Starbucks Corporation *and* Workers United Labor Union International, affiliated with Service Employees International Union. Case 19–CA–299573

June 5, 2026

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY AND MAYER

On January 31, 2024, Administrative Law Judge Brian D. Gee issued the attached decision. The Respondent filed exceptions and a supporting brief, the General Counsel and Charging Party filed answering briefs, and the Respondent filed reply briefs.

The National Labor Relations Board[1] has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings,[2] findings, and conclusions[3] and to adopt the recommended Order as modified and set forth in full below.[4]

ORDER

The National Labor Relations Board orders that the Respondent, Starbucks Corp., Seattle, Washington, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Coercively interrogating employees about their protected concerted activities.

(b) 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.

[1] The Respondent asserts that Member Prouty should recuse himself, claiming that his "past, present, and perceived relationships with the Charging Party" creates a conflict of interest. Member Prouty has determined, in consultation with the NLRB Designated Agency Ethics Official, that there is no basis to recuse himself from the adjudication of this case.

[2] The Respondent, for the first time on exceptions, argues that the National Labor Relations Act's statutory removal restrictions for Board members and administrative law judges are unconstitutional. The Board has previously found that a respondent waives such arguments when, as here, it fails to raise them before filing its post-hearing brief with the judge. See *Pain Relief Centers, P.A.*, 371 NLRB No. 143, slip op. at 1 fn. 1 (2022). We therefore reject the Respondent's constitutional arguments as untimely. We also reject the Respondent's argument that the judge erred by granting the General Counsel's two motions to amend the complaint at the hearing. The Board has held that "[a] judge has wide discretion to grant or deny motions to amend complaints under Sec[.] 102.17 of the Board's Rules and Regulations." *Rogan Bros. Sanitation, Inc.*, 362 NLRB 547, 549 fn. 8 (2015) (quoting *Bruce Packing Co.,* 357 NLRB 1084, 1085 (2011)), enfd. 651 Fed. Appx. 34 (2d Cir. 2016). Based on the reasons stated by the judge, we find that he did not abuse his discretion in granting the General Counsel's motions.

[3] The judge found that the Respondent interrogated employees regarding their intention to strike in violation of Sec. 8(a)(1) under the tests set forth in both *Preterm, Inc.,* 240 NLRB 654, 656 (1979), and *Rossmore House*, 269 NLRB 1176, 1178 fn. 20 (1984), affd. sub nom *Hotel & Restaurant Employees Local 11 v. NLRB*, 760 F.2d 1006 (9th Cir. 1985). We agree that, under either test, the Respondent unlawfully interrogated employees at the 5th & Pike store on April 15 and June 24, 2022; at the Westlake store on June 25, 2022, by phone call from District Manager Thai Le Douglass and by text message from Assistant Store Manager Brendan Branson; and at the 505 Union Station store on July 14, 2022. We find it unnecessary to pass on the judge's finding that the Respondent also unlawfully interrogated employees at the 5th & Pike store on July 15, 2022, by text message, because such a finding would not affect the remedy. Additionally, in the absence of exceptions, we adopt the judge's dismissal of the allegation that Assistant Store Manager Branson unlawfully interrogated employees at the Westlake store by phone on June 25, 2022.

In adopting the judge's conclusion under *Preterm, Inc.* and its progeny, we reject the Respondent's argument that the procedural safeguards set forth there constitute an impermissible *per se* rule. In advancing its position, the Respondent relies chiefly on the arguments of the dissenters in *Sunbelt Rentals, Inc.,* 372 NLRB No. 24 (2022). The Board majority in that case, of course, rejected those arguments. We find the majority's rationale controlling here. Chairman Murphy and Member Mayer did not participate in *Sunbelt Rentals* and express no opinion as to whether it was correctly decided; they apply it here for institutional reasons.

In adopting the judge's conclusion that the Respondent's conduct was also unlawful under *Rossmore House*, and his related analysis of the background between the Respondent and the Union, we do not rely on the judge's finding that the interrogations occurred in the context of "perceived" unfair labor practices. Rather, we rely on cases where the Board has found that the Respondent committed unfair labor practices prior to the events at issue here. See, e.g., *Starbucks Corp.*, 372 NLRB No. 122, slip op. at 2–5 (2023) (relying on the Respondent's actual unlawful discharge of an employee), enfd. in pert. part 159 F.4th 455 (6th Cir. 2025); see also *Starbucks Corp.*, 372 NLRB No. 93, slip op. at 1 fn. 4 (2023) (finding that Respondent threatened employees with discipline if they testified pursuant to a Board subpoena without having secured coverage for their shifts and prohibited distribution of union materials in January 2022), enfd. 2024 WL 1319142 (D.C. Cir. 2024); *Starbucks Corp. d/b/a Starbucks Coffee Co.*, 372 NLRB No. 50, slip op. at 1–2 (2023) (finding that Respondent committed several unfair labor practices including threatening, interrogating, and surveilling employees for engaging in protected concerted activities in late 2019 and early 2020), enfd. in pert. part 125 F.4th 78 (3rd Cir. 2024).

