. 5; see also Tr. 77–78.)

At 11:35 a.m. on October 24, 2023, Marco Ortega contacted the Illinois Department of Public Health (IDPH) to cancel his sponsorship of Oakley's role as an apprentice. No one from Respondent notified or bargained with the Union in this timeframe over Marco Ortega's decision or its effects. In addition, no one from Respondent notified Oakley that Marco Ortega canceled Oakley's sponsorship The IDPH processed Marco Ortega's cancellation request on November 14, 2023.[25] (GC Exh. 6 (pp. 2–4); Tr. 78–82, 210, 748–749, 972; see also Tr. 888, 990–991 (owner Alex Ortega testimony denying that he told Marco Ortega or anyone else to remove an employee from their licensed plumber card, but admitting that once he learned that Marco Ortega had removed Oakley, Alex Ortega did not ask Marco Ortega to resume sponsoring Oakley).)

F. November 2023: Staffing and Work Hour Developments

1. Mid–November – rotation system for helpers

In about mid–November, Respondent announced that it would be using helpers based on a rotation system,[26] with three helpers[27] taking a turn working twice a week (for two helpers in a

[25] The cancellation notice that Marco Ortega submitted states that Marco Ortega needed to submit the office copy Oakley's apprentice license and Oakley's laminated wallet license (or a notarized letter stating why either or both are not retrievable) along with the cancellation notice. (GC Exh. 6 (p. 4).) The evidentiary record does not establish whether Marco Ortega submitted that documentation along with the cancellation request. Regardless, it appears that the IDPH canceled Marco Ortega's sponsorship of Oakley as Marco Ortega requested. (See GC Exh. 6 (p. 3).)

[26] Owner Ortega and manager Burns each testified that Respondent had used a rotation system for nearly 20 years. (Tr. 784, 796–797, 854–855, 924–925; see also Tr. 784, 795 (Burns' testimony that Respondent primarily rotated employees on the excavating crew in the winter months).) I give that testimony little weight because Ortega and Burns were referring to an ad hoc practice of telling certain employees to stay home for the day if there was not much work to do. That ad hoc practice is markedly different from the rotation system that Respondent adopted for scheduling helpers in November 2023, which involved limiting helpers to working 1–2 days a week on an ongoing basis. (See Tr. 555, 612, 630 (helpers Alvarez and Robledo did not work under a rotation schedule before November 2023).)

[27] The main three helpers on the rotation system were: Angel Alvarez; Julian Robledo; and Gionni Perez. (Tr. 92–93, 552; see also Tr. 611 (indicating that Jo. Robledo also worked as a helper).) Rafael Suteu began working for Respondent as a helper on November 15 but there is no evidence that Respondent scheduled him based on the rotation system.

given week) or once a week (for one helper in a given week). In addition, Respondent began having technicians go on service calls by themselves (i.e., without a helper). Due to these changes, helpers' hours declined and if a technician was at a job site and needed a helper, the technician had to wait for the helper to join them on the job site if the helper on duty was working somewhere else. Respondent did not notify or bargain with the Union before implementing the rotation system for scheduling helpers.[28] (Tr. 73–74, 211–213, 408–410, 420, 465–467, 469–470, 550–554, 610–612, 783–785, 870, 872, 916, 918–919; see also Tr. 71–72, 212 (explaining that before the election, each technician was assigned a helper, such that each van went out with two people), 428–430, 554, 612 (noting that once the rotation system was in place, there were days where a helper would only work on small cleaning[29] or maintenance tasks at the shop and then be sent home after only a couple of hours on the clock).

As its rationale for needing to rotate helpers, Respondent maintained (to employees in November and during trial) that the company had fewer work projects at the time. As for why there was less work, Respondent asserted that it was receiving fewer calls because of: the upcoming holidays; the upcoming winter; and the upcoming 2024 presidential election. (Tr. 233–237, 466–468, 551–554, 561, 571–572, 610, 746, 764, 848–850, 916, 918, 855–856; see also Tr. 420–421 (dispatcher Perez testimony that there was a slight downtick in the number of jobs after the union election but "nothing major").)[30]

2. Reduction in hours for technicians; potential for demotion

In about November 2023, Respondent's technicians began getting fewer hours. Respondent attributed the decline to the same reasons that it did for implementing the rotation system for helpers (less work due to the upcoming holidays, winter months, and the 2024 presidential election). Respondent did not notify or bargain with the Union regarding the reduction in technicians' work hours. (Tr. 75–77, 93–94, 409–410, 449, 465, 474.)

In a staff meeting on about November 14, 2023, owner Ortega stated that Respondent would be demoting some technicians to the role of helper. Ortega added that if the employees did not like their new role, they could be terminated or could quit.[31] (Tr. 214–215.)

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[28] At some point in about February 2024, owner Ortega asked if technician Oakley could talk to the Union to see if Respondent could have helpers on a rotation schedule (even though Oakley did not have any leadership role with the Union). Oakley offered to ask Union organizer Garcia to contact Respondent, and Ortega agreed. There is no evidence that Ortega and Garcia subsequently spoke about Respondent's rotation system for scheduling helpers. (Tr. 234, 237–238.)

[29] Helpers also cleaned and organized things in the shop before the election. (See Tr. 561–562, 640.) To the extent that dispatcher Perez testified that Jo. Robledo handled all cleaning duties in the shop before the representation election, I give that testimony less weight since Perez generally did not work in the shop (or as a helper). (Tr. 442.)

[30] Respondent received the following number of calls that led to bookings from August 2023 through January 2024: August (203 calls that led to bookings); September (171); October (175); November (167); December (160); January (213). (R. Exh. 1.) In early November 2023, Respondent increased its budget for internet pay-per-click advertising from $2000 to $3000. (R. Exh. 2; Tr. 850–853.)

[31] Oakley's testimony about owner Ortega's November 14 remarks is unrefuted. Ortega did testify about speaking to employees about the rotation system for helpers but did not address or respond to Oakley's testimony here. (See Tr. 855, 916.)

3. November 15: Suteu starts working for Respondent

Rafael Suteu (previously offered employment on about October 31) began working for Respondent as a helper on November 15, 2023. Suteu had some experience as an apprentice but was not sponsored by one of Respondent's licensed plumbers when he joined the company. Suteu and apprentice D.T. were being assigned to more service calls than other employees in the shop but were only getting 4–5 hours of work per day and were not reaching 40 hours per week. (Tr. 250–251, 256–257, 284–285, 908–909, 921–922; see also CP Exh. 5 (showing that owner Ortega was sponsoring D.T. as a first year apprentice); Tr. 285 (explaining that Suteu was seeking to work as an apprentice after he became familiar with Respondent's computer system and how Respondent ran things at the shop), 921–922 (explaining that after about 3 months, owner Ortega determined that Suteu "knows his stuff" and that Respondent could turn him into a technician).)

In December 2023, Suteu asked owner Ortega why he was not getting more work hours. Ortega responded that work was slow because of the upcoming 2024 presidential election. (Tr. 257–258; see also Tr. 276–277 (Suteu testimony that other employers had told him that work slowed down every 4 years due to the presidential election).)

G. December 2023: Alvarez' and Robledo's Employment with Respondent Ends

When helper Robledo was on duty on in early December, owner Ortega instructed him to maintain/clean a descaling machine. Ortega suggested that Robledo watch a YouTube video to learn how to complete the task. A few minutes later, Ortega was in his office and heard loud noises coming from the shop. Ortega went to the shop and found that Robledo had unnecessarily pulled some of the wires out of the machine. Ortega sent Robledo home and subsequently (on December 6) issued a written warning to Robledo for "low performance." The warning stated:

> Did not know how to fix [descaling] machine. And did not ask questions. And did not clean up after he was told to go home.

(CP Exh. 4; Tr. 626–628, 643–645, 652–654, 659–660, 878–881, 942.)

On about December 21, 2023, helpers Alvarez and Robledo both ended their employment with Respondent because they were not receiving enough work hours or earning enough due to the rotation system that Respondent was using to schedule helpers. (Tr. 543, 555, 562–563, 571, 576, 613, 624; see also Tr. 564–565, 624 (upon hearing that Alvarez and Robledo were leaving the company, Ortega indicated that he expected work to pick up after the holidays).)

H. January – October 2024: Bargaining for an Initial Contract

1. Pre-existing benefits

In the time period before Respondent's employees unionized, Respondent provided a package of benefits that included health insurance, paid time off (with new employees receiving a lump sum of about 40 hours of paid time off after completing a 3–month probationary period), and a 401(k) or simple IRA retirement plan. As for raises, owner Ortega sporadically conducted

performance reviews and, depending on the outcome of the review and Ortega's discretion, granted raises of at least $1/hour to certain employees. Employees also had the opportunity to earn bonuses based on their contributions to the company during each year. (Tr. 98–100, 103–105, 109–110, 112, 142–143, 221, 224, 467–468, 613–615, 926–930, 932; see also Tr. 476–477, 867–868, 921–923 (showing that Respondent commonly gave raises to employees when Ortega assigned them a company van to handle service calls, and when an employee obtained a license or certification).)

2. January 16, 2024: first bargaining session

Over the course of bargaining, Respondent was represented by attorneys Cynthia Sauter, Bud Burdzinski, and Michael Holmes, with attorney Sauter serving as Respondent's lead spokesperson. Owner Alex Ortega did not attend any bargaining sessions but received periodic updates from Respondent's attorneys and had the final say in authorizing Respondent's contract proposals. Union organizer Garcia, attorney Tyler McCaffery, technician Oakley, and two other union representatives participated in representing the Union at the bargaining table, though Oakley stopped attending bargaining sessions after his employment with Respondent ended. (Tr. 95–97, 103, 141–142, 668, 676, 681, 689, 861–862, 926, 931–932, 936.)

In the first bargaining session, the parties devoted some time to discussing ground rules for bargaining and reached an agreement on that issue. In addition, both Respondent and the Union presented contract proposals and went through their proposals line by line. (GC Exh. 46; Jt. Exhs. 1–2; Tr. 97–98, 101–102, 113, 151–152, 668, 676–677, 684–685, 742.)

Respondent included the following provisions and language in its initial contract proposal (this list is not meant to be exhaustive):

Subject	**Key Aspects of Respondent's Proposal**
Union Security and Dues Check off	No obligation for employees to belong to the Union as a condition of employment (Art. 4.1) Union will collect dues from members who have voluntarily signed an authorization (Art. 4.3)
Paid time off	Employee earns 40 hours of paid time off after completing 180 days of employment (Art. 9.2) Employee earns additional paid time off in a lump sum annually on their employment anniversary (Art. 9.3 (noting that the amount of hours of paid time off depends on how long the employee has worked for the company)) Respondent will pay employee for unused paid time off if employee ends their employment (Art. 9.5)
Probationary employees	New employees are probationary employees for the first 365 days of their employment (Art. 11.1)

Subject	Key Aspects of Respondent's Proposal
	Respondent may terminate or lay off a probationary employee for any reason or no reason, and such a decision is not subject to grievance or arbitration (Art. 11.2)
Layoffs and work hours	Respondent will base layoff decisions on several factors, including skills, performance, and seniority (Art. 13.2) Layoff decisions are not subject to grievance or arbitration (Art. 13.3) Respondent retains the exclusive right to reduce scheduled work hours in lieu of total or partial layoffs (Art. 13.5) Respondent has sole discretion, without notice to or bargaining with the Union, to designate part-time or full-time status for individual employees or a group of employees at any time for any reason (Art. 51.1)
Bargaining unit work	Supervisory, managerial, and clerical employees may perform any bargaining unit work (Arts. 5.6, 19.1) Respondent has sole discretion to engage independent contractors to perform any work (including bargaining unit work) for any reason. Subcontracting shall not be used to diminish the bargaining unit (Arts. 28.1–28.2, 28.4)
Health insurance	Respondent will not provide health insurance unless required by law (Arts. 24.1–24.2)
No Strike and No Lockout	No strikes of any kind during the contract (Art. 25.1)
Wages	Respondent reserves the right to set starting pay for all newly hired employees (Art. 5.2) Respondent may or may not schedule performance appraisals in its discretion, and performance appraisals may or may not result in adjustment of the employee's wages (Arts. 26.1–26.2) Employees may file a grievance over performance appraisals but the dispute is not subject to arbitration (Art. 26.7) Respondent has sole discretion to adjust the rate ranges for job classifications without notice to or bargaining with the Union (Art. 27.1)
Retirement	Contract does not provide for pensions or other retirement benefits (Art. 30.1)
Bonuses	Respondent may unilaterally give or not give bonuses to any employee at any time, for any amount, and for any reason (Art. 35.1)
Waiver	The parties unequivocally waive, for the term of the contract, the right to demand bargaining on any subject, whether or not

Subject	Key Aspects of Respondent's Proposal
	included in the contract, except with respect to negotiating a new contract (Art. 45.3)

(Jt. Exh. 1; see also Tr. 102–103, 105–106, 108–109, 678–680, 682–683, 686–687, 690–692, 707, 732–734, 759–760.)

The Union's initial contract proposal only addressed noneconomic issues and included the following provisions and language (this list is not meant to be exhaustive):

Subject	Key Aspects of the Union's Proposal
Union Security and Dues Check off	Respondent will deduct authorized amounts owed to the Union from employee paychecks and remit funds to the Union (Check-Off, par. 1)
Bargaining unit work	Any subcontracting will be done with another employer that has a collective-bargaining agreement with the Union (Recognition, par. 3)

(Jt. Exh. 2; Tr. 113, 141.)

3. February 2, 2024 bargaining session and related developments

During the February 2 bargaining session, attorney Sauter stated that some employees were not acting professionally when working in the field. As an example, Sauter asserted that when the customer was present at a job site, a bargaining unit member placed his feet on a table (Sauter placed her feet on the table in the bargaining room to demonstrate the employee's alleged conduct). Attorney McCaffery then stated that Sauter should be careful about complaining since Respondent "was not doing what is considered the best" insofar as Respondent was improperly using unlicensed employees to do plumbing work that required a license. Sauter agreed that it was inappropriate to have unlicensed employees do work that required a license, and subsequently called owner Ortega to ask about the licensing issue. Ortega promised to look into the licensing issue and get back to Sauter. (Tr. 88, 113–116, 215–216, 672–673, 693–700, 703–704, 747, 856–857; see also Jt. Exhs. 3 (union proposal concerning various topics, including employee work week, layoffs and recall, and seniority), 22 (noting that the parties reached a tentative agreements on a few noneconomic issues); GC Exh. 42 (p. 1) (Sauter email noting the concern that McCaffery expressed during the February 2 bargaining session).)

Ortega telephoned a member of the plumbing inspectors association to clarify what type of work was appropriate for helpers, technicians, and apprentices. Ortega then called attorney Sauter on February 3 to provide an update and discuss legal requirements, and also notified technicians Oakley and Suteu that, due to licensing issues, they should not perform certain work they had been assigned and could not touch any plumbing work without supervision by a licensed plumber. (Tr. 215–218, 220, 231, 275–276, 673, 700–703, 857–860, 986.)

On about February 5, Ortega notified employees at a staff meeting that unlicensed employees (helpers, technicians, and apprentices in their first or second year) would no longer be

able to perform plumbing work without a licensed plumber present. (Tr. 88, 218–219, 258–260, 275, 463–464, 481, 703, 919–920; see also Tr. 260–261 (noting that Ortega sent several employees home after the staff meeting, citing lack of work).) Consistent with Ortega's announcement, attorney Sauter sent the following email to the Union:

> During the course of our last contract negotiation meeting . . . you mentioned that [Respondent] was engaged in performing plumbing work that is required to be performed by a licensed plumber without using personnel that have such credentials.
>
> The employer will make an increased effort to accommodate your direction, so as to make sure that no work that is required to be performed by a licensed plumber is completed by a worker without such licensing. In some instances, this careful allocation of work may on a going forward basis result in non-licensed workers having less work to perform. If non-licensed workers are displaced as a result of our careful compliance with licensing requirement[s] the Company will attempt to find alternative work for those without such credentials. If you have any comments and/or questions let us know and we will do everything we can to make sure that the Union and the Licensing Requirements are satisfied.

(GC Exh. 42 (pp. 1–2); see also Tr. 84–86, 120, 705–706.) The Union replied to Sauter's email on February 7, stating, "[t]o clarify, the Union did not 'direct' the Employer to do anything, but rather noted that the Employer was operating in violation of the law. In addition, the Union objects to any displacement of any employees. Let me know if you'd like to discuss." (GC Exh. 42 (p. 1); see also Tr. 115–116, 707, 925–926.) There is no evidence that Respondent bargained with the Union over its decision to stop having unlicensed employees perform plumbing work or the effects of that decision (including the reduction of employee hours).[32] (Tr. 87–88, 120, 122, 920–921.)

Following Ortega's February 5 announcement, technician Oakley observed that Respondent reduced his work hours and limited his job duties to non-plumbing work. Helper/technician Suteu, however, continued receiving work hours and doing plumbing work after speaking with Ortega and noting that he (Suteu) had 26 months of experience as an apprentice (but currently had an inactive apprentice license because he was not sponsored by one of Respondent's licensed plumbers).[33] Technician Juan Rivera also continued to receive work hours after being paired for work assignments with licensed plumber Marco Ortega. (Tr. 219–220, 230–231, 260–262, 275–276, 464, 481–482, 485–486; Tr. 960, 962–963 (Ortega testimony

[32] To the extent that attorney Sauter testified (in response to questioning about whether Respondent gave notice to and bargained with the Union over the decision to no longer have unlicensed employees perform plumbing work) that the parties discussed the issue at the bargaining table on February 2, I give that testimony little weight. (See Tr. 703–705.) The evidentiary record shows that the Union mentioned Respondent's practice of having unlicensed employees perform plumbing work, but does not show that the parties bargained over that issue or any subsequent decision that Respondent made to change its practices (or the effects of that decision).

[33] Regarding Suteu's apprentice license, Ortega promised to sponsor Suteu on his license so Suteu could resume accumulating hours towards becoming a licensed plumber. Ortega, however, proposed holding off on sponsoring Suteu until after April 2024 so Ortega could avoid having to pay a sponsorship fee between February and April. (Tr. 263, 278–279.)

that he was supervising Suteu's work; it is not clear from the evidentiary record how much time Ortega spent with Suteu on job sites to provide supervision, or whether this supervision permitted Suteu to perform plumbing work under Illinois law); see also Tr. 88–89, 118–122.)

A few days after the February 5 staff meeting, Respondent confirmed that helper/technician Suteu had an inactive apprentice license and owner Ortega gave Suteu a raise of $1 per hour because Respondent decided to allow Suteu to use a company truck to conduct service calls. There is no evidence that Respondent bargained with the Union over the decision to give Suteu a raise or its effects. (Tr. 89–91, 262–263, 265–266, 269, 277–278, 285–286, 722, 730–731, 867, 922–923, 962–963, 984.)

On about February 20, the Union obtained documents from the Illinois Department of Public Health regarding Respondent's licensed plumbers and learned for the first time that plumber Marco Ortega was no longer sponsoring technician Oakley as an apprentice (since Marco Ortega stopped sponsoring Oakley back on October 24, 2023). (Tr. 210–211; GC Exh. 6.) In a February 29 email, owner Ortega indicated that he asked plumber Florencio Sanchez to sponsor Oakley and helper/technician Suteu and that Sanchez refused because he (Sanchez) believed that they signed cards with the Union and should be sponsored by the Union. (CP Exh. 2 (p. 1); Tr. 973–974; see also Tr. 966 (owner Ortega was aware in this time period that neither Oakley nor Suteu were sponsored as apprentices), 990–991 (owner Ortega testimony that at some point he asked Marco Ortega why he stopped sponsoring Oakley and Marco Ortega replied that it was his plumbing license and he could do what he wanted with it; owner Ortega did not instruct Marco Ortega to resume sponsoring Oakley).)

On about March 1, helper/technician Suteu resigned his employment with Respondent because he found another job that would immediately provide a licensed plumber to sponsor Suteu's apprentice license. Also in March, technician Oakley left his employment with Respondent because he was not receiving enough work hours and was not being sponsored as an apprentice. (Tr. 187, 220–221, 250, 263–264, 279; see also Tr. 121.)

4. March 1 – April 19: third, fourth, and fifth bargaining sessions

During the bargaining sessions on March 1 and 25, and April 19, the Union presented additional contract proposals that addressed both noneconomic and economic issues, including but not limited to the following:

Subject	**Key Aspects of the Union's Proposals**
Union Security and Dues Check off	All plumbers and apprentices who work for Respondent will, as a condition of employment, become members of the Union (Check-Off, par. 1 – proposed on March 1) (Jt. Exh. 5)
Paid Time Off	Employees shall receive a lump sum of 40 hours of paid time off and 40 hours of paid sick leave after completing a 90–day probationary period. Thereafter, employees will receive a lump sum amount of paid time off and sick leave on January 1 of each calendar year, with the lump sum being 60 hours of paid time off and 60 hours of sick leave after completing 1 year of service (and higher lump sum amounts after completing 3, 5, and 10 years of

	service). A maximum of 100 hours of paid time off and 40 hours of sick leave may be carried over from one year to the next. Upon separation of employment, Respondent shall pay employees for all accrued but unused paid time off and sick leave. (Paid Time Off, par. 1 – proposed on March 1) (Jt. Exh. 5)
Bonuses	Employees shall receive a minimum bonus of $1200 on the anniversary of their hire date (Bonus/Service Awards – proposed March 1) (Jt. Exh. 5)
Wages and Fringe Benefits	Respondent shall pay plumbers $62 per hour, and pay apprentices between $29.50 and $53.50 per hour based on the apprentice year[34] (Wages, par. 2 and App. A – proposed on April 19) (Jt. Exh. 8; Tr. 126 (explaining that the Union based its wage proposal on prevailing wages in the area); see also Tr. 125, 708, 717)
Retirement	Respondent shall make contributions on behalf of employees to the Union's retirement savings fund, pension fund, health fund, and training fund. Fund contributions shall not be deducted from employee wages (Fringe Benefit Funds, pars. 1, 3 – proposed April 19) (Jt. Exh. 8; see also Tr. 125)

Respondent also presented proposals on noneconomic issues, and the parties exchanged proposals concerning corrective action and the grievance and arbitration procedure (among other topics). (Jt. Exhs. 4–8; see also Jt. Exh. 22 (pp. 7–8) (tentative agreements reached on March 1 for contract paragraphs naming the parties and describing the purpose of the contract).)

5. April 26 – May 29: sixth, seventh, and eighth bargaining sessions

During the April 26 bargaining session, Respondent presented a proposal indicating (among other aspects) that it would provide $204.38 to nonprobationary employees who participated in the company health insurance plan,[35] and stating that Respondent was not required to provide minimum health coverage under the Affordable Care Act. Respondent also proposed that it retain the discretion to unilaterally change the company's health insurance carrier and/or policy at any time, and for the first time proposed the following waiver language for the Union to sign in connection with health insurance:

> The above mentioned express waiver is [hereby] affirmed by the Union as evidenced by the dated signatures below.

(Jt. Exh. 9 (sec. 24); Tr. 122–123, 711; see also Tr. 714–716 (agreeing that as of April 26, Respondent was still seeking to maintain discretion over performance reviews and rate ranges,

[34] The exact proposed hourly wages for apprentices were: first 6 months - $29.50; second 6 months - $31.50; second year - $35.50; third year - $38.50; fourth year - $48.50; and fifth year - $53.50. (Jt. Exh. 8, App. A.)

[35] The evidentiary record does not establish how much employees or Respondent would pay towards the health insurance premium, and does not establish how often Respondent would pay the $204.38 health care assistance amount to employees.

and was not offering to provide health insurance).) Respondent also: proposed that the Union sign a similar waiver in connection with wages and rate ranges;[36] proposed that it perform performance appraisals (which might or might not lead to a wage increase) for each employee at least once every 12 months; and deleted language from its wage proposal that precluded arbitration over performance appraisal disputes. (Jt. Exh. 9 (sec. 26–27); Tr. 122–123, 708–711, 717.) At some point on or after April 26, the Union (through attorney McCaffery) asserted that the waiver language demonstrated that Respondent was negotiating in bad faith and that the Union could not agree to the waiver language. (Tr. 124–125, 174, 711.)

At the May 6 bargaining session, the Union proposed revised language concerning the grievance/arbitration procedure, corrective action, and other noneconomic topics. The Union largely held its position concerning economic topics. (Jt. Exh. 10; see also Jt. Exh. 22 (pp. 9–12) (showing that the parties reached tentative agreements on May 6 regarding bulletin boards and non-discrimination).)

Respondent began the May 29 bargaining session with a proposal that included various minor changes to language in its contract proposals. (Jt. Exh. 11(a); Tr. 128.) The Union then alleged at the bargaining table that Respondent was presenting proposals that removed the Union from bargaining and was not bargaining in good faith. Respondent disagreed. After a caucus, Respondent proposed that the company would provide each employee a minimum $0.10 wage increase per hour if the employee was performing satisfactorily in the company's judgment. Respondent also proposed deleting the waiver language from its wage proposal. (Jt. Exh. 11(b) (sec. 26); Tr. 130–132, 143–149, 174, 683, 717–718, 721–722, 762–763, 931; see also Tr. 722–726, 931–932 (explaining that Respondent proposed the $0.10 per hour wage increase after considering the business climate and company's market share, ability to survive, and best interest); Jt. Exh. 22 (p. 13) (showing that the parties reached a tentative agreement on May 29 concerning a contract savings clause).) There is no evidence that Respondent notified the Union (at the bargaining table or otherwise) that it unilaterally gave a $1 raise to helper/technician Suteu in February 2024. (Tr. 132.)

6. June 19 – August 16: ninth, tenth, eleventh and twelfth bargaining sessions

At the June 19 bargaining session, Respondent presented counterproposals that addressed several noneconomic issues. The Union, meanwhile, presented a revised proposal on wages and fringe benefits that reduced hourly wages for apprentices by $1 per hour[37] and also reduced the

[36] In each part of the proposal where it appeared, the waiver language that Respondent proposed was not clear on the exact "above mentioned express waiver" that Respondent was seeking to have the Union agree to. (Tr. 711–712.)

During trial, attorney Sauter testified that Respondent explained at the bargaining table that the intent of the waiver provision was to allow Respondent to immediately implement the terms of the proposal without waiting for agreement on a complete collective-bargaining agreement. Sauter conceded that the waiver language was "clunky" and was different from language that the parties used during bargaining to establish that the ground rules they agreed to on January 16 would take effect immediately. (Tr. 709, 712–715, 739–740, 742–743, 757–759; see also GC Exh. 46 (ground rules).)

[37] The revised proposed hourly wages for apprentices were: first 6 months - $28.50; second 6 months - $30.50; second year - $34.50; third year - $37.50; fourth year - $47.50; and fifth year - $52.50. (Jt. Exh. 13, App. A.)

proposed company contribution amounts for most fringe benefits. Respondent rejected the Union's wage proposal. (Jt. Exhs. 12–13; Tr. 718–719 see also Jt. Exh. 12 (p. 29) (showing that the Union's proposed wages for plumbers remained $62 per hour).)

The parties met for another bargaining session on July 19. During that session, both the Union and Respondent presented counterproposals on noneconomic issues, and the parties reached a tentative agreement for a grievance/arbitration procedure. In addition, Respondent, having recently learned that its paid time off proposal was not consistent with an Illinois law that took effect on January 1, announced that it was withdrawing all previously submitted proposals concerning paid time off, funeral leave, paid and unpaid sick leave, and paid and unpaid vacation. In place of those withdrawn proposals, Respondent proposed that employees who have been employed for at least 90 days would earn at least 2 hours of paid leave for every 40 hours worked, up to a maximum of 80 hours in a 12 month period. Employees could carry over unused paid leave from one anniversary year to the next, but would not be paid for any unused leave if their employment with the company ended. Employees would no longer accrue paid sick leave (i.e., paid leave would take the place of both paid time off and paid sick leave). Respondent did not make any concessions in connection with its new paid leave proposal. (Jt. Exhs. 14–15, 22 (pp. 14–22); Tr. 112–113, 133–135, 674, 692–693, 719–721, 734, 755–757; see also Jt. Exh. 15 (secs. 9, 20, 46).)

In the August 8 bargaining session, the Union further revised its proposal on wages and fringe benefits to reduce hourly wages for apprentices[38] and also reduce the proposed company contribution amounts for most fringe benefits. The parties also presented counterproposals that predominantly addressed noneconomic issues and/or minor changes to language, and reached a tentative agreement concerning: reporting accidents; plumbing codes; plumbing supervision; and non-discrimination. (Jt. Exhs. 16–17; Jt. Exh. 22 (p. 23); Tr. 135–137, 735–739.)

On August 16, Respondent and the Union each presented additional counterproposals that largely related to noneconomic issues. The Union also again revised its wage proposal by reducing the proposed hourly rates for plumbers and apprentices.[39] The parties also reached a tentative agreement concerning union recognition. (Jt. Exhs. 18, 21; Jt. Exh. 22 (p. 24).)

7. September 19 and October 18 – thirteenth and fourteenth (final) bargaining sessions

On September 19, Respondent increased its wage proposal such that the company would provide each employee a minimum $0.25 wage increase per hour if the employee was performing satisfactorily in the company's judgment. Respondent reverted to proposing that any grievances about performance appraisals (which served as the predicate for any wage increases) would not be subject to arbitration. The remainder of Respondent's proposal addressed noneconomic issues, as did the Union's proposals. The parties did reach tentative agreements

[38] The August 8 proposed hourly wages for apprentices were: first 6 months - $26.50; second 6 months - $28.50; second year - $32.50; third year - $35.50; fourth year - $46.50; and fifth year - $50.50. The Union continued to propose that plumbers earn $62 per hour. (Jt. Exh. 16, App. A.)

[39] The August 16 proposed hourly wages for apprentices were: first 6 months - $25.50; second 6 months - $27.50; second year - $31.50; third year - $34.50; fourth year - $44.50; and fifth year - $48.50. The Union proposed that plumbers earn $61.50 per hour. (Jt. Exh. 21, App. A.)

regarding layoffs and overtime. (Jt. Exh. 19 (sec. 26); Jt. Exh. 20; Jt. Exh. 22 (pp. 25–26); Tr. 727–729, 756, 761, 763.)

In their fourteenth (and final, to this point) bargaining session on October 18, the parties reached tentative agreements addressing: holidays; and corrective action, discipline, and discharge. The parties did not reach agreement on several issues, including but not limited to wages, performance reviews, wage rate ranges, retirement, paid time off, health insurance, union security, and bargaining unit work. (Jt. Exh. 22 (pp. 27–30); Tr. 137–138, 141, 687–689, 727, 729–730; see also Tr. 729 (noting that Respondent never proposed wage rates for individual employee classifications).) After the October 18 session, the Union decided to stop bargaining because it did not believe that Respondent was bargaining in good faith. (Tr. 171–172.)