Member Mayer agrees with his colleagues that the June 25, 2022 interrogation of Westlake store employee Zhara was unlawful and finds it unnecessary to pass on the remaining allegations.

Member Prouty would also adopt the judge's finding that the Respondent unlawfully interrogated employees at the 5th & Pike store on July 15, 2022.

[4] We shall modify the judge's recommended Order to conform to the Board's standard remedial language. We shall substitute a new notice to conform to the Order as modified.

We reject the Respondent's argument that the judge erred in issuing a broad Order because, in fact, the judge recommended a narrow cease-and-desist Order. We also reject the Respondent's argument that the Board's traditional narrow cease-and-desist Order exceeds the Board's authority under Sec. 10(c) of the Act and is unconstitutionally overbroad. The Board is vested with broad discretionary power to fashion remedies. See *NLRB v. Seven-Up Co.*, 344 U.S. 344, 346 (1953).

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

(a) Within 14 days after service by the Region, post at its 5th & Pike and Westlake stores, copies of the attached notice marked "Appendix."[5] Copies of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to the 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 the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current and former employees employed by the Respondent at the 5th & Pike store at any time since April 15, 2022, and at the Westlake store at any time since June 25, 2022.

(b) Within 14 days after service by the Region, duplicate and mail, at its own expense, after being signed by the Respondent's authorized representative, copies of the attached notice marked "Appendix" to the last known home addresses of all employees who were employed by the Respondent at the 505 Union Station store anytime between July 14, 2022, and its closure on July 31, 2022.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 19 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. June 5, 2026

_____
James R. Murphy, Chairman

_____
David M. Prouty, Member

_____
Scott A. Mayer, Member

(SEAL) 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 coercively question you about your protected concerted activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

STARBUCKS CORPORATION

The Board's decision can be found at https://www.nlrb.gov/case/ 19-CA-299573 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

Angelie Chong, Esq., and *David Gaston, Esq.,* for the General Counsel.

Alex Frondorf, Esq., Ian Beck, Esq., Noah Garber, Esq., and *Gretchen Marty, Esq.,* for the Respondent.

Marina Multhaup, Esq. and *Thomas Kaplan, Esq.,* for the Charging Party Union.

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

DECISION

STATEMENT OF THE CASE

BRIAN D. GEE, Administrative Law Judge. This case was tried before me in Seattle, Washington, on July 11 and 12, 2023, and in the Zoom for Government platform on August 31, 2023. The General Counsel issued the complaint and notice of hearing on January 4, 2023, and twice amended the complaint at hearing.[6] The complaint is based on an unfair labor practice charge filed on July 18, 2022, by Workers United Labor Union International, affiliated with Service Employees International Union (the Union). The complaint alleges that Respondent violated Section 8(a)(1) of the National Labor Relations Act (the Act) by coercively interrogating employees on various dates between April 14 and July 14, 2022. Starbucks Corporation (Respondent) filed timely answers denying all material allegations. (R. Ans., Tr. 192–193.)[7]

At trial, all parties were afforded the right to call, examine, and cross-examine witnesses, to present any relevant documentary evidence,[8] to argue their respective legal positions orally, and to file post hearing briefs. Based on a careful review of the entire record, including post hearing briefs and my observation of the credibility of the witnesses, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent is a Washington corporation with its headquarters located in Seattle, Washington. Throughout the United States, Respondent operates approximately 9000 stores, where it employs approximately 220,000 employees, whom it calls "partners." During the 12-month period preceding January 4, 2023, Respondent derived gross revenues in excess of $500,000, and sold and shipped from the State of Washington goods valued in excess of $50,000 directly to points located outside of the state. Respondent admits that it has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. It further admits that the Union has been a labor organization within the meaning of Section 2(5) of the Act. Based on the foregoing, I find that this dispute affects commerce and that the Board has jurisdiction over this case, pursuant to Section 10(a) of the Act. (R. Answer, Jt. Exh. 1.)

II. THE ALLEGED UNFAIR LABOR PRACTICES

Respondent's North American retail operations are organized into 12 geographically based business units called "regions." Regions are further divided into smaller geographical "areas," and then into even smaller "districts." (Tr. 280, Jt. Exh. 1.) Management hierarchy within regions includes, from the top down, Regional Vice President, Regional Director, District Manager, Store Manager, and Assistant Store Manager. Respondent stipulated that these are supervisory positions within the meaning of Section 2(11) of the Act.[9] (Jt. Exh. 1.) The non-supervisory, employee positions within each store are Shift Supervisor and Barista. (Jt. Exh. 1.)

Respondent admits that, during the dates material to the complaint, Area Operations Coach Kim Davis and District Managers Thai Le Douglass and Amy Quesenberry were Section 2(13) agents, when acting in their official capacities. Respondent also admits that Store Manager Jeremiah "Jer" Mackler and Assistant Store Manager Brendan Branson were Section 2(11) supervisors, as well as Section 2(13) agents when acting in their official capacities.[10]

Respondent maintains store staffing minimums to ensure safety. Page 16 of its "Partner Guide" provides that, "Starbucks Safety and Security Guidelines require the presence of at least two partners in the store at all times." (R. Exh. 1.) Two employees is a minimum number; some types of stores have higher staffing needs. For example, the Westlake Drive-Thru store in Seattle would require at least five staff members if it serves customers at both the walk-in café and the drive-thru. (Tr. 217–218.) Consistent with these minimum staffing standards, Respondent requires employees to provide sufficient notice to management if they are going to miss their assigned shift. (R. Exh. 2.) If a store faces a staffing shortage—due to possible events such as power outages, employees calling in sick, or snowstorms—managers would typically contact scheduled employees to ask whether they could still work their shifts. (Tr. 268–269.)

This matter pertains to three stores located in Seattle: 425 Pike Street (the "5th & Pike store"), 1200 Westlake Avenue N (the

[6] On the first and second days of trial, Counsel for the General Counsel moved to amend the complaint. While the Union did not object, Respondent opposed. I gave all parties the opportunity to state and argue their positions. I evaluated both motions on the record pursuant to the factors established in *Rogan Brothers Sanitation*, 362 NLRB 547 (2015), and concluded that, under the facts presented to me, it would not be unjust to permit the General Counsel to amend the complaint. (Tr. 16–17 and 164–165.)

[7] Abbreviations used in this decision are as follows: "Jt. Exh." for joint exhibits; "Tr." for citations to the hearing transcript; "GC Exh." for General Counsel's exhibits; "GC Br." for General Counsel's brief; "U. Br." for Union's brief; "R. Exh." for Respondent's exhibits; "R. Answer" for Respondent's answer; and "R. Br." for Respondent's brief. I refer to Counsel for the General Counsel Chong as "the General Counsel."

[8] A dispute arose over the completeness of Respondent's production of documents in response to subpoenas by the General Counsel and the Union. On August 9, 2023, I ordered Respondent to present its custodian of records to testify about its efforts to search for and produce such documents. In response, Respondent reiterated on the record that there was no custodian of records and thus nobody whom it could present. (Tr. 314–315.) On brief, the General Counsel argued that Respondent failed to comply with her subpoena by failing to provide all responsive documents, delaying in its production of some documents, providing altered documents, and failing to provide a custodian of records. She therefore requested the imposition of evidentiary sanctions. (GC Br., pp. 22–29.) The Union joined in the request for sanctions. Respondent opposed sanctions on the bases that it fully complied with the subpoenas, some of the requested sanctions have become moot, there was no custodian of records to present, and the ALJ lacks authority to issue sanctions. I find insufficient evidence to conclude that Respondent failed to make a good faith effort to search for and produce documents responsive to the subpoenas. I therefore deny the requests for evidentiary sanctions.

[9] Respondent further stipulated that Store Managers and Assistant Store Managers are Sec. 2(13) agents "when acting in their 'SM/ASM' capacity." (Jt. Exh. 1.)

[10] I find that the record demonstrates that all of these individuals acted within their official capacities when contacting the employees.

"Westlake drive-thru store"), and 505 5th Avenue S (the "505 Union Station store"). On various dates between April 14 and July 14, 2022,[11] employees at these stores sent management strike notices stating the reasons for the strikes, the start and end dates, and the names of striking employees. In response, Respondent's supervisors and agents telephoned and texted employees to ask if they were going to work their scheduled shifts or otherwise wanted shifts during the strike. The complaint alleges that these inquiries from management constituted coercive interrogation. As detailed below, Respondent did not explain to employees the purpose of its questions and did not provide assurances against reprisal. Based on its failure to follow these safeguards and based on the totality of the circumstances, Respondent violated Section 8(a)(1).