DISCUSSION AND ANALYSIS

A. Credibility Findings

A credibility determination may rely on a variety of factors, including the context of the witness' testimony, the witness' demeanor, the weight of the respective evidence, established or admitted facts, inherent probabilities, and reasonable inferences that may be drawn from the record as a whole. Credibility findings need not be all-or-nothing propositions—indeed, nothing is more common in all kinds of judicial decisions than to believe some, but not all, of a witness' testimony. *Farm Fresh Co., Target One, LLC*, 361 NLRB 848, 860 (2014) (noting that an administrative law judge may draw an adverse inference from a party's failure to call a witness who may reasonably be assumed to be favorably disposed to a party, and who could reasonably be expected to corroborate its version of events, particularly when the witness is the party's agent). To the extent that credibility issues arose in this case, I have stated my credibility findings in the Findings of Fact above.

B. Did Respondent Make any Statements or Engage in Conduct that Violated Section 8(a)(1) of the Act?

1. Complaint allegations

The General Counsel alleges that Respondent violated Section 8(a)(1) of the Act by making the following statements and/or engaging in the following conduct:

(a) In about late September 2023, threatening to fire employees because they tried to form a union;

(b) On about September 27, 2023, making statements about refusing to hire job candidates who were affiliated with the Union in an attempt to restrain or coerce employees in exercising their Section 7 rights;

(c) On about October 18, 2023, threatening employees with the loss of existing privileges and benefits in order to discourage union membership or support;

(d) On about October 18, 2023, interrogating employees about their union activities;

(e) On about October 24, 2023, threatening to suspend or discharge employees because of their support for the Union;

(f) On about October 24, 2023, physically attacking employees in order to discourage their union activities;

(g) On about October 31, 2023, coercing employees in the exercise of their Section 7 rights by suggesting, when offering employees a job, that they not join the Union;

(h) On about November 14, 2023, threatening to demote and fire employees because of their support for the Union; and

(i) On about February 5, 2024, threatening to reduce employees' job responsibilities and hours because of their support for the Union.

2. Applicable legal standard

"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. The Board considers the totality of circumstances in assessing the reasonable tendency of an ambiguous statement or a veiled threat to coerce. Whether or not the employee changed their behavior in response is not dispositive, nor is the employee's subjective interpretation of the statement. The Board therefore 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) (quotation marks and citations omitted); see also *NCRNC, LLC d/b/a Northeast Center for Rehabilitation*, 372 NLRB No. 35, slip op. at 10 (2022) (explaining that when analyzing alleged threats, the Board asks whether the threat would reasonably tend to interfere with, restrain, or coerce an employee in the exercise of the employee's Section 7 rights, and noting that the test is an objective one, not based on subjective coerciveness), enfd. 94 F.4th 67 (D.C. Cir. 2024).

3. Analysis – late September 2023 "cycle out" remark

The Findings of Fact establish that in about late September 2023, dispatcher Nathon Perez overheard owner Alex Ortega say that he could not believe that employees were organizing against him and that, while he could not pinpoint who it was, he had an idea. Ortega then stated that once he found out, he would cycle out that employee and any accomplices. (FOF, sec. II(B).)

It is well established that threats to employees of job loss are coercive and violate the Act. See, e.g., *Sysco Grand Rapids, LLC*, 367 NLRB No. 111, slip op. at 1–2, 24 (2019) (employer unlawfully forecast layoffs and job loss if the company unionized), enfd. 825 Fed. Appx. 348 (6th Cir. 2020); *Metro One Loss Prevention Services Group*, 356 NLRB 89, 89 (2010) (employer unlawfully told employee that he would be jeopardizing his job security by supporting the union). Ortega's statement that he would "cycle out" the employees responsible

for the union organizing campaign was a clear threat that employees who were engaging in union activities were at risk of losing their jobs. Since Ortega's warning had a reasonable tendency to coerce employees in the exercise of their Section 7 rights, I find that Respondent violated Section 8(a)(1) of the Act when Ortega made (and Perez heard) the statement.

4. Analysis – September 27 statement concerning job applicants

The evidentiary record shows that on September 27, four union organizer applicants dropped off their resumes for Respondent in response to a recent job posting. A little later, Perez was sitting in his cubicle and overheard Ortega saying words to the effect of "this is a no, this is a no, this is a no" and/or "no, no, this one doesn't work" as Ortega looked through the resumes. The union organizer applicants were the only applicants to submit resumes on September 27. (FOF, sec. II(C)(2).)

I do not find that Ortega's statements violated the Act. Ortega's statements about the job applications ("this is a no" and "this one doesn't work") are ambiguous, and thus do not have a reasonable tendency to coerce employees in exercising their rights under the Act. Specifically, Ortega could have been reacting to information on the resumes about the applicants' affiliation with the Union, but he could also have been reacting to any number of other factors unrelated to union activity (e.g., years or amount of experience). To the extent that the General Counsel points to evidence that Ortega made additional statements on September 27 that demonstrate he was unwilling to hire applicants who supported the Union, I have found that the General Counsel did not meet its burden of proving that Ortega made those additional statements. (See GC Posttrial Br. at 5, 28–29 (referring to testimony that Ortega also said "Fuck, she's with the Union . . . I can't give her a call now"); FOF, sec. II(C)(2).) Accordingly, I recommend that this complaint allegation be dismissed.

5. Analysis – October 18 discussion with technician Rivera

As set forth in the Findings of Fact, owner Alex Ortega approached technician Juan Rivera on about October 18 and asked if Rivera had heard what was going on with the Union. Rivera said that he did hear about it and asked if Ortega knew who was doing this to him. Ortega replied that he believed it was the "young guys." (FOF, sec. II(D)(3).)

The Board applies a totality of the circumstances analysis to determine whether an interrogation was coercive. That analysis includes consideration of the following factors: whether the employer has a history of hostility toward or discrimination against union or protected concerted activity; the nature of the information sought; the identity of the interrogator and the interrogator's placement in the employer's hierarchy; the place and method of the questioning; and the truthfulness of the employee's reply to the questioning. *Garten Trucking LC*, 373 NLRB No. 94, slip op. at 1 (2024); see also *Rossmore House*, 269 NLRB 1176, 1178 & fn. 20 (1984), affd. sub nom *HERE, Local 11 v. NLRB*, 760 F.2d 1006 (9th Cir. 1985).

I find that Respondent violated Section 8(a)(1) of the Act through Ortega's questioning of Rivera. Ortega owns the company and thus is at the top of the company hierarchy, and sought information directly from Rivera in a one-on-one conversation about whether Rivera had heard what was going on with the Union. That inquiry put Rivera on the spot about his participation in

and knowledge of union activities. Rivera gave a truthful answer, but deflected the discussion to what Ortega knew, only to have Ortega say that he believed the "young guys" were behind the union organizing campaign (and thereby arguably unlawfully create an impression that union activities were under surveillance, though that is not alleged in the complaint and Rivera asked the question that prompted Ortega). Thus, even if it debatable as to whether Respondent at the time of the conversation had demonstrated a history of hostility toward discrimination against union activity, the remaining factors (nature of information sought; identity of interrogator; truthfulness of Rivera's reply, including the deflection back to Ortega) and totality of circumstances (including the creation of an impression that union activities were under surveillance) establish that Ortega's interrogation of Rivera was coercive and violated the Act.

6. Analysis – October 18 staff meeting

In an October 18 meeting with employees, owner Ortega spoke about the pros and cons of unionizing. Regarding benefits, Ortega stated that employees would pay a lot of their wages towards union dues and health insurance, and that employees would not receive paid time off, holiday pay, holiday parties, or bonuses if they unionized. (FOF, sec. II(D)(4).)

The Board has held that it is unlawful for an employer to threaten that unionization will cause adverse changes to employees' terms and conditions of employment. See, e.g., *Starbucks Corp.*, 373 NLRB No. 53, slip op. at 1 fn. 4 (2024) (employer unlawfully threatened to enforce work rules more strictly because of employees' union activities); *Holy Cross Health d/b/a Holy Cross Hospital*, 370 NLRB No. 16, slip op. at 1 fn. 3 (2020) (employer unlawfully threatened that if employees unionized the employer's leave policies might become less generous and its shift scheduling might become less flexible); *Metro One Loss Prevention Services Group*, 356 NLRB at 89 (employer unlawfully threatened that an employee's pay rate could get worse if the union came in). An employer may lawfully communicate to its employees carefully phrased predictions about "demonstrably probable consequences beyond [the employer's] control" that unionization will have on the company, provided that the predictions are based on objective facts. However, if the employer predicts, without any supporting objective facts, that it may or may not take action solely on its own initiative for reasons unrelated to economic necessities and known only by the employer, then the employer's prediction is a threat of retaliation that violates Section 8(a)(1) of the Act. *Daikichi Sushi*, 335 NLRB 622, 623–624 (2001), enfd. 56 Fed. Appx. 516 (D.C. Cir. 2003).

Here, Ortega identified several benefits that employees would lose if they unionized, but offered no objective facts during the meeting to support his warning. Employees were therefore left with the reasonable inference that if they chose to unionize, Respondent might take away several benefits that employees currently received. Because Ortega's statements to employees about losing benefits had a reasonable tendency to coerce employees in the exercise of their Section 7 rights, I find that the statements ran afoul of Section 8(a)(1) of the Act.

7. Analysis – Burns' October 24 confrontation with employees

The evidentiary record establishes that after votes in the representation election were counted, employees were in the parking lot waiting to be dispatched to their job assignments. Office manager Burns approached a group of employees and stated something to the effect of,

"you guys going to go to work, or did you quit, or are you going home?" In an ensuing argument between Burns and a few employees, technician Oakley moved to intervene between Burns and technician Rivera, who were getting close to each other and yelling. When Oakley extended both arms in an attempt to separate Burns and Rivera (and perhaps touching Burns in the process), Burns pushed Oakley, yelling, "Don't fucking touch me!" Another employee intervened and pushed Burns. (FOF, sec. II(E)(2).)

The General Counsel contends that Burns threatened to suspend employees by saying "if you guys don't want to work, get out of here. We're here to work. We don't need you guys at this point." (GC Posttrial Br. at 10, 30–31.) The problem with that argument, however, is that the witnesses that the General Counsel called gave varied accounts of what Burns said, leading me to credit Burns' description of what he said to employees (and not credit the statement on which the General Counsel relies). (See FOF, sec. II(E)(2).)

Turning, then, to the remarks that I did attribute to Burns, I do not find that Burns' remarks threatened employees with suspension or were otherwise coercive. To be sure, Burns' remarks understandably caused confusion among employees since they were waiting to be dispatched to job sites and had not expressed any intention to quit or go home. It is too far of a leap, however, for me to conclude that a reasonable employee would have concluded based on Burns' remarks that Respondent was threatening to suspend them for engaging in union activities. Indeed, Burns remarks were more in the nature of (coarsely) prompting employees to start preparing for work. Since the General Counsel fell short of proving that Burns said something coercive, I recommend that this complaint allegation be dismissed.

For similar reasons, I also recommend dismissal of the allegation that Burns physically attacked employees in order to discourage their union activities. As noted above, the evidentiary record does not show that Burns mentioned the Union or union activities when he approached employees in the parking lot. As for Burns pushing Oakley, the evidentiary record shows that Burns did so in reaction to Oakley touching (or coming close to touching) Burns when Oakley extended his arms to keep Burns and Rivera away from each other. While Burns certainly could have handled the situation better, I do not find based on this evidentiary record that his actions had a reasonable tendency to coerce employees in the exercise of their Section 7 rights.

8. Analysis – Ortega's October 31 statement to Suteu

As set forth in the Findings of Fact, on about October 24, Ortega called applicant Suteu to provide an update on Suteu's job application. Ortega mentioned that Respondent was going through a union organizing drive and that the representation election was happening that day. Ortega then said (regarding the organizing campaign) that he was not happy that a lot of the "younger guys" that he hired stabbed him in the back, and noted that he could take employees' work trucks away but did not want to do that because he would be pictured as a bad guy. A week later, on about October 31, Ortega called Suteu again and advised that he would be able to hire Suteu. Ortega stated that Ortega would have the option of either joining the Union or being a nonunion employee. Suteu accepted a position and subsequently began working for Respondent as a helper/technician. (FOF, sec. II(C)(3).)

The General Counsel maintains that through Ortega's statement on October 31, Respondent coercively suggested that Suteu not join the Union if he accepted an offer to work for Respondent. (GC Posttrial Br. at 31.) I do not find that Ortega's October 31 comments were coercive because, on their face, Ortega's October 31 remarks communicated that it would be up to Suteu to decide whether he wanted to join (or support) the Union if he accepted a position working for Respondent. I therefore recommend that the complaint allegation concerning Ortega's October 31 comments be dismissed.

With that stated, I do find that Respondent violated the Act when Ortega told Suteu on October 24 that he (Ortega) was not happy that a lot of the younger guys stabbed him in the back by starting the union organizing campaign and noted that he could take their trucks away. Through that statement, Ortega let Suteu know that Suteu risked unspecified reprisals if he accepted a position with Respondent and decided to engage in union activities. Ortega's message to Suteu on October 24 had a reasonable tendency to coerce Suteu in the exercise of his rights under the Act, and thus ran afoul of Section 8(a)(1) of the Act. See *Starbucks Corp.*, 373 NLRB No. 53, slip op. at 2–3 (employer unlawfully threatened unspecified reprisals by telling an employee that unionizing could cause the employee and her coworkers to face negative consequences).[40]

9. Analysis – November 14 staff meeting

In a staff meeting on about November 14, 2023, owner Ortega stated that Respondent would be demoting some technicians to the role of helper. Ortega added that if the employees did not like their new role, they could be terminated or could quit. (FOF, sec. II(F)(2).)

Ortega's remarks about demoting technicians did not specifically reference the Union or employees' union activities. Nevertheless, I find that Ortega's remarks had a reasonable tendency to coerce employees in the exercise of their Section 7 rights. The representation election was certainly still fresh in employees minds, having occurred only a few weeks beforehand on October 24. Further, Ortega made his remarks about technicians in the context of having, a few days after the election, already unlawfully announced and implemented a rotation system that significantly reduced helpers' work hours. Given that context, Respondent's technicians could reasonably have interpreted Oakley's demotion/termination threat and invitation to quit as a warning that employees faced retaliation for their vote in favor of unionizing. Accordingly, I find that Ortega's November statements to technicians violated Section 8(a)(1) of the Act. See *Starbucks Corp.*, 373 NLRB No. 123, slip op. at 1–2 (2024) (explaining that an employer violates the Act when it states that employees who are dissatisfied with their working conditions should quit rather than trying to improve working conditions through union or protected concerted activity); *Starbucks Corp.*, 373 NLRB No. 53, slip op. at 1 fn. 4 (employer unlawfully threatened to enforce work rules more strictly because of employees' union activities and terminate employees because of that stricter enforcement); Discussion and Analysis, sec. (C)(7).

[40] Although the complaint does not allege that Respondent violated the Act by threatening an employee (Suteu) with unspecified reprisals on October 24, I find that Respondent committed such a violation here because it is closely related to the subject matter of the complaint and was fully litigated. See *Pergament United Sales*, 296 NLRB 333, 335 (1989), enfd. 920 F.2d 130 (2d Cir. 1990).

10. Analysis – February 5, 2024 staff meeting

On about February 5, Ortega notified employees at a staff meeting that unlicensed employees (helpers, technicians, and apprentices in their first or second year) would no longer be able to perform plumbing work without a licensed plumber present.[41] (FOF, sec. II(H)(3).)

I do not find that Ortega's February 5 announcement to employees about licensing, standing alone,[42] violated Section 8(a)(1) of the Act. None of the parties dispute the proposition that Respondent had an obligation to comply with state laws and regulations concerning plumbing work that required a license. In light of that fact, it was permissible for Respondent to notify employees that the company would be increasing its efforts to comply with licensing requirements and that, as a result, the job duties for unlicensed employees were likely to change. Accordingly, I recommend that this complaint allegation be dismissed.

B. Did Respondent Take Adverse Employment Action against Employees that Violated Section 8(a)(3) of the Act?

1. Complaint allegations

The General Counsel alleges that Respondent violated Section 8(a)(3) and (1) of the Act by taking the following adverse employment actions against employees:

(a) On about October 12, 2023, initiating a policy or practice of enforcing its disciplinary rules for attendance and lost and/or damaged work products more strictly for employee Julian Robledo than in the past;

(b) On about October 24, 2023, reducing the hours of its helpers and apprentice plumbers;

(c) On about October 24, 2023, delaying the hiring of employee Rafael Suteu by one week;

(d) On about October 24, 2023, giving all of its employees a 1–day suspension;

(e) On about October 24, 2023, terminating its sponsorship of employee Antonio Oakley's plumbing apprenticeship license;

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[41] The General Counsel asserts that when Ortega made his announcement, he blamed the Union for the change in Respondent's practices. (GC Posttrial Br. at 32–33.) I do not find adequate evidentiary support for that contention. When technician Oakley testified about the February 5 meeting, he did not say that Ortega blamed the Union for the stricter practices concerning licensing. (See Tr. 218–219.) The General Counsel therefore relies entirely on helper/technician Suteu, who testified that Ortega said he did not want to "risk getting fined more by the Union for sending out other people that aren't licensed." (See Tr. 259–260.) I give that aspect of Suteu's testimony little weight because it is uncorroborated, and because the testimony does not make logical sense since presumably any licensing-related fines would be issued by the State of Illinois as opposed to by the Union.

[42] Respondent's failure and refusal to bargain over the effects of the change unlicensed employees' job duties did violate Sec. 8(a)(5) of the Act, as described in Discussion and Analysis, sec. (C)(4), infra.

(f) On about December 21, 2023, constructively discharging employee Angel Alvarez by significantly reducing his hours;

(g) On about December 29, 2023, constructively discharging employee Julian Robledo by significantly reducing his hours;

(h) On about February 3, 2024, eliminating certain job responsibilities for first and second year apprentice plumbers and for non-licensed plumbers; and

(i) On about March 6, 2024, constructively discharging employee Antonio Oakley by canceling his apprenticeship license, eliminating job responsibilities, and reducing his hours.

2. Applicable legal standard

The legal standard for evaluating whether an adverse employment action violates Section 8(a)(3) of the Act is generally set forth in *Wright Line*, 251 NLRB 1083, 1089 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982). To sustain a finding of discrimination, the General Counsel must make an initial showing that the employee's union or other protected activity was a motivating factor in the employer's decision. The elements commonly required to support such a showing are union or protected concerted activity by the employee, employer knowledge of that activity, and animus against union or other protected activity on the part of the employer. *Intertape Polymer Corp.*, 372 NLRB No. 133, slip op. at 6 (2023), enfd. 2024 WL 2764160 (6th Cir. 2024). Proof of discriminatory motivation (animus) can be based on direct evidence or can be inferred from circumstantial evidence based on the record as a whole. Circumstantial evidence of discriminatory motivation may include, among other factors: the timing of the action in relation to the union or other protected conduct; contemporaneous unfair labor practices; shifting, false, or exaggerated reasons offered for the action; failure to conduct a meaningful investigation; departures from past practices; and disparate treatment of the employee. Id., slip op. at 6–7; *Medic One, Inc.*, 331 NLRB 464, 475 (2000).

If the General Counsel makes the required initial showing, then the burden of persuasion shifts to the employer to establish, as an affirmative defense, that it would have taken the same action even in the absence of the employee's union or protected activity. In order to meet that burden in circumstances where the employer maintains that the employee engaged in misconduct, the employer need not prove that the disciplined employee committed the misconduct alleged. Instead, the employer only needs to show that it had a reasonable belief that the employee committed the alleged offense and that it acted on that belief when it took the disciplinary action against the employee. *Intertape Polymer Corp.*, 372 NLRB No. 133, slip op. at 7; *McKesson Drug Co.*, 337 NLRB 935, 937 fn. 7 (2002); see also *Bally's Atlantic City*, 355 NLRB 1319, 1321 (2010) (explaining that where the General Counsel makes a strong initial showing of discriminatory motivation, the respondent's rebuttal burden is substantial), enfd. 646 F.3d 929 (D.C. Cir. 2011). The General Counsel may offer proof that the employer's reasons for the personnel decision were false or pretextual. When the employer's stated reasons for its decision are found to be pretextual – that is, either false or not in fact relied upon –

discriminatory motive may be inferred but such an inference is not compelled. *Electrolux Home Products*, 368 NLRB No. 34, slip op. at 3 (2019) (noting that the Board may infer from the pretextual nature of an employer's proffered justification that the employer acted out of union animus where the surrounding facts tend to reinforce that inference). A respondent's defense does not fail simply because not all the evidence supports its defense or because some evidence tends to refute it. Ultimately, the General Counsel retains the burden of proving discrimination. *Farm Fresh Co., Target One, LLC*, 361 NLRB at 861.

3. Analysis – enforcing disciplinary rules more strictly against helper Robledo

As set forth in the Findings of Fact, starting in about early October 2023, Respondent took the following actions concerning helper Robledo: (a) requiring Robledo to provide a doctor's note before permitting Robledo to work (in response to Robledo going to a dentist appointment after finishing work at a job site); (b) in a disciplinary meeting on about October 12, 2023, issuing Robledo a written warning for not asking questions of the licensed plumber on site before completing work on water lines in September 2021; and (c) during the October 12 disciplinary meeting, telling Robledo that his attendance had been poor and that he could not miss any days moving forward, and requiring Robledo to agree to a payment plan to reimburse Respondent for a key fob that had to be replaced due to water damage (and faulting Robledo for breaking or losing other company equipment between 2021 and summer 2023). (FOF, sec. II(D)(1)–(2).)

The General Counsel made an initial showing that Respondent enforced its disciplinary rules more strictly against Robledo because he engaged in union activities. Robledo engaged in union activities by being one of the employees who reached out to the Union in August 2023, which eventually led to the Union filing a petition for representation on September 21. The evidentiary record shows that owner Ortega believed that the "young guys" at the company were behind the effort to unionize, and Robledo was one of the group of younger employees working for the company. As for animus, in September and October, Ortega: made remarks about cycling out employees who were behind the organizing campaign; interrogated technician Rivera about his union activities and implied that employees' union activities were under surveillance; and also told applicant Suteu about being unhappy that the young guys at the company stabbed him in the back by starting the organizing campaign. (Discussion and Analysis, sec. B(3), (5), (8), supra.)

Respondent did not present an affirmative defense specific to this complaint allegation, but did broadly assert that Respondent's actions concerning Robledo's performance and incidents of damaging company property were unrelated to union activity and consistent with lawful business discipline. (R. Posttrial Br. at 29–30.) I do not find that argument to be persuasive. Regarding the written warning for the crossed water lines, Respondent gave Robledo a higher level of discipline than it gave to plumber Sanchez (a written warning to Robledo versus a verbal warning to Sanchez), even though Sanchez was in charge of the work at the job site and, unlike Robledo, had a license to do plumbing work. The other stricter requirements that Respondent imposed on Robledo were also unprecedented, as the evidentiary record does not show that Respondent had established practices of requiring employees to pay for damaged or lost company property, requiring employees to provide a doctor's note as a prerequisite to

resuming work after a brief medical appointment,[43] or verbally warning employees that they could not miss any additional work time. Put another way, to the extent that Robledo or other employees had any prior shortcomings in those areas, Respondent tolerated them without taking any adverse employment action. (See FOF, sec. II(D)(1)–(2).) Accordingly, I find that Respondent failed to demonstrate that it would have taken action against Robledo even in the absence of his union activities.

In sum, since the General Counsel made an initial showing of discrimination and Respondent failed to establish an affirmative defense, I find that Respondent violated Section 8(a)(3) and (1) of the Act by enforcing its rules for attendance, lost and/or damaged work property, and job site performance[44] more strictly for Robledo because he engaged in union and protected concerted activities. See *Gavilon Grain, LLC*, 371 NLRB No. 79, slip op. at 1–2, 11–12 (2022) (employer violated the Act by imposing more onerous working conditions on employees in retaliation for employees engaging in union activities).

4. Analysis – delaying hiring of Rafael Suteu

The evidentiary record shows that owner Ortega contacted helper/technician Suteu on about October 24 to indicate that Respondent wanted to hire Suteu, but first wanted to consult with its lawyer to find out whether to Respondent was allowed to do so. A few days later, on about October 31, Ortega called Suteu again and advised that he would be able to hire Suteu. Suteu accepted the position and agreed to start working for Respondent on November 15, 2023, as a helper/technician. (FOF, sec. II(C)(3).)

I find that the General Counsel made an initial showing that Respondent delayed hiring Suteu because of employees' union activities. There is no dispute that on October 24, employees were involved in a union organizing campaign and participating in a representation election. Respondent was certainly aware of that fact, and Ortega made several statements that demonstrated animus towards employees who supported the Union, including telling Suteu that he was not happy that Respondent's younger employees stabbed him in the back by seeking to unionize. (FOF, sec. II(C)(3), (E)(1).)

Respondent did not articulate an affirmative defense, but the question of whether Respondent had a lawful reason to delay hiring Suteu remains a close question. I have

[43] I have considered the fact that Respondent previously required Robledo to provide a doctor's note after an extended leave of absence to recover from a torn ACL. In my view, the practice of requiring a doctor's note in that circumstance (and similar circumstances involving an extended absence) is not similar to requiring an employee to provide a doctor's note for a brief medical appointment. There is also no evidence that Respondent had an established practice of requiring employees to provide a doctor's note as a prerequisite to returning to work after a brief appointment.

[44] Although the General Counsel did not allege in the complaint that Respondent enforced its rules for job site performance more strictly against Robledo, I have included that issue in my findings because it is closely related to the subject matter of the complaint and the parties fully litigated the issue during trial. See *Pergament United Sales*, 296 NLRB at 335. I have not included Robledo's December 2023 discipline in my findings here because the General Counsel did not allege anything about that incident in the complaint or argue in its posttrial brief that the December 2023 discipline resulted from Respondent improperly enforcing its rules more strictly.

considered the fact that Ortega provided varied reasons for the delay, including testifying that the delay resulted from needing time to get Suteu's drug test results, and later testifying that the delay resulted from Ortega simply not wanting Suteu to have to deal with anything (presumably in reference to the union election). Indeed, the Board has indicating that a finding of animus can be supported by showing that the employer provided shifting reasons for its actions. *Intertape Polymer Corp.*, 372 NLRB No. 133, slip op. at 6–7; *Medic One, Inc.*, 331 NLRB at 475. On the other hand, Suteu admitted that Ortega said he needed to consult with Respondent's lawyer to make sure it was okay to hire Suteu. As the Board has recognized, the process of collective bargaining can raise complex legal issues such that a company or union may need to consult with a lawyer to find out how to comply with the law. See *Patrick Cudahy, Inc.*, 288 NLRB 968, 971 (1988) (citing *Upjohn Co. v. U.S.*, 449 U.S. 383, 392 (1981)).

On balance, I find that it was reasonable for Respondent to delay hiring Suteu briefly to allow time to consult with Respondent's lawyer. The General Counsel did not rebut Suteu's admission about that reason for the delay, and the delay was not a long one, lasting only until October 31, when Ortega contacted Suteu again to make a job offer. Accordingly, I find that the evidentiary record supports a valid affirmative defense for Respondent's delay in hiring Suteu, and I recommend that this complaint allegation be dismissed.

5. Analysis – ending sponsorship of technician Oakley's apprenticeship

It is undisputed in the record that on October 24, later on the same day that technician Oakley served as an observer for the Union in the representation election, plumber Marco Ortega contacted the Illinois Department of Public Health to end his sponsorship of Antonio Oakley as an apprentice. (FOF, sec. II(E)(3).)

As a preliminary matter, there is a question about whether Marco Ortega's actions concerning Oakley's sponsorship are attributable to Respondent. The General Counsel contends that Marco Ortega was Respondent's agent for purposes of sponsorship. I agree.

The Board's test for determining whether an employee is an agent under Section 2(13) of the Act "is whether, under all of the circumstances, employees would reasonably believe that the employee in question was reflecting company policy and speaking and acting for management." *Pan-Oston, Co.*, 336 NLRB 305, 305–306 (2001). "It is well established that where an employee places a rank-and-file employee in a position in which employees would reasonably believe that the employee speaks on behalf of management, the employer has vested that employee with apparent authority to act as the employer's agent, and the employee's actions are attributable to the employer." *Mid-South Drywall Co.*, 339 NLRB 480, 480 (2003). When applying this standard, the Board will consider the position and duties of the employee alleged to be an agent, as well as the context in which the behavior occurred. Accordingly, the Board may find agency where the type of conduct that is alleged to be unlawful is related to the duties of the employee, and may decline to find agency where the employee acts outside the scope of their duties. The party that asserts that an individual acted with apparent authority bears the burden of establishing the agency relationship. *Pan-Oston Co.*, 336 NLRB at 306.

The evidentiary record shows that Respondent includes training apprentices as one of the duties of Respondent's licensed plumbers. To facilitate that duty and the progression of

employees towards becoming licensed plumbers, Respondent maintains a list of employees who are waiting to be sponsored, and prepares the paperwork that is necessary to establish the sponsorship with the Illinois Department of Public Health. Respondent then relies on the licensed plumber to fulfill any requirements associated with the sponsorship. Based on those practices, I find that Respondent placed licensed plumber Marco Ortega in a position where employees would reasonably believe that he spoke on behalf of management in the context of sponsoring apprentices. (FOF, sec. II(A).) Accordingly, I find that Marco Ortega was Respondent's agent under Section 2(13) of the Act regarding apprentice sponsorships.[45]

With that established, I find that the General Counsel made an initial showing that Respondent (through Marco Ortega) ended its sponsorship of technician Oakley as an apprentice because he engaged in union activities. At a minimum, Respondent learned that Oakley supported the Union when Oakley served as the Union's observer during the October 24 representation election. Marco Ortega reached out to the Illinois Department of Health to cancel his sponsorship of Oakley later that same day, which establishes animus based on the suspicious timing of Marco Ortega's decision.

Respondent did not offer an affirmative defense concerning this adverse employment action (see R. Posttrial Br. at 30–31 (arguing only that Marco Ortega's actions were not attributable to Respondent)). Accordingly, since the General Counsel made an initial showing of discrimination and Respondent did not offer an affirmative defense, I find that Respondent violated Section 8(a)(3) and (1) of the Act by terminating Oakley's apprentice sponsorship in retaliation for Oakley engaging in union activities.

6. Analysis – sending employees home on October 24

The evidentiary record shows that on the day of the representation election (October 24), after an argument in the parking lot with union organizer Garcia (shortly after Burns' confrontation with employees), owner Ortega decided to send all helpers, technicians, and plumber home for the day even though there were jobs on the schedule. Ortega decided to send employees home because he determined that tensions were too high to dispatch employees to work on job sites. (FOF, sec. II(E)(2).)