A. The 5th and Pike Store

Facts. The 5th and Pike store is located in the heart of Seattle, just a few blocks away from the Central Business District and the Pike Place Market.[12] Depending on the day, the store opens at 5 or 6 a.m. and closes at 8 p.m.[13] On January 25, the Union filed a representation petition for the store, the Board conducted an election, and the 15 to 20 employees voted unanimously in favor of the Union. During the time period relevant to paragraph 5 of the complaint, Jeremiah "Jer" Mackler was the Store Manager and Amy Quesenberry was the District Manager who oversaw the store. In 2022, employees went on strike seven times. (Tr. 54–55, Jt. Exh. 1.)

The first strike was in April. On April 15, around 4:30 a.m., Shift Supervisor Sarah Pappin texted and emailed Quesenberry and Mackler a strike notice announcing that, in response to asserted unfair labor practices by Respondent, the store's employees would strike from 4:30 a.m. on Friday, April 15, to 8 p.m. on Sunday, April 17, when the employees would unconditionally return to work.[14] The strike notice represented that it was from 17 named employees, as well as "those who have asked to remain anonymous." The named employees included Pappin, Shift Supervisor Josh Nagy, and Barista Hope Kim. The document expressly declared that the named employees would be participating in the strike. (Tr. 55–57, Jt. Exh. 2.)

Within minutes, Quesenberry telephoned Pappin, who did not answer. Mackler also called Pappin. He left a voicemail message saying, "Hey Sarah its [Jerr] I just wanted to reach out and talk about operations and hours for the weekend give me a call when you get this thanks bye. . . "[15] (Tr. 58–59, GC Exh. 2.) Later that morning, during the picket in front of the store, employees told Pappin that Macker was calling them and asked whether they needed to answer or call him back. At around 9 or 10 a.m., Pappin, Kim, and Nagy were sitting in Nagy's car when Kim and Nagy decided to call back Mackler. Kim called Mackler first. With her phone on speaker, she called Mackler who thanked Kim for the return call and then had Quesenberry join in. Quesenberry asked Kim if she planned to work her scheduled shifts that weekend. Kim said no. Quesenberry replied that was all they needed to know and ended the call. Nagy called Mackler next. While on speaker, Mackler asked, "what I need to know is are you going to work any of your scheduled shifts this weekend?" Nagy answered no and the call ended. (Tr. 60–65.) During these communications, neither Mackler nor Quesenberry explained the reasons for their call and provided no assurances against reprisal based on the employees' answers. (Tr. 58–65, 103.)

The second strike was in June. On June 24 at around 10 p.m., Pappin emailed Mackler, Quesenberry, new District Manager Ryan Lassiter, and Regional Director Nica Tovey a strike notice announcing that, in response to asserted unfair labor practices by Respondent, the store's employees would engage in a 1-day strike from 5:30 a.m. on Saturday, June 25 to 5:30 a.m. on Sunday, June 26, when the employees would unconditionally return to work. The strike notice represented that it was from 15 named employees, including Pappin, and made clear that the named employees would be participating in the strike. (Tr. 55, 65–67, Jt. Exhs. 1 and 3.) Sometime prior to midnight, Mackler called Pappin and left a message saying, "Hey Sarah it's Jer um I'm just calling to ask if you are planning to work tomorrow um if you are then call Amy in the morning. . .thank you and have a good night."[16] Pappin engaged in no further discussions with management about working on June 25. (Tr. 67–72, GC Exh. 3.) Mackler did not explain the reasons for his question and did not give assurances against reprisals. (Tr. 65–72, 103.)

The third strike was in July. On the evening of July 14, employee Andy Walker sent Mackler and Lassiter a strike notice stating that, in response to asserted unfair labor practices by Respondent, the store's employees would engage in a 3-day strike from 9 p.m. on Thursday, July 14 to 9 p.m. on Sunday, July 17, when the employees would unconditionally return to work. The notice represented that it was from 15 named employees (including Pappin) and others, and expressly stated that the named employees would be engaging in the strike. (Tr. 72–74, Jt. Exhs. 1 and 4.)

The next morning, July 15, Mackler sent Pappin a text saying, "Hey Sarah, we received notice that the store will be on strike until Monday. If you would like hours, feel free to reach out to me. Thanks!" Pappin had no other communications with management. (Tr. 72–77, GC Exh. 4.) Mackler also sent materially identical text messages to employees Alejandro Avina Montoya, Andy Walker, Cooper Mayo, Danny Skindingsrude, Ethan Hall, Gabriel Burket, and Hope Kim. (GC Exh. 11.) Mackler did not

[11] All dates herein are for the year 2022, unless specified otherwise.

[12] In a separate NLRB Region 19 matter (Cases 19–CA–292276 and 19–CA–307871), the General Counsel issued a consolidated complaint on March 8, 2023, alleging that Respondent committed multiple unfair labor practices (ULPs) related to the 5th & Pike store. Those ULPS were alleged to have occurred between January and November 2022. Administrative Law Judge Dickie Montemayor found merit to many of those allegations. See *Starbucks Corp*.—JD(SF)-41-23 (2023). That matter is pending before the Board on exceptions and so I do not cite it for precedential value. I have, however, noted that complaint to the extent it alleges ULPs at 5th & Pike during the same approximate time period as these alleged interrogations.

[13] See 5th Ave & Pike St: Starbucks Coffee Company (last visited on January 19, 2024).

[14] The facts pertaining to 5th and Pike were uncontroverted, as Respondent did not call either Quesenberry or Mackler to testify.

[15] This was an iPhone transcription of the voicemail message. (Tr. 58–59.)

[16] This was an iPhone transcription that the parties listened to and jointly corrected at the hearing. (Tr. 71–72, 78–79.)

explain the reasons for his question and did not give assurances that Respondent would not engage in any reprisals. (Tr. 72–77, 103–104, GC Exhs. 4 and 11.)

Analysis. With regard to 5th & Pike, the complaint alleges that Respondent committed three coercive interrogations: on April 14 by Mackler and Quesenberry by telephone (par. 5(a)); on June 24 by Mackler by telephone (par. 5(c)); and on or about July 14 by Mackler by text message (par. 5(f)).

An unlawful interrogation is one which reasonably tends to restrain, coerce, or interfere with rights guaranteed by the Act, under the totality of the circumstances. *Rossmore House*, 269 NLRB 1176, 1178 fn. 20 (1984), affd. sub nom *Hotel & Restaurant Employees Local 11 v. NLRB*, 760 F.2d 1006 (9th Cir. 1985). The test is an objective one that does not rely on the subjective aspect of whether the employee was, in fact, intimidated. *Multi-Ad Services*, 331 NLRB 1226, 1227–1228 (2000), enfd. 255 F.3d 363 (7th Cir. 2001). A non-exhaustive list of factors to consider includes the background between the employer and union; the nature of the information sought; the identity of the questioner; the place and method of interrogation; the truthfulness of the employee's reply; and whether the employee was an open and active union supporter. *Westwood Health Care Ctr.*, 330 NLRB 935, 939–940 (2000); *Bourne v. NLRB*, 332 F.2d 47 (2nd Cir. 1964). These factors are not to be applied mechanically but rather be viewed as possible areas of inquiry when evaluating the totality of the circumstances. *Rossmore House*, supra at 1178 fn. 20. The Board has found violations where the employer showed no legitimate purpose for its questions. *Benner Glass Co*., 209 NLRB 686, 688 (1974) (while the employee initiated the conversation about union activity, the supervisor's questions were coercive since there was no legitimate reason for the supervisor to ask who initiated the union activity); *Royal Manor Convalescent Hospital*, 322 NLRB 354, 362 (1996) (interrogation coercive where there was no purpose for the supervisor's questions other than to determine the employee's sentiments about the union).

Employer interrogation of employee strike sentiments is inherently coercive, and thus tends to interfere with the exercise of Section 7 rights. *Transportation Management Corp.*, 257 NLRB 760, 767 (1981). One limited exception to this rule, however, is where the employer needs to determine whether it will have staffing sufficient to operate during a strike. In this situation, the Board has implemented a set of safeguards that balances the employer's need to determine staffing levels against the employees' Section 7 right not to be coercively questioned about their strike intentions. The employer may question employees about their plans to participate in a strike if it simultaneously (1) fully explains the purpose of the questioning, (2) assures employees that no reprisals will flow from their responses, and (3) otherwise does not create a coercive atmosphere. *Stephens Media Group—Watertown, LLC*, 371 NLRB No. 11, slip op. at 25 (2021); *Special Touch Home Care Services*, 357 NLRB 4, 11 (2011); *Roosevelt Memorial Medical Center*, 348 NLRB 1016, 1033–1034 (2006); *Rhee Brothers, Inc*., 343 NLRB 695, 714 (2004); *Fairpene Industries Products*, 292 NLRB 797, 797 (1989); *Providence Hospital*, 285 NLRB 320, 320 fn. 2 (1987); *Can-Tex Industries*, 256 NLRB 863, 877 (1981); *Preterm, Inc*., 240 NLRB 654, 656 (1979).