The General Counsel made an initial showing that Respondent sent employees home on October 24 because they engaged in union activities. The representation election took place at Respondent's facility earlier on the same day and the Union prevailed in the election. Thus, Respondent was certainly aware that a majority of employees in the proposed bargaining unit engaged in union activities by supporting and voting for the Union. The General Counsel also

[45] Alternatively, I find that Marco Ortega's actions concerning Oakley's sponsorship are attributable to Respondent because owner Ortega acquiesced to Marco Ortega's termination of Oakley's sponsorship. When owner Ortega learned of Marco Ortega's decision to stop sponsoring Oakley, owner Ortega accepted that decision and took no action to correct it. (FOF, sec. II(E)(3).) Through that acceptance, Respondent effectively approved of, and thus is responsible for, Marco Ortega's decision. Cf. *Local 294, Int'l Brotherhood of Teamsters*, 121 NLRB 924, 931 (1958) (finding that, through its actions concerning a work stoppage that employees initiated, the union ratified and supported the work stoppage and thus was legally responsible for the inception and continuance of the work stoppage), enfd. 273 F.2d 696 (2d Cir. 1960).

established that Ortega acted with animus, as the timing of his decision to send employees home on the same day as the election was suspicious, and Ortega had just been arguing with Union organizer Garcia in the parking lot, including saying that he (Ortega) wanted to get employees out to job sites but that Garcia "screwed up my shit right here right now." (See FOF, sec. II(E)(2) (noting that Ortega then conceded that Garcia did not screw anything up).)

Respondent did not articulate an affirmative defense for Ortega's decision to send employees home on October 24. I have considered Ortega's explanation that he did not want to send employees to job sites when tensions were high, and I acknowledge that Ortega's reasoning is somewhat understandable since if employees worked as planned they would be interacting with customers at job sites not long after a heated confrontation at Respondent's facility. The fact remains, however, that Ortega's decision to send employees home followed on the heels of Respondent falling short in the election and Ortega lashing out at union organizer Garcia to blame him for screwing things up. Since Ortega's decision to send employees home for the day cannot be separated from the animus towards the Union and employees' union activities, and since Respondent did not articulate an affirmative defense, I find that the General Counsel's initial showing of discrimination stands. I therefore find that Respondent violated Section 8(a)(3) and (1) of the Act by sending bargaining unit employees home on October 24 because they engaged in union activities.

7. Analysis – reducing work hours of helpers and technicians in early November

The evidentiary record shows that in about early November 2023, Respondent announced and implemented a new rotation system for scheduling for helpers. Under the new system, instead of working 5 days a week, three of Respondent's helpers (Angel Alvarez, Gionni Perez, and Julian Robledo) rotated between working 2 days a week and 1 day a week, with only one of those three helpers on duty on any particular day. Technicians also began receiving fewer hours, albeit not due to any formal rotation schedule. (FOF, sec. II(F)(1)–(2).)

I find that the General Counsel made an initial showing that Respondent implemented the rotation system for scheduling for helpers because they (and other employees) engaged in union and protected concerted activities. As previously noted, Respondent was aware that several employees engaged in union activities, including but not limited to initiating the union organizing campaign and voting in favor of unionizing. Owner Ortega demonstrated animus insofar as he threatened to cycle out any employees who started the union organizing campaign and complained that the younger guys working for the company stabbed him in the back by seeking to organize. (See, e.g., FOF, sec. II(B), (C)(3), (E)(1).)

As its affirmative defense, Respondent contends that the rotation system for scheduling helpers was consistent with the company's past practices during seasonal slowdowns. (See R. Posttrial Br. at 32–33.) Even if I assume that Respondent encountered a seasonal slowdown in fall 2023, I do not find that Respondent had a past practice of using a rotation system like what it implemented for helpers in November. At most, Respondent had an ad hoc practice of occasionally telling individual employees to stay home when there was not enough work on a specific day on the schedule; that is quite different from a formal system of limiting helpers to only 1 or 2 days of work each week, which is what Respondent did in November 2023. Accordingly, I do not find merit to Respondent's affirmative defense and I find that Respondent

violated Section 8(a)(3) and (1) of the Act by implementing the rotation system for scheduling helpers (and thereby reducing their work hours) because they and other employees engaged in union and protected concerted activities.

I reach a different result as to the General Counsel's assertion that Respondent also unlawfully reduced the hours of technicians in November 2023. The General Counsel made an initial showing of discrimination (based on the evidence that I summarized above), but did not successfully rebut Respondent's affirmative defense that any reduction in hours for technicians resulted from a seasonal slowdown. Respondent presented evidence that it was getting fewer calls about bookings in fall 2023, along with evidence that, as a result, owner Ortega increased the company's online advertising budget to drum up more business. (FOF, sec. II(F)(1); see also id., sec. II(F)(3) (indicating that helper/technician Suteu was not receiving full-time hours)[46].) Further, unlike with helpers, there is insufficient evidence that Respondent took formal steps designed to reduce technicians' work hours in this time period. Respondent's affirmative defense therefore stands as to technicians getting fewer work hours in fall 2023,[47] and I recommend that this aspect of the complaint allegations be dismissed.

8. Analysis – constructive discharges of helpers Alvarez and Robledo

There is no dispute that, in December 2023, helpers Alvarez and Robledo resigned their employment with Respondent because they were receiving fewer work hours. (FOF, sec. II(G).) The General Counsel asserts that Respondent violated the Act by constructively discharging Alvarez and Robledo. Respondent counters by arguing that Alvarez and Robledo resigned voluntarily. (GC Posttrial Br. at 42–43; R. Posttrial Br. at 29–30.)

The Board has recognized two constructive discharge theories: the "traditional" constructive discharge theory; and the "Hobson's Choice" theory.[48] Under the traditional theory, which is the relevant theory in this case, there are two elements that must be proven to establish a constructive discharge: (1) the burdens imposed upon the employee must cause, and be intended to cause, a change in the employee's working conditions so difficult or unpleasant that the employee is forced to resign, and (2) the burdens were imposed because of the employee's union activities. *Crystal Princeton Refining Co.*, 222 NLRB 1068, 1069 (1976); see also *Yellow Ambulance Service*, 342 NLRB 804, 807 (2004); *Intercon I (Zercom)*, 333 NLRB 223, 223 fn. 3 (2001). The Board has explained that regarding the first prong of the legal standard, "the test for

[46] Under the General Counsel's theory for this case, helper/technician Suteu was a comparator who received favorable treatment because Respondent did not believe him to be a union supporter. The fact that Suteu was not receiving full-time hours supports Respondent's defense that it encountered a seasonal slowdown in fall 2023.

[47] I address allegations concerning February 2024 changes to technicians' responsibilities later in this decision. (See Discussion and Analysis, sec. (C)(4), infra.)

[48] Under the Hobson's Choice theory of constructive discharge, an employee's voluntary quit will be considered a constructive discharge when an employer conditions an employee's continued employment on the employee's abandonment of their Section 7 rights and the employee quits rather than comply with the condition. *Titus Electric Contracting, Inc.*, 355 NLRB 1357, 1357 (2010); *Intercon I (Zercom)*, 333 NLRB at 223 & fn. 4. The Hobson's Choice at issue must be clear and unequivocal and the employee's predicament not one which is left to inference or guesswork. *Intercon I (Zercom)*, 333 NLRB at 224 & fn. 9.

intent is not limited to whether the employer specifically intended to cause the employee to quit, but includes whether, under the circumstances, the employer reasonably should have foreseen that its actions would have that result." *Yellow Ambulance Service*, 342 NLRB at 807. The Board generally applies the *Wright Line* framework to determine whether the employer imposed the burden that caused the constructive discharge because of the employee's union or protected concerted activities. See, e.g., *Don Chavas, LLC d/b/a Tortillas Don Chavas*, 361 NLRB 101, 101–102 (2014).

In the preceding section, I found that Respondent implemented a rotation system for scheduling helpers in early November 2023, because they and other employees engaged in union and protected concerted activities. The burdens that the rotation system imposed were significant, as both Alvarez and Robledo began working only 1 or 2 days each week instead of full time hours. As for whether Respondent intended to cause Alvarez and Robledo to resign, the evidentiary record shows that owner Ortega was set on cycling out the younger guys (such as Alvarez and Robledo) in retaliation for starting the organizing campaign. While that is sufficient to establish the requisite intent, it is also clear that Respondent should have reasonably foreseen that its unlawful decision to implement the rotation system for scheduling helpers would result in helpers like Alvarez and Robledo having to resign due the impact on their work hours and pay. Since, as noted above, I do not find that Respondent set forth a viable affirmative defense for adopting the rotation system, I find that the General Counsel demonstrated that Respondent constructively discharged helpers Alvarez and Robledo by adopting an unlawful rotation system that reduced their work hours and forced them to resign in December 2023. (See Discussion and Analysis, sec. B(7), supra.)

9. Analysis – eliminating job responsibilities of certain technicians in February 2024

Starting on about February 3, Respondent stopped having technicians perform plumbing work that required a license under Illinois laws and regulations. The one exception was helper/technician Suteu, who Respondent permitted to continue working on plumbing tasks even though Suteu was not at the time sponsored as an apprentice. (FOF, sec. II(H)(3).)

For the same reasons as previously stated, I find that the General Counsel made an initial showing that Respondent changed technicians' job duties in retaliation for employees engaging in union and protected concerted activities. In addition, Ortega previously threatened to demote technicians to helper status, and the change to technicians' duties was consistent with that threat. (See Discussion and Analysis, sec. (A)(9), B(7), supra.)

As its affirmative defense, Respondent contends that it was obligated to change technicians' job duties to comply with Illinois plumbing licensing requirements. (See R. Posttrial Br. at 33–34.) I find merit to that defense, with one caveat as to technician Oakley. None of the parties dispute that Respondent was legally required in Illinois to only have licensed plumbers (and certain apprentices) do plumbing work. It was therefore appropriate for Respondent to take steps to comply with the law once the Union brought the licensing issue to the company's attention during the February 2 bargaining session, including precluding technicians from performing plumbing work without a license.[49]

[49] To the extent that Respondent made an arguably improper decision to allow helper/technician Suteu

With that stated, I still find that Respondent violated the Act by limiting technician Oakley's duties starting in February 2024. Oakley should have been a licensed apprentice in February 2024 (and thus, at a minimum, eligible to perform plumbing work alongside plumber Marco Ortega), but was not licensed because Respondent unlawfully stopped sponsoring Oakley as an apprentice back in October 2023. (See Discussion and Analysis, sec. (B)(5).) Therefore, Respondent's decision to limit Oakley's duties in February 2024 was tainted because it relied in part on Respondent's prior unlawful decision to stop sponsoring Oakley's apprenticeship. Put another way, had Respondent not unlawfully stopped sponsoring Oakley as an apprentice, Oakley would have had an active apprentice license in February 2024 and would have been eligible for the additional work possibilities that came with that status. Cf. *Care Manor of Farmington, Inc.*, 318 NLRB 725, 726 (1995) (explaining that a decision to discipline or discharge an employee is tainted if the decision relies on prior discipline that was unlawful).

In sum, I find that Respondent violated Section 8(a)(3) and (1) of the Act by eliminating some of technician Oakley's job responsibilities starting on about February 3, 2024, because he and other employees engaged in union and protected concerted activities. I recommend that this complaint allegation be dismissed as to all other technicians.

10. Analysis – constructive discharge of technician Oakley

In about March 2024, technician Oakley resigned his employment with Respondent because he was receiving fewer work hours due to the February 2024 changes that Respondent made to technicians' job responsibilities. (FOF, sec. II(H)(3).) The General Counsel asserts that Respondent violated the Act by constructively discharging Oakley, while Respondent maintains that Oakley resigned voluntarily. (GC Posttrial Br. at 42–43; R. Posttrial Br. at 30–32.)

Applying the traditional constructive discharge framework (see Discussion and Analysis, sec. (B)(8), supra), I find that the General Counsel established that Respondent imposed burdens on Oakley because he and other employees engaged in union and protected concerted activities, and that those burdens changed Oakley's working conditions and forced him to resign. I have already found that Respondent stopped sponsoring Oakley as an apprentice in fall 2023 because he engaged in union activities, and that in February 2024, that unlawful decision coupled with Respondent's efforts to comply with licensing requirements caused Oakley to have fewer responsibilities and receive fewer work hours. Oakley resigned his employment under those circumstances, and I find that Respondent reasonably should have foreseen that its unlawful actions concerning Oakley's apprentice license would cause Oakley to resign. Indeed, due to Respondent's actions, Oakley lost work hours and also lost the opportunity to continue progressing towards obtaining a plumber's license. His resignation was therefore entirely predictable. Since I am not persuaded by Respondent's argument that Oakley voluntarily resigned and Respondent did not present any other viable defense, I find that Respondent

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to continue doing plumbing work without a license, that decision does not change the fact that Respondent had an obligation to comply with Illinois laws and regulations concerning plumbing license requirements. The General Counsel has not argued that Respondent violated the Act by treating Suteu more favorably than other technicians (e.g., because Respondent believed Suteu was not a union supporter), and thus I decline to address such a theory.

violated Section 8(a)(3) and (1) of the Act by constructively discharging Oakley in about March 2024 because he and other employees engaged in union and protected concerted activities.

C. Did Respondent Violate Section 8(a)(5) of the Act by Unilaterally Changing Employees' Terms and Conditions of Employment?

1. Complaint allegations

The General Counsel alleges that Respondent violated Section 8(a)(5) and (1) of the Act by unilaterally making the following changes to employees' terms and conditions of employment without first notifying the Union and affording an opportunity to bargain over the decisions and/or their effects:

(a) On about October 24, 2023, implementing a rotation system for its helpers and reducing the hours of its helpers;

(b) On about October 24, 2023, terminating the sponsorship of employee Antonio Oakley's plumbing apprenticeship license;

(c) On about February 3, 2024, eliminating certain job responsibilities of first and second year apprentice plumbers and for technicians; and

(d) On about February 8, 2024, increasing the wage rate of employee Rafael Suteu.

2. Applicable legal standard

Under the unilateral change doctrine, an employer's duty to bargain under the Act includes the obligation to refrain from changing its employees' terms and conditions of employment without first bargaining to impasse with the employees' collective-bargaining representative concerning the contemplated changes.[50] The Act prohibits employers from taking unilateral action regarding mandatory subjects of bargaining such as rates of pay, wages, hours of employment and other conditions of employment. An employer's regular and longstanding practices that are neither random nor intermittent become terms and conditions of employment even if those practices are not required by a collective-bargaining agreement. The party asserting the existence of a past practice bears the burden of proof on the issue and must show that the practice occurred with such regularity and frequency that employees could reasonably expect the practice to continue or reoccur on a regular and consistent basis. The past practice at issue cannot be one that was developed before the union represented employees in the bargaining unit. *Endurance Environmental Solutions, LLC*, 373 NLRB No. 141, slip op. at 5–6 (2024); *Wendt Corp.*, 372 NLRB No. 135, slip op. at 4, 17 (2023); *Howard Industries, Inc.*, 365 NLRB 28, 30 (2016).

[50] Separate and apart from the unilateral change doctrine, an employer also violates Sec. 8(a)(5) and (1) of the Act if it fails and refuses to bargain over a mandatory subject on request by the union. *Endurance Environmental Solutions, LLC*, 373 NLRB No. 141, slip op. at 1 (2024).

On the issue of whether the parties bargained to an impasse, the Board defines a bargaining impasse as the point in time of negotiations when the parties are warranted in assuming that further bargaining would be futile because both parties believe they are at the end of their rope. The question of whether an impasse exists is a matter of judgment based on the following factors: the bargaining history; the good faith of the parties in negotiations; the length of the negotiations; the importance of the issue or issues as to which there is disagreement; and the contemporaneous understanding of the parties as to the state of negotiations. The party asserting impasse bears the burden of proof on the issue. *Mike-Sell's Potato Chip Co.*, 360 NLRB 131, 139 (2014), enfd. 807 F.3d 318 (D.C. Cir. 2015).