In the instant case, the evidence shows that on April 14, June 24, and July 15,[17] Mackler or Quesenberry asked employees about their strike intentions without explaining that they were simply trying to determine whether there were sufficient staffing levels and failed to assure those employees that no reprisals would occur as a result of their answers.[18] By failing to follow these safeguards, that questioning was coercive.

This conclusion is supported by application of the *Rossmore House* factors. The questions were asked by two individuals whom the employees would view as high-level supervisors: District Manager Quesenberry and Store Manager Mackler. *Fresh & Easy Neighborhood Market*, 358 NLRB 537, 537 fn. 2 (2012) (where the Board emphasized that the coercive questioning was done by the highest-ranking manager in the store). The questioning occurred in the context of perceived unfair labor practices, as asserted in the strike notice.[19] As to the nature of the information sought, asking employees whether they intended to work their shifts was effectively asking whether they intended to strike, as striking is incompatible with working one's scheduled shift. Employees such as Kim, Nagy, and Pappin, who were named in the strike notices, would reasonably view the questioning as having no legitimate purpose since they already stated their intentions to strike, making it unnecessary for management to ask if they intended to work their shifts. To offset the coercive nature of their questioning, Mackler and Quesenberry were obligated to state a lawful purpose and give assurances against reprisals, which they did not.

I find the legal arguments put forth by Respondent in its brief unpersuasive. First, Respondent asserts that Board law provides that, as long as an employer has a reasonable basis for believing a strike is imminent and merely speaks to employees to determine whether it has sufficient staffing to operate its business, then its questioning of employees' strike intentions is "lawful absent threats, promises, or other coercive conduct." (R. Br. 18.) In support of this argument, Respondent relies on a case from the mid-1970s, *Mosher Steel Co.*, 220 NLRB 326 (1975). As I read it, *Mosher* does not stand for such a narrow proposition; rather, the Board there made clear that "all relevant circumstances" must be considered. Consistent with that, the Board in *Mobile Home Estates*, 259 NLRB 1384, 1384 (1982), cited *Mosher* to make clear that an employer's questioning about strike intentions "must be judged in light of all relevant circumstances." But, far more significantly, Respondent's argument seeks to sidestep the more than four decades of Board law that developed subsequent

[17] While the complaint alleges July 14, I find that the interrogation occurred on July 15.

[18] I agree with Respondent that, for all of the alleged interrogations in the complaint, its supervisors and agents were simply trying to determine whether there were going to be enough employees available to open and staff its stores. But that lawful intention did not excuse Respondent from following the safeguards required under Board precedent.

[19] Additionally, the questioning on June 24 and July 14 occurred after many of the alleged ULPs in connection with 5th & Pike in 2022, including Section 8(a)(3) allegations involving Pappin, in Cases. 19–CA–292276 and 19–CA–307671. See *Starbucks Corp*.—JD(SF)-41-23 (December 20, 2023).

to *Mosher* which requires an employer to first provide employees with an explanation of its purpose, assure employees they will face no reprisals based on their answers, and otherwise avoid creating a coercive atmosphere. Following such safeguards is necessary to "lessen the inherently coercive effect" of such questioning. *Roosevelt Memorial*, supra, at 1033. In *Transportation Management Corporation*, 257 NLRB 760 (1981), the Board explained that supervisors asking employees about whether they planned to participate in a strike "inherently subjects employees to fear of discrimination and reprisals against them. Such conduct is unlawful." Id. at 767. The Board went on to say that, "the absence of direct evidence that the supervisors made threats of reprisal, or engaged in other specific conduct violative of Section 8(a)(1) is of little consequence." Id. From *Preterm* in 1979 to *Stephens Media Group* in 2021, the Board has consistently required such safeguards in situations like this.[20]

Second, the other decisions cited by Respondent are either non-binding or distinguishable. In *Knogo Corp.*, 265 NLRB 932 (1982), the Administrative Law Judge dismissed the Section 8(a)(1) interrogation allegation. But the facts in that case are distinguishable and the ALJ wrote that his analysis of the circumstances surrounding the questioning merely "include[d]" whether there was any accompanying coercive conduct. The ALJ did not state that his analysis was *limited to* whether there was any accompanying coercive conduct. Crucially, no exceptions were taken to the portion of the ALJ's decision dismissing the interrogation allegation. Id. at 935 fn. 1. As such, *Knogo* has no precedential value on this point. *Watsonville Register-Pajaronian*, 327 NLRB 957, 959 (1999). As to Respondent's reliance on *Nefarious Movie, LLC,* No. 14–CA–287219, 2023WL2630951 (2023), that case is factually distinguishable (both employees were openly picketing at the time they were asked whether they were "working. . . or walking") and, more importantly, the ALJ decision holds no precedential value since no exceptions were filed with the Board. With regard to Respondent's citation to *Daka, Inc*., 310 NLRB 201 (1993), the facts of that case are so distinguishable that I find it unhelpful. The respondent there was a company providing food and cafeteria services to students in the East Lyme Connecticut Public Schools system. Faced with the possibility that his small staff might walk off the job the following day, the food service director asked whether they intended to strike. The ALJ found the questioning of its staff not coercive based on the unique set of circumstances presented there: "where the four cooks, who were the key employees of Respondent, could be expected to leave without notice." Id. at 207. As such, that situation was materially different from the one presented here, where Respondent, a global corporation with vast staffing resources, engaged in widespread questioning of employees about their strike intentions.

Based on the foregoing, I find that Respondent violated Section 8(a)(1) by coercively interrogating employees about their protected concerted activities, as alleged in complaint paragraphs 5(a), (c), and (f).

[20] Given the Board's development of this line of cases since *Preterm* in 1979, I find unpersuasive Respondent's reliance on the Board decision from 1968 in *Industrial Towel & Uniform Service Co*., 172 NLRB 2254 (1968).

B. The Westlake Drive Thru Store

Facts. The Westlake Drive Thru store is located in Seattle's Westlake neighborhood, next to Lake Union. The store opens daily at 4:30 a.m. and closes at 9 p.m.[21] During the time period relevant to paragraph 5 of the complaint, Brendan Branson was the Assistant Store Manager and Thai Le Douglass was the District Manager overseeing the district that includes the store. (Jt. Exh. 1.)

On or about January 25, the Union filed a petition to become the collective-bargaining representative of the approximately 20 employees working there. In 2022, the employees went out on strike multiple times, sometimes once or twice a month. (Tr. 110–111.)

On June 25 at 3:43 a.m., employee JL Barnett emailed a strike notice to District Manager Douglass and to the store announcing that, in response to asserted unfair labor practices by Respondent, the employees would strike for two days, from 5 a.m. on Saturday, June 25 to 4 a.m. on Monday, June 27, when they would unconditionally return to work. The notice represented that it was from five named employees, including Baristas Brent Hayes and Sue Mahamud, and explicitly stated that the named employees would be on strike. (Tr. 113–115, Jt. Exhs. 1 and 6.)

At around 6 or 7 a.m., Douglass telephoned Hayes. According to Hayes, Douglass asked him if he was planning to participate in the strike that day. He answered yes, and Douglass responded that she understood and wished him a nice day. The call ended with that. (Tr. 115–116.) In her testimony, Douglass gave a different account of the conversation. She stated that she followed a set pattern for her calls to employees: "Hey [employee name], it's Thai. I received notice of [a] business disruption for your [shift]. What are your plans. Give me a call back." Douglass testified that her sole purpose in placing these calls was to ask, "what their plans were for the day so that we can staff the store appropriately and adjust any operations to the store just for the partner and the customer experience." (Tr. 232–233, 246.) Douglass also spoke with Barista Malamud. Even though Malamud's name was on the strike notice, she reported to work at the Westlake store, which ended up having limited operations and hours that day. (Tr. 230–231.) Douglass admitted that she did not give assurances that Respondent would not retaliate against employees. Nor did she tell employees that they would not be disciplined for striking. (Tr. 246–248, 263.)

At 6:45 a.m., Assistant Store Manager Branson also texted Hayes to ask, "Hey Brent, are you planning on attending the strike today? If so, you need to call the store to let us know, thank you." (GC Exh. 6, Tr. 119–120.) Minutes later, Branson sent materially identical texts to two other employees. (GC Exh. 11, pp. 9–10.) Branson did not explain the purpose of his questions or give any assurances that Respondent would not retaliate based on their answers. (Tr. 128, GC Exhs. 6 and 11.)

Analysis. With regard to the Westlake Drive Thru, the complaint alleges that Respondent committed three coercive interrogations on June 25: by Thai Le Douglass by telephone[22]

[21] See 1200 Westlake Ave: Starbucks Coffee Company (last checked on January 19, 2024).