If an employer makes a unilateral change to a term and condition of employment, it may still assert certain defenses. For example, the employer may assert that the change did not alter the status quo because the change in question was part of a regular and consistent past pattern that did not involve the exercise of significant managerial discretion. *Wendt Corp.*, 372 NLRB No. 135, slip op. at 4. In addition, the employer may assert that the union contractually surrendered the right to bargain over the change through a clear and mistakable waiver. To demonstrate that the union and the employer bargained for such a waiver, the employer must show that the union and the employer "unequivocally and specifically express[ed] their mutual intention to permit unilateral employer action with respect to a particular employment term, notwithstanding the statutory duty to bargain that would otherwise apply." *Provena St. Joseph Medical Center*, 350 NLRB 808, 811 (2007); see also *Endurance Environmental Solutions, LLC*, 373 NLRB No. 141, slip op. at 9–10, 15, 17–18 (restoring the clear and unmistakable waiver standard as outlined in *Provena*).

3. Analysis – helper rotation schedule, apprentice sponsorship, wage rate increase

It is undisputed that Respondent made the following unilateral changes to employees' terms and conditions of employment: (a) canceling its sponsorship of technician Oakley's apprentice license on about October 24, 2023, after the Union prevailed in the representation election; (b) implementing a rotation schedule for helpers in early November 2023, such that helpers were only scheduled to work 1 or 2 days per week instead of being scheduled for full time hours; and (c) increasing helper/technician Suteu's wage rate by $1 per hour on about February 8, 2024. It is also undisputed that these changes involved mandatory subjects of bargaining, and that Respondent did not notify or bargain with the Union over the changes or their effects. (Discussion and Analysis, sec. (B)(5), (7); FOF, sec. II(E)(1), (3), (F)(1), (H)(3).)

In terms of defenses, Respondent contends that it did not violate the Act when Marco Ortega canceled the sponsorship of technician Oakley's apprentice license because Marco Ortega was not a company supervisor or agent. (R. Posttrial Br. at 34.) As discussed above, however, I found that Marco Ortega is Respondent's agent within the meaning of Section 2(13) of the Act. I also found that regardless of Marco Ortega's status as an agent, Respondent acquiesced to Marco Ortega's actions by permitting the withdrawal of Oakley's apprentice sponsorship to stand. (See Discussion and Analysis, sec. (B)(5), supra.) Either way, Marco Ortega's actions concerning the sponsorship are chargeable to Respondent, and thus Respondent's defense fails.

Concerning the decision to implement a rotation schedule for helpers, Respondent asserts that the rotation schedule was consistent with past practices that Respondent has used to manage

the schedule during seasonal slowdowns. (R. Posttrial Br. at 32–33.) Respondent, however, did not establish that it had a past practice of using a rotation schedule that limited helpers (or any other employees) to only working 1 or 2 days each week. Instead, at most, Respondent had an ad hoc system of notifying selected employees to stay home if there was a particular day when the company did not have enough job assignments for all service employees. In short, Respondent did not show that it had a regular and consistent pattern of limiting employees to only 1 or 2 days of work per week during slower seasons. (See Discussion and Analysis, sec. (B)(7), supra.) Accordingly, I am not persuaded by Respondent's past practice defense.

Last, Respondent maintains that it permissibly awarded the $1 per hour raise to Suteu based on merit and the company's discretion to reward high-performing employees. (R. Posttrial Br. at 34–35.) That defense misses the mark because the past practice defense does not apply to decisions that involve the exercise of significant managerial discretion. The evidentiary record establishes that Respondent's decisions about raises (including the raise awarded to Suteu) were entirely up to owner Ortega's discretion based on his assessment of employees' performance. (FOF, sec. II(H)(1).) Since Suteu's raise was not an automatic increase, but rather was a discretionary decision, Respondent was obligated to notify and bargain with the Union over the proposed raise and its effects. See *Wendt Corp.*, 372 NLRB No. 135, slip op. at 3–4 (discussing *NLRB v. Katz*, 369 U.S. 736 (1982) and observing that the court in *Katz* rejected an employer's past practice defense where unilateral wage increases were not automatic increases but rather were informed by a large measure of discretion).

Since no defenses apply to Respondent's actions here, I find that Respondent violated Section 8(a)(5) and (1) of the Act by unilaterally changing employees' terms and conditions of employment (canceling Oakley's sponsorship; implementing the rotation schedule for helpers; and awarding a discretionary $1 per hour raise to Suteu) without first notifying the Union and affording an opportunity to bargain over the changes and their effects.

4. Analysis – elimination of certain job responsibilities for helpers, some apprentices, and technicians

On about February 3, Respondent stopped permitting technicians, first and second year apprentices, and helpers to perform plumbing tasks that required a license. The parties do not dispute that Illinois laws and regulations only allow licensed plumbers (and certain licensed apprentices) to perform plumbing work. Although Respondent made this change after the Union mentioned the licensing issue during the February 2, 2024 bargaining session, there is no evidence that Respondent bargained with the Union over the decision to change its practices or the effects of that decision. (FOF, sec. II(H)(3).)

In defense of its unilateral action, Respondent asserts that it did not have an obligation to bargain over actions that were necessary to comply with applicable law (here, Illinois law and regulations that only allow licensed plumbers to do plumbing work). (R. Posttrial Br. at 33–34.) Respondent is only partially correct with that argument. Since there is no dispute that Illinois laws and regulations require Respondent to have licensed plumbers perform plumbing work, Respondent was entitled to comply with the law by unilaterally deciding to stop having unlicensed helpers, technicians, and first/second year apprentices perform plumbing work. That said, Respondent still had an obligation to notify the Union and afford an opportunity to bargain

over the effects of that change. Indeed, effects bargaining could touch on any number of subjects that were within the company's discretion, including (for example): methods that the company might use to assign work that does not require a license; ensuring that employees have opportunities to work under the supervision of a licensed plumber; and providing more opportunities for employees to work towards becoming licensed plumbers. By failing to notify the Union and provide an opportunity for effects bargaining before implementing the decision to only have licensed plumbers perform plumbing work, Respondent ran afoul of Section 8(a)(5) and (1) of the Act. *Frontier Communications Corp.*, 370 NLRB No. 131, slip op. at 1 fn. 2, 10–12 (2021) (employer violated Section 8(a)(5) of the Act by failing and refusing to provide the union with notice and an opportunity to bargain over the effects of a decision to require bargaining unit members to provide new I–9 forms and supporting documentation that were required by law), enfd. 2022 WL 17484277 (4th Cir. 2022); see also *Tramont Mfg., LLC*, 369 NLRB No. 136, slip op. at 5 (2020) (observing that an employer is generally obligated to give a union notice and an opportunity to bargain about the effects of a managerial decision even if the employer has no obligation to bargain about the decision itself).

D. Did Respondent Violate Section 8(a)(5) of the Act by Failing and Refusing to Bargain in Good Faith with the Union during Bargaining for a Collective-Bargaining Agreement?

1. Complaint allegations

The General Counsel alleges that from about January 16 through October 18, 2024, Respondent failed and refused to bargain in good faith with the Union, as demonstrated by Respondent's overall conduct, which included engaging in bargaining with no intention of reaching agreement (surface bargaining), insisting on proposals that were predictably unacceptable to the Union, and engaging in regressive bargaining.

2. Applicable legal standard

The Supreme Court has held that the statutory duty to "meet . . . and confer in good faith" is not fulfilled by "purely formal meetings between management and labor, while each maintains an attitude of 'take it or leave it.'" Instead, "[c]ollective bargaining . . . presupposes a desire to reach an ultimate agreement, to enter into a collective-bargaining contract." *NLRB v. Insurance Agents' International Union*, 361 U.S. 477, 485 (1960); see also National Labor Relations Act, Sec. 8(d).

The touchstone of bad-faith bargaining is a purpose to frustrate the very possibility of reaching an agreement. *Phillips 66*, 369 NLRB No. 13, slip op. at 6 (2020). In assessing whether a party has failed or refused to bargain in good faith, the Board considers the totality of the circumstances, including conduct both at and away from the bargaining table. From the context of an employer's total conduct, it must be decided whether the employer is engaging in hard but lawful bargaining to achieve a contract that it considers desirable or is unlawfully endeavoring to frustrate the possibility of arriving at any agreement. Although the Board does not evaluate whether particular proposals are acceptable or unacceptable, it will examine proposals when appropriate and consider whether, on the basis of objective factors, bargaining demands constitute evidence of bad-faith bargaining. An inference of bad-faith bargaining is appropriate when the employer's proposals, taken as a whole, would leave the union and the

employees it represents with substantially fewer rights and less protection than provided by law without a contract. *District Hospital Partners, L.P., d/b/a George Washington University Hospital*, 373 NLRB No. 55, slip op. at 1–2 (2024) (relying on *Public Service Co. of Oklahoma (PSO)*, 334 NLRB 487, 487–488 (2001), enfd. 318 F.3d 1173 (10th Cir. 2003)), enfd. 2025 WL 1775587 (D.C. Cir. 2025); *Altura Communication Solutions, LLC*, 369 NLRB No. 85, slip op. at 3 (2020), enfd. 848 Fed. Appx. 344 (9th Cir. 2021); *Audio Visual Services Group, Inc. d/b/a PSAV Presentation Services*, 367 NLRB No. 103, slip op. at 5 (2019), affd. 957 F.3d 1006 (9th Cir. 2020).

3. Analysis

Having considered Respondent's overall conduct at and away from the bargaining table, I agree with the General Counsel that Respondent failed and refused to bargain in good faith with the Union during negotiations for an initial collective-bargaining agreement. Respondent made contract proposals that evidence an intent not to reach an agreement, insofar as on several key issues, Respondent's proposals eliminated the Union's role in negotiating terms and conditions of employment and left the union and bargaining unit employees with substantially fewer rights and less protection than they would have had without a contract. Specifically, although the parties engaged in fourteen bargaining sessions, Respondent's contract proposals included the following elements as of the fourteenth session:

Bargaining unit work:	Supervisory, managerial, and clerical employees may perform any bargaining unit work. Respondent retains sole discretion to use subcontractors to perform bargaining unit work (though subcontracting may not be used to diminish the bargaining unit)
Bonuses:	Respondent retains the discretion to give bonuses to employees at any time, for any amount, and for any reason
Health insurance:	Respondent retains the discretion to change the company's health insurance carrier and policy at any time
Paid Time Off:	After completing a 90–day period of employment, employees will accrue at least 2 hours of paid leave for every 40 hours worked. Respondent will not pay

	employees for any unused paid time off if the employee ends their employment
Retirement:	None
Strikes:	None permitted during the contract term
Union security:	Employees have no obligation to belong to the Union as a condition of employment
Wages:	No wage scales specified. Respondent has sole discretion to set the starting pay for new employees and to adjust wage ranges for job classifications. Respondent will conduct performance appraisals that may or may not result in wage raises. Raises shall at a minimum be $0.25 per hour. Grievances over performance appraisals are not subject to arbitration.

(FOF, sec. II(H) (noting that before the union organizing campaign, Respondent: gave new employees a lump sum of 40 hours of paid time off after the employees completed a 3–month probationary period; paid employees for unused paid time off at separation; provided a 401(k) or simple IRA retirement plan; and provided $1 per hour raises).)

The Board has explained that "proposals that would authorize an employer to make unilateral changes to a broad range of significant terms and conditions of employment, or that would amount to a 'perpetual reopener clause' as to those terms during the life of the contract, are [] 'at odds with the basic concept of a collective-bargaining agreement.'" *Altura Communication Solutions, LLC*, 369 NLRB No. 85, slip op. at 4 (quoting *Radisson Plaza Minneapolis*, 307 NLRB 94, 95 (1992), enfd. 987 F.2d 1376 (8th Cir. 1993)); see also *District Hospital Partners, L.P., d/b/a George Washington University Hospital*, 373 NLRB No. 55, slip op. at 4 (combined proposals that "grant the employer broad discretion to unilaterally act, without bargaining, on a wide range of employees' critical terms and conditions of employment, while simultaneously foreclosing virtually any avenue for the employees and their union to counteract the broad power the employer sought to arrogate to itself" demonstrate bad-faith bargaining). Respondent's contract proposals fit that description.

First, Respondent's proposals do not provide any protection to the bargaining unit and its work. Instead of bargaining unit employees having an established area of work that they can count on, Respondent proposed having the discretion to assign bargaining unit work to managers, supervisors, or other employees, as well as the discretion to have subcontractors perform bargaining unit work. The Union, meanwhile, would have little to no recourse if the company unilaterally encroached on the bargaining unit's work. See *District Hospital Partners, L.P., d/b/a George Washington University Hospital*, 373 NLRB No. 55, slip op. at 5 (finding that the employer engaged in bad-faith bargaining in part by proposing broad management rights language that permitted the employer "to effectively eliminate the bargaining unit entirely without meaningful challenge from the Union, based on its unconstrained right to determine the existence of bargaining unit work and the extent to which bargaining unit work could be

performed at all"); *Public Service Co. of Oklahoma (PSO)*, 334 NLRB at 488–489 (finding that the employer's proposed management rights clause, which afforded the employer discretion to subcontract or have non-bargaining unit employees perform bargaining work, supported a finding that the employer engaged in bad-faith bargaining).

Second, Respondent proposed having full discretion over employee wages and raises. Specifically, Respondent proposed having discretion over wage rate ranges and the starting pay for newly hired employees. In addition, Respondent sought to predicate raises on the outcome of employee appraisals that would be up to the company's discretion and not subject to arbitration. These aspects of Respondent's proposals concerning wages would remove the Union's ability to bargain over decisions that directly affected bargaining unit employees' compensation, and thus run afoul of long-standing Board precedent holding that "an employer seeking to deny a union any role in determining wages during the life of a collective-bargaining agreement evinces bad-faith bargaining." *District Hospital Partners, L.P., d/b/a George Washington University Hospital*, 373 NLRB No. 55, slip op. at 6; see also *Altura Communication Solutions, LLC*, 369 NLRB No. 85, slip op. at 4–5 (finding of bad-faith bargaining supported by wage proposals that would have granted the employer "complete discretion to raise individual employees' wages" above the minimum wage amounts specified in the contract, without bargaining or even notice to the union); *Kitsap Tenant Support Services, Inc.*, 366 NLRB No. 98, slip op. at 9 (2018) (contract proposals that seek to deny the union any role in establishing wage rates are evidence of bad-faith bargaining), enfd. 2019 WL 12276113 (D.C. Cir. 2019).

Third, Respondent sought the discretion to unilaterally alter, scale back, or terminate its bargaining unit employees' health insurance coverage. Under Respondent's proposals, the Union would have no ability to bargain about any changes that Respondent might make to health insurance benefits (no matter how significant the change), and bargaining unit employees would not be able to count on any health insurance benefits since Respondent would have the right to make changes at any time. Proposals of that nature are at odds with the basic concept of a collective-bargaining agreement. See *District Hospital Partners, L.P., d/b/a George Washington University Hospital*, 373 NLRB No. 55, slip op. at 3–4 (finding that an extremely broad management rights clause that allowed the employer to unilaterally change health insurance benefits at any time supported a finding of bad-faith bargaining); *Altura Communication Solutions, LLC*, 369 NLRB No. 85, slip op. at 5 (finding of bad-faith bargaining supported by proposals that would allow the employer to unilaterally alter or eliminate significant benefits, including health insurance, life insurance, and long and short-term disability benefits).

Considering the proposals that Respondent had on the table by the fourteenth (and last) bargaining session, I find that Respondent failed to bargain in good faith. An inference of bad faith is appropriate when the employer's proposals, taken a whole, would leave the union and the employees it represents with substantially fewer rights than provided by law without a contract. That is the situation here, as Respondent's proposals undermined the Union's jurisdiction over bargaining unit work and effectively removed the Union from representing bargaining unit members interests in several areas, including: starting wages for new employees; wage rate ranges; raises; bonuses; performance appraisals; retirement benefits; and health insurance.[51]

[51] I also note that Respondent did not offer any meaningful economic concessions or benefits to the bargaining unit in exchange for the broad discretion that it proposed in the areas discussed above. See

District Hospital Partners, L.P., d/b/a George Washington University Hospital, 373 NLRB No. 55, slip op. at 3–5 (finding bad-faith bargaining where the employer's proposals, among other things, gave the employer discretion to change health insurance and employee benefits at any time, impose discipline on employees without cause, and reassign bargaining unit work to contractors and supervisors); *Kitsap Tenant Support Services, Inc.*, 366 NLRB No. 98, slip op. at 8–9 (same, where the employer's proposals sought to deny the union any role in determining wages and benefits during the contract term, and also sought to afford the employer unfettered discretion regarding discipline and discharge); *Public Service Co. of Oklahoma (PSO)*, 334 NLRB at 487–489 (noting that without a contract, the union would have the statutory right to prior notice and bargaining over changes or modifications in terms and conditions of employment, and would retain the right to strike in protest of such actions).

My finding that Respondent engaged in bad-faith bargaining is further supported by the fact that Respondent engaged in regressive bargaining and also engaged in misconduct away from the bargaining table. Respondent made a regressive proposal in July 2024, when, without credible explanation, it modified its paid time off proposal to specify that the company would not pay employees for any unused paid time off when employees ended their employment. While I recognize that Respondent modified its paid time off proposal to comply with Illinois law, there is no evidence that Illinois law precluded Respondent from offering, as it did initially, to pay departing employees for their unused paid time off. Similarly, Respondent made a regressive proposal concerning employee performance appraisals, initially stating that appraisals would not be subject to arbitration, then agreeing that appraisals could be submitted to arbitration, and then, without credible explanation, reverting to its initial position that appraisals would not be subject to arbitration. (See FOF, sec. II(H)(2), (5)–(7).) As for misconduct away from the bargaining table, while bargaining was in progress, Respondent unlawfully: failed and refused to notify the Union and afford an opportunity to bargain over the effects of Respondent's decision to change the job duties of unlicensed employees; and granted a discretionary $1 per hour wage increase to helper/technician Suteu without first notifying the Union and affording an opportunity to bargain over the decision and its effects. (See Discussion and Analysis, sec. (C)(4); see also id, sec. (B)(10) (showing that the unilateral change to unlicensed employees' job duties contributed to Respondent unlawfully constructively discharging technician Oakley).) By making regressive proposals and by making unlawful unilateral changes even though collective bargaining was in progress, Respondent further signaled that it did not intend to reach an agreement on a collective-bargaining agreement or honor the Union's role as the bargaining unit's exclusive collective-bargaining representative. See *District Hospital Partners, L.P., d/b/a George Washington University Hospital*, 373 NLRB No. 55, slip op. at 8 (explaining that a regressive proposal is evidence of bad-faith bargaining when it is made without explanation or when the stated reason for the step backward appears dubious, and finding that the employer's regressive bargaining over whether discharges would be subject to binding arbitration was evidence of bad-faith bargaining); *Public Service Co. of Oklahoma (PSO)*, 334 NLRB at 489–490 (employer's conduct

Sweeney & Co., 176 NLRB 208, 211–212 (1969) (finding that the employer's rigid refusal to make any meaningful concessions on critical economic issues supported a finding that the employer bargained in bad faith), enfd. in pertinent part, 437 F.2d 1127 (5th Cir. 1971).

away from the bargaining table confirmed that the employer was not seeking to negotiate an agreement).

As a final thought, I note that I am not persuaded by Respondent's arguments in its defense. Respondent's position is that it willingly participated in bargaining sessions, never declared impasse, and signed seventeen tentative agreements with the Union. (See R. Posttrial Br. at 36–38.) That defense falls short. Most of the tentative agreements that the parties reached related to collateral, noneconomic issues, while (as described above) Respondent continued to maintain a collection of proposals on critical issues that limited or eliminated the Union's role in negotiating employees' terms and conditions of employment. That approach to bargaining, along with Respondent's regressive proposals and misconduct away from the bargaining table, establishes that Respondent was seeking to frustrate the collective-bargaining process.[52]

In sum, I find that from about January 16 through October 18, 2024, Respondent violated Section 8(a)(5) and (1) of the Act by, through its overall conduct during negotiations for a collective-bargaining agreement, failing and refusing to bargain in good faith with the Union as the exclusive collective-bargaining representative of the bargaining unit.

CONCLUSIONS OF LAW

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

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. Since about October 24, 2023, the Union has been the exclusive collective-bargaining representative of employees in the following appropriate bargaining unit:

> All full-time and regular part-time service and underground plumbers, technicians, helpers, and excavators employed by Respondent at its facility currently located at 1848 Techny Rd., Northbrook, IL 60062; but excluding all other employees, professional employees, managerial employees, clerical employees, confidential employees, guards, and supervisors as defined by the Act.

4. By, in about late September 2023, threatening to fire employees because they tried to form a union, Respondent violated Section 8(a)(1) of the Act.

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[52] Although the General Counsel alleged in the complaint that Respondent demonstrated that it was bargaining in bad faith by presenting contract proposals that were "predictably unacceptable" to the Union, the General Counsel did not argue that legal theory in its brief. I therefore decline to address that theory beyond noting that the Board has emphasized that it does not evaluate whether particular proposals are acceptable or unacceptable. See, e.g., *District Hospital Partners, L.P., d/b/a George Washington University Hospital*, 373 NLRB No. 55, slip op. at 1 (quoting *Public Service Co. of Oklahoma (PSO)*, 334 NLRB at 487–488); *Altura Communication Solutions, LLC*, 369 NLRB No. 85, slip op. at 3. It is appropriate, however, for me to consider whether Respondents proposals, taken as a whole, support an inference of bad-faith bargaining because the proposals would leave the union and the employees it represents with substantially fewer rights and less protection than provided by law without a contract. See id.

5. By, starting in about early October 2023, enforcing its disciplinary rules for attendance, lost and/or damaged work property, and job site performance more strictly for helper Julian Robledo because he engaged in union and protected concerted activities, Respondent violated Section 8(a)(3) and (1) of the Act.

6. By, on about October 18, 2023, interrogating employees about their union and protected concerted activities, Respondent violated Section 8(a)(1) of the Act.

7. By, on about October 18, 2023, threatening that employees would lose existing benefits if they unionized, Respondent violated Section 8(a)(1) of the Act.

8. By, on about October 24, 2023, threatening employees with unspecified reprisals if they engaged in union and protected concerted activities, Respondent violated Section 8(a)(1) of the Act.

9. By, on about October 24, 2023, terminating technician Antonio Oakley's apprentice sponsorship in retaliation for Oakley engaging in union and protected concerted activities, Respondent violated Section 8(a)(3) and (1) of the Act.

10. By, on about October 24, 2023, terminating technician Antonio Oakley's apprentice sponsorship without first notifying the Union and affording an opportunity to bargain over the decision and its effects, Respondent violated Section 8(a)(5) and (1) of the Act.

11. By, on about October 24, 2023, sending bargaining unit employees home because they engaged in union and protected concerted activities, Respondent violated Section 8(a)(3) and (1) of the Act.

12. By, in about early November 2023, implementing a rotation system for scheduling helpers (and, as a result, reducing their work hours) because they and other employees engaged in union and protected concerted activities, Respondent violated Section 8(a)(3) and (1) of the Act.

13. By, in about early November 2023, implementing a rotation system for scheduling helpers without first notifying the Union and affording an opportunity to bargain over the decision and its effects, Respondent violated Section 8(a)(5) and (1) of the Act.

14. By, on about November 14, 2023, threatening to demote or terminate employees and inviting employees to quit because of their support for the Union, Respondent violated Section 8(a)(1) of the Act.

15. By, in about December 2023, constructively discharging helpers Angel Alvarez and Julian Robledo by adopting an unlawful rotation system that reduced their work hours, Respondent violated Section 8(a)(3) and (1) of the Act.

16. By, from about January 16 through October 18, 2024, and through its overall conduct during negotiations for a collective-bargaining agreement, failing and refusing to bargain

in good faith with the Union as the exclusive collective-bargaining representative of the bargaining unit, Respondent violated Section 8(a)(5) and (1) of the Act.

17. By, on about February 3, 2024, eliminating some of technician Oakley's job responsibilities because he and other employees engaged in union and protected concerted activities, Respondent violated Section 8(a)(3) and (1) of the Act.

18. By, on about February 3, 2024, unilaterally eliminating some of unlicensed helpers', technicians', and apprentices' job responsibilities without first notifying the Union and affording an opportunity to bargain over the effects of that decision, Respondent violated Section 8(a)(5) and (1) of the Act.

19. By, on about February 8, 2024, unilaterally giving a $1 per hour raise to helper/technician Rafael Suteu without first notifying the Union and affording an opportunity to bargain over that decision and its effects, Respondent violated Section 8(a)(5) and (1) of the Act.

20. By, in about March 2024, constructively discharging technician Antonio Oakley by eliminating some of his job responsibilities and thereby reducing his work hours, Respondent violated Section 8(a)(3) and (1) of the Act.

21. The unfair labor practices stated in Conclusions of Law 4–20, above, affect commerce within the meaning of Section 2(6) and (7) of the Act

REMEDY

A. Standard Remedies

Having found that 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.

Regarding Respondent's violation of Section 8(a)(3) and (1) of the Act through its terminations of Angel Alvarez, Antonio Oakley, and Julian Robledo, I shall require Respondent to offer to reinstate them to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority and other rights and privileges they would have enjoyed absent the discrimination against them. Respondent must also make Alvarez, Oakley, and Robledo whole for any loss of earnings and other benefits. Backpay shall be computed in accordance with *F. W. Woolworth Co.,* 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center,* 356 NLRB 6 (2010). Consistent with *Thryv, Inc.*, 372 NLRB No. 22, slip op. at 14 (2022), enf. denied in part on other grounds 102 F.4th 727 (5th Cir. 2024), Respondent shall also compensate Alvarez, Oakley, and Robledo for any other direct or foreseeable pecuniary harms incurred as a result of the unlawful terminations, including reasonable search-for-work and interim employment expenses, if any, regardless of whether these expenses exceed interim earnings. Compensation for those harms shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

I next turn to remedies for Respondent's violation of Section 8(a)(3) and (1) of the Act by: enforcing its disciplinary rules for attendance, lost and/or damaged work property, and job site performance more strictly against Julian Robledo in about early October 2023; ending the sponsorship of Antonio Oakley's apprentice license on about October 24, 2023; sending employees home on about October 24, 2023; implementing a rotation system for scheduling for helpers in early November 2023; and eliminating some of Oakley's job responsibilities starting on February 3, 2024. I shall require Respondent to make all affected bargaining unit employees whole for any loss of earnings and other benefits associated with these adverse employment actions. Backpay shall be computed in accordance with *Ogle Protection Service*, 183 NLRB 682 (1970), enfd. 444 F.2d 502 (6th Cir. 1971), with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center,* supra. Consistent with *Thryv, Inc.*, supra, Respondent shall also compensate affected bargaining unit employees for any other direct or foreseeable pecuniary harms incurred as a result of these unlawful adverse employment actions, including reasonable search-for-work and interim employment expenses, if any, regardless of whether these expenses exceed interim earnings. Compensation for those harms shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Respondent shall also be required to remove from its files any references to the unlawful adverse employment actions listed in the preceding two paragraphs, and to notify the affected bargaining unit employees in writing that this has been done and that the unlawful adverse employment actions will not be used against them in any way.

Having found that Respondent violated Section 8(a)(5) and (1) of the Act by unilaterally ending the sponsorship of technician Antonio Oakley as an apprentice, implementing a rotation system for scheduling helpers, and awarding a $1 per hour raise to helper/technician Rafael Suteu, upon request of the Union, Respondent shall rescind those changes to the extent that it has not already done so, and bargain with the Union about those changes. Respondent shall also make employees whole for any loss of earnings and other benefits that resulted from these changes. Backpay shall be computed in accordance with *Ogle Protection Service*, supra, with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra. Consistent with *Thryv, Inc.*, supra, Respondent shall also compensate employees for any other direct or foreseeable pecuniary harms incurred as a result of the unlawful unilateral changes. Compensation for those harms shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Having found that Respondent failed and refused to engage in effects bargaining in connection with its decision to eliminate some of unlicensed helpers', technicians', and apprentices' job responsibilities starting on about February 3, 2024, I shall require Respondent, upon the Union's request, to bargain with the Union over the effects of that decision. Respondent shall also make employees whole for any loss of earnings and other benefits that resulted from its failure to engage in effects bargaining. Backpay shall be computed in accordance with *Ogle Protection Service*, supra, with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Consistent with *Thryv, Inc.*, supra, Respondent shall also compensate employees for any other direct or foreseeable pecuniary harms incurred as a result of its failure to engage in effects bargaining. Compensation for those harms shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Finally, I shall require Respondent to compensate Alvarez, Oakley, Robledo, and all other affected bargaining unit employees receiving backpay awards for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 13, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years, in accordance with *AdvoServ of New Jersey, Inc.*, 363 NLRB 1324 (2016). In accordance with *Cascades Containerboard Packaging–Niagara*, 370 NLRB No. 76 (2021), as modified in 371 NLRB No. 25 (2021), Respondent shall also be required to file with the Regional Director for Region 13 a copy of each backpay recipient's corresponding W–2 form reflecting the backpay award.

B. Additional Remedies

1. Extension of certification year

The General Counsel requests that I order an extension of the certification year from the time that Respondent begins to bargain with the Union in good faith. (GC Posttrial Br. at 50.) "An extension of the certification year is warranted where an employer has refused to bargain with the elected bargaining representative during part or all of the year immediately following the certification and as a result has taken from the union the opportunity to bargain during the period when unions are generally at their greatest strength." *Quickway Transportation, Inc.*, 372 NLRB No. 127, slip op. at 29 (2023) (internal quotation marks omitted), enfd. 117 F.4th 789 (6th Cir. 2024), cert. denied 145 S.Ct. 1427 (2025); see also *Mar-Jac Poultry Co.*, 136 NLRB 785, 786–787 (1962).

Having found that Respondent, through its overall conduct, failed and refused to bargain in good faith with the Union for an initial collective-bargaining agreement, I find that a 12–month extension of the certification year is appropriate and necessary to ensure that the Union receives a 1–year period of good-faith bargaining, as is the Union's right. The parties here engaged in bargaining for a period of 9 months (fourteen sessions) but did not make meaningful progress towards a collective-bargaining agreement because of the impediments created by Respondent's approach to bargaining and conduct away from the bargaining table. Under those circumstances, it is appropriate to extend the certification year to give the Union the full benefit of a 1–year period for good-faith bargaining to occur.