[22] In her brief to the ALJ, the General Counsel requested withdrawal of the portion of paragraph 5(b) of the complaint alleging coercive

(paragraph 5(b)) and by Brendan Branson by text message (paragraph 5(d)) and by telephone (paragraph 5(e)).

The evidence shows that on June 25, Douglass and Branson called or texted employees asking about their strike intentions. Even crediting Douglass with explaining to Hayes the purpose of her call, Branson did not in his texts. Both failed to assure employees that no reprisals would flow as a result of their answers. By failing to follow these safeguards, that questioning was coercive.

This conclusion is supported by application of the *Rossmore House* factors. The questions were asked by the District Manager and the Assistant Store Manager, two high-ranking individuals. The questioning occurred in the context of perceived unfair labor practices by Respondent, as asserted in the strike notice. As to the nature of the information sought, Douglass' question to Hayes asking what his "plans" were on the day of the strike would reasonably be viewed as asking whether he intended to strike. Branson's text was more explicit; he directly asked employees, "are you planning on attending the strike today?" To offset the inherently coercive nature of their questions, Douglass and Branson were required to explain their purpose and give assurances against reprisal, which they did not. To the extent that one employee, Mahamud, was named in the strike notice yet ended up working, that did not justify Respondent calling all employees to question them about their strike intentions absent the required safeguards.

Based on the foregoing, I find that Respondent violated Section 8(a)(1) by coercively interrogating employees about their protected concerted activities, as alleged in complaint paragraphs 5(b) and (d). The allegation in paragraph 5(e) is dismissed, as it was unsupported by any evidence.

C. The 505 Union Station Store

Facts. On or about March 16, the Union petitioned to represent the 17 to 20 employees employed at the 505 Union Station store. The Union prevailed in the election. After that, the employees engaged in multiple strikes which occurred approximately once a month through the end of July, when the store was permanently closed. (Tr. 136–137, 153.)

In response to news that their store was being closed, the employees decided to strike. On July 13, they sent management a strike notice announcing that, because of Respondent's asserted unfair labor practices, they would start striking on July 14 and that the duration would be indefinite. (Jt. Exh. 7, Tr. 137, 154–157.) The notice represented that it was from nine named employees, including Jameson "Rowan" Hart and Erin "Ari" Bray. (Jt. Exh. 7, Tr. 137, 154–157.)

On or about July 14, then-Area Operations Coach Kim Davis, whose area included the store, telephoned Barista Hart. Hart testified that Davis introduced herself as a member of Starbucks corporate and asked when the strike was going to be over and when the employees were going to return to work. Hart replied he did not know and the call ended.[23] (Tr. 135, 138–139, GC Exh. 8.) In her testimony, Davis gave a different version of events. She stated that she merely asked Hart if he intended to work his scheduled shift on July 14; Davis denied asking Hart when the strike would be over or when the employees would be returning to work. (Tr. 271.) On that same day, Davis called and texted Shift Supervisor Bray. In her text, Davis wrote, "Hi Erin, I wanted to connect about your shift today. Give me a call back." Shortly after that, Bray texted back, saying, "That won't be necessary. I am on strike." (GC Exh. 9, Tr. 158–159, 165–166, 190.).

Analysis. With regard to 505 Union Station, the complaint alleges that Respondent coercively interrogated employees on July 14 by Kim Davis by telephone and text message[24] (par. 5(g)).

The evidence shows that on July 14, Davis called and texted employees and asked about their strike intentions. Even crediting Davis to find that she did not ask when the strike would end and when the employees would return to work, she never told employees the purpose of her questions and failed to assure them that no reprisals would flow as a result of their answers. By failing to follow these safeguards, that questioning was coercive.

This conclusion is supported by application of the *Rossmore House* factors. The questions were asked by the Area Operations Coach, the person responsible for 505 Union Station and other area stores. The questioning occurred in the context of perceived unfair labor practices by Respondent, as asserted in the strike notice. As to the nature of the information sought, Davis asked Hart whether he intended to work his shift during the strike and instructed Bray to call her back about the same topic. To offset the coercive nature of her questioning, Davis was required to state a lawful purpose and give assurances against reprisals, which she did not.

Based on the foregoing, I find that Respondent violated Section 8(a)(1) by coercively interrogating employees by telephone and text, as alleged in complaint paragraph 5(g).

CONCLUSIONS OF LAW

1. Respondent Starbucks Corporation has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.
2. Charging Party Workers United, affiliated with Service Employees International Union