"The U.S. Court of Appeals for the District of Columbia has recognized that an extension of the certification year is a 'standard remedy when an employer's refusal to bargain has consumed all or a substantial part of the original post-election certification year.'" *Quickway Transportation, Inc.*, 372 NLRB No. 127, slip op. at 29 (citing *Veritas Health Services v. NLRB*, 895 F.3d 69, 80 (D.C. Cir. 2018)). "However, another line of D.C. Circuit cases requires the Board to justify, on the facts of each case, the imposition of an affirmative bargaining order,

which the D.C. Circuit views as an extraordinary remedy and has defined as an order to bargain for a reasonable period of time that is accompanied by a decertification bar." *Quickway Transportation, Inc.*, 372 NLRB No. 127, slip op. at 30 (citing, e.g., *Vincent Industrial Plastics, Inc.*, 209 F.3d 727, 738–739 (D.C. Cir. 2000)). In *Vincent*, supra at 738, the court stated that an affirmative bargaining order must be justified by a reasoned analysis that includes an explicit balancing of three considerations: (1) the employees' Section 7 rights; (2) whether other purposes of the Act override the rights of employees to choose their bargaining representative; and (3) whether alternative remedies are adequate to remedy the violations of the Act. Although the Board has indicated that it disagrees with the requirements that the court identified in *Vincent*, the Board has followed a practice of examining whether an affirmative bargaining order (or an extension of the certification year) is justified according to the standard set forth in *Vincent.* See, e.g., *Quickway Transportation, Inc.*, 372 NLRB No. 127, slip op. at 30–31; *Wyman Gordon Pennsylvania, LLC*, 368 NLRB No. 150, slip op. at 10–11 (2019), enfd. 836 Fed. Appx. 1 (D.C. Cir. 2020).

Following the Board's approach, I have analyzed the facts of this case under the three-factor balancing test outlined by the U.S. Court of Appeals for the District of Columbia Circuit.

(1) A 12–month extension of the certification year and its accompanying 12–month decertification bar in this case will vindicate the Section 7 rights of the unit employees who were denied the benefits of collective bargaining through their designated representative by Respondent's failure and refusal to bargain in good faith with the Union for an initial collective-bargaining agreement. Through its unlawful conduct at and away from the bargaining table, Respondent denied the Union the opportunity to bargain on behalf of the unit employees for virtually the entire period during which unions are generally at their greatest strength and prevented the parties from making meaningful progress toward reaching a collective-bargaining agreement. In addition, given the time spent litigating Respondent's unfair labor practices (nearly 1 year as of the date of this decision), it is not realistic to expect that the parties can simply pick up where they left off in October 2024. Instead, the Union requires time to reconnect with bargaining unit employees as their representative, and the Union is entitled to do so without the threat of decertification and with the assurance that it will be afforded the benefits of 12 months of bargaining. While an extension of the certification year comes with an attendant bar to raising a question concerning the Union's majority status, that bar does not unduly prejudice the Section 7 rights of employees who may oppose representation by the Union because the duration of the order is no longer than is reasonably necessary to remedy the ill effects of the violation. Since Respondent's unlawful bargaining practices prevented an agreement in 2024, it is only by restoring the status quo ante and requiring Respondent to bargain with the Union for a fresh 12–month period that the employees will be able to fairly assess the Union's effectiveness as a bargaining representative free of Respondent's unlawful conduct. The employees can then determine whether continued representation by the Union is in their best interest.

(2) A 12–month extension of the certification year also serves the policies of the Act by fostering meaningful collective bargaining and industrial peace. It removes Respondent's incentive to delay bargaining in the hope of discouraging support for the Union and ensures that the Union will not be pressured (e.g., by a decertification petition or

withdrawal of recognition) to achieve immediate results at the bargaining table following the Board's resolution of its unfair labor practice charges and the issuance of a cease-and-desist order.

(3) A cease-and-desist order alone would be inadequate to remedy Respondent's failure and refusal to bargain with the Union in good faith because it would permit a challenge to the Union's majority status before the taint of Respondent's misconduct has dissipated. Allowing a challenge to the Union's majority status without an extension of the certification year would be unjust in circumstances such as those here, where given the passage of time the Union needs an opportunity to reestablish its role as the exclusive collective-bargaining representative of unit employees without, for example, the employee disaffection that may have resulted from the lengthy amount of time that bargaining unit employees have not had an initial contract. Permitting a decertification petition to be filed immediately might very well allow Respondent to profit from its own unlawful conduct. I find that those concerns outweigh the temporary impact that a 12–month extension of the certification year will have on the rights of employees who oppose union representation.

For all of the foregoing reasons, I find that a 12–month extension of the certification year with its accompanying (temporary) decertification bar is necessary to fully remedy the violations in this case, and I shall include such an extension as a remedy here.

2. Notice reading and distribution

The General Counsel has requested, as a special remedy, that I require Respondent to have an appropriate supervisory representative read the notice aloud to employees at a meeting or meetings in the presence of a Board agent.

The Board has found a notice-reading remedy appropriate where the employer's violations are sufficiently numerous and serious that a reading of the notice is warranted to dissipate the chilling effect of the violations on employees' willingness to exercise their Section 7 rights. *Amerinox Processing, Inc.*, 371 NLRB No. 105, slip op. at 2 (2022), enfd. 2023 WL 2818503 (D.C. Cir. 2023); *Gavilon Grain, LLC*, 371 NLRB No. 79, slip op. at 1 (2022).

I agree that a notice reading is warranted to reassure employees that their rights under the Act will not be violated. In particular, I find that a notice reading is appropriate because Respondent's highest management official, owner Alex Ortega, participated in violating the Act, and the assorted unfair labor practices effectively warned employees that they risked reprisal or termination if they engaged in union and/or protected concerted activities. A public reading of the remedial notice is necessary in these circumstances "to allow the employees to fully perceive that the Respondent and its managers are bound by the requirements of the Act" and to ensure that if employees contemplate engaging in union and/or protected concerted activities in the future, they will be able to exercise a free choice. Respondent's owner Ortega shall read the notice or, at Respondent's option, be present for its reading by an agent of the Board. *Hiran Mgmt, Inc.*, 373 NLRB No. 130, slip op. at 1–2 (2024); *Gavilon Grain, LLC*, 371 NLRB No. 79, slip op. at 1–2.

I decline the General Counsel's request that I require Respondent to make and distribute a video recording of the notice reading to bargaining unit employees. I find that the notice reading and the standard notice distribution requirements will suffice to ensure that bargaining unit employees are informed about (among other things) the unfair labor practices that Respondent committed and applicable remedies.

ORDER

Respondent, Reliance Plumbing, Sewer, and Drainage, Inc., Northbrook, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening to fire employees because they tried to form a union.

(b) Interrogating employees about their union and protected concerted activities.

(c) Threatening that employees would lose existing benefits if they unionized.

(d) Threatening employees with unspecified reprisals if they engage in union and protected concerted activities.

(e) Threatening to demote or terminate employees and inviting them to quit because they support the Union.

(f) Enforcing its disciplinary rules for attendance, lost and/or damaged property, and job site performance more strictly against employees because they engage in union and protected concerted activities.

(g) Terminating employees' apprentice sponsorship in retaliation for employees engaging in union and protected concerted activities.

(h) Sending employees home because they engage in union and protected concerted activities.

(i) Implementing a rotation system for scheduling employees (and, as a result, reducing their work hours) because they and other employees engage in union and protected concerted activities.

(j) Discharging employees because they engage in union and protected concerted activities.

(k) Eliminating some of employees' job responsibilities because they and other employees engage in union and protected concerted activities.

(l) Unilaterally changing employees' terms and conditions of employment without first notifying the Union and affording an opportunity to bargain over the decision and its effects.

(m) Failing and refusing to bargain in good faith with the Union as the exclusive collective-bargaining representative of the bargaining unit.

(n) 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 the policies of the Act.

(a) Make Angel Alvarez, Antonio Oakley, Julian Robledo, and all other affected bargaining unit employees whole for any loss of earnings and other benefits and for any other direct or foreseeable pecuniary harms suffered as a result of Respondent's unlawful and discriminatory decisions to more strictly enforce disciplinary work rules against them, end their apprentice sponsorship, send them home, reduce their work hours (through a rotation system for scheduling and/or by eliminating some of their job responsibilities), or constructively discharge them, in the manner set forth in the remedy section of this decision.

(b) Within 14 days of the Board's order, offer Angel Alvarez, Antonio Oakley, and Julian Robledo full reinstatement to their former jobs or, if those no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights or privileges previously enjoyed.

(c) Within 14 days of the Board's Order, remove from its files any references to the unlawful and discriminatory adverse employment actions against Angel Alvarez, Antonio Oakley, Julian Robledo, and all other affected bargaining unit members and, within 3 days thereafter, notify them in writing that this has been done and that the unlawful adverse employment actions will not be used against them in any way.

(d) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

> All full-time and regular part-time service and underground plumbers, technicians, helpers, and excavators employed by Respondent at its facility currently located at 1848 Techny Rd., Northbrook, IL 60062; but excluding all other employees, professional employees, managerial employees, clerical employees, confidential employees, guards, and supervisors as defined by the Act.

The certification year is extended for an additional 12 months from the date that Respondent begins to bargain in good faith.

(e) Before implementing any changes in the terms and conditions of employment for bargaining unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the bargaining unit.

(f) On request by the Union, rescind the following unilateral changes to employees' terms and conditions of employment: termination of the sponsorship of technician Antonio Oakley's apprenticeship; the rotation system for scheduling helpers; and/or the $1 per hour raise given to helper/technician Rafael Suteu.

(g) On request by the Union, bargain with the Union over the effects of Respondent's February 3, 2024 decision to eliminate some of unlicensed helpers', technicians', and apprentices' job responsibilities.

(h) Make employees affected by the unlawful unilateral changes and failure to engage in decisional and/or effects bargaining whole for any loss of earnings and other benefits, and for any other direct or foreseeable harms, suffered as a result of Respondent's unlawful unilateral changes and failure to engage in decisional and/or effects bargaining, in the manner set forth in the remedy section of this decision.

(i) Compensate Angel Alvarez, Antonio Oakley, Julian Robledo, and all other affected bargaining unit employees for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 13, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years.

(j) File with the Regional Director for Region 13, within 21 days of the date the amount of backpay is fixed by agreement or Board order or such additional time as the Regional Director may allow for good cause shown, a copy of the W–2 forms reflecting the backpay awards for employees Angel Alvarez, Antonio Oakley, Julian Robledo, and all other affected bargaining unit employees.

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

(l) Within 14 days after service by the Region, post at its facility copies of the attached notice marked "Appendix."[53] Copies of the notice, on forms provided by the Regional Director

[53] If the facility 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 the facility 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 facility reopens and a substantial complement of employees has returned to work. If, while closed or not staffed by a substantial complement of employees due to the pandemic, Respondent is communicating with its 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

for Region 13, after being signed by Respondent's authorized representative, shall be posted by Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If Respondent has gone out of business or closed the facility involved in these proceedings, Respondent shall duplicate and mail, at its own expense, a copy of the notice to the last known home addresses of all current employees and former employees employed by Respondent at the facility at any time since September 30, 2024.

(m) Hold a meeting or meetings during work hours at its facility, scheduled to ensure the widest possible attendance of employees, at which the attached notice marked "Appendix" will be read to employees by owner Alex Ortega in the presence of a Board agent or, at Respondent's option, by a Board agent in the presence of owner Ortega.

(n) Within 21 days after service by the Region, file with the Regional Director for Region 13 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.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C., July 21, 2025.

Geoffrey Carter
Administrative Law Judge

Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

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

FEDERAL LAW GIVES YOU THE RIGHT TO

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

WE WILL NOT threaten to fire employees because they try to form a union.

WE WILL NOT interrogate employees about their union and protected concerted activities.

WE WILL NOT threaten that employees will lose existing benefits if they unionize.

WE WILL NOT threaten employees with unspecified reprisals if they engage in union and protected concerted activities.

WE WILL NOT threaten to demote or terminate employees and invite them to quit because they support the Plumbers Local 130, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO (Union).

WE WILL NOT enforce our disciplinary rules for attendance, lost and/or damaged property, or job site performance more strictly against employees because they engage in union and protected concerted activities.

WE WILL NOT terminate employees' apprentice sponsorship in retaliation for employees engaging in union and protected concerted activities.

WE WILL NOT send employees home because they engage in union and protected concerted activities.

WE WILL NOT implement a rotation system for scheduling employees (and, as a result, reduce their work hours) because they and other employees engage in union and protected concerted activities.

WE WILL NOT discharge employees because they engage in union and protected concerted activities.

WE WILL NOT eliminate some of employees' job responsibilities because they and other employees engage in union and protected concerted activities.

WE WILL NOT unilaterally change employees' terms and conditions of employment without first notifying the Union and affording an opportunity to bargain over the decision and its effects.

WE WILL NOT fail and refuse to bargain in good faith with the Union as the exclusive collective-bargaining representative of the bargaining unit.

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

WE WILL make Angel Alvarez, Antonio Oakley, Julian Robledo, and all other affected bargaining unit employees whole for any loss of earnings and other benefits and for any other direct or foreseeable pecuniary harms suffered as a result of our unlawful and discriminatory decisions to more strictly enforce disciplinary work rules against them, end their apprentice sponsorship, send them home, reduce their work hours (through a rotation system for scheduling and/or by eliminating some of their job responsibilities), or discharge them.

WE WILL, within 14 days of the Board's order, offer Angel Alvarez, Antonio Oakley, and Julian Robledo full reinstatement to their former jobs or, if those no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights or privileges previously enjoyed.

WE WILL, within 14 days of the Board's Order, remove from our files any references to the unlawful and discriminatory adverse employment actions against Angel Alvarez, Antonio Oakley, Julian Robledo, and all other affected bargaining unit members and, within 3 days thereafter, notify them in writing that this has been done and that the unlawful adverse employment actions will not be used against them in any way.

WE WILL, on request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

> All full-time and regular part-time service and underground plumbers, technicians, helpers, and excavators that we employ at our facility currently located at 1848 Techny Rd., Northbrook, IL 60062; but excluding all other employees, professional employees, managerial employees, clerical employees, confidential employees, guards, and supervisors as defined by the Act.

The certification year will be extended for an additional 12 months from the date that we begin to bargain in good faith.

WE WILL, before implementing any changes in the terms and conditions of employment for bargaining unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the bargaining unit.

WE WILL, on request by the Union, rescind the following unilateral changes to employees' terms and conditions of employment: termination of the sponsorship of technician Antonio Oakley's apprenticeship; the rotation system for scheduling helpers; and/or the $1 per hour raise given to helper/technician Rafael Suteu.

WE WILL, on request by the Union, bargain with the Union over the effects of Respondent's February 3, 2024 decision to eliminate some of unlicensed helpers', technicians', and apprentices' job responsibilities.

WE WILL make employees affected by the unlawful unilateral changes and failure to engage in decisional and/or effects bargaining whole for any loss of earnings and other benefits, and for any other direct or foreseeable harms, suffered as a result of our unlawful unilateral changes and failure to engage in decisional and/or effects bargaining.

WE WILL compensate Angel Alvarez, Antonio Oakley, Julian Robledo, and all other affected bargaining unit employees for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 13, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years.

WE WILL file with the Regional Director for Region 13, within 21 days of the date the amount of backpay is fixed by agreement or Board order or such additional time as the Regional Director may allow for good cause shown, a copy of the W–2 forms reflecting the backpay awards for employees Angel Alvarez, Antonio Oakley, Julian Robledo, and all other affected bargaining unit employees.

WE WILL hold a meeting or meetings during work hours at our facility, scheduled to ensure the widest possible attendance of employees, at which this notice will be read to employees by owner Alex Ortega in the presence of a Board agent or, at our option, by a Board agent in the presence of owner Ortega.

RELIANCE PLUMBING, SEWER AND DRAINAGE, INC.

(Employer)

Dated _____ By _____

(Representative) (Title)

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

Dirksen Federal Building, 219 South Dearborn Street, Room 808, Chicago, IL 60604-1443

(312) 353-9158, Hours: 8:30 a.m. to 5 p.m.

The Administrative Law Judge's decision can be found at https://www.nlrb.gov/case/ 13-CA-328849 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 (312) 353-7170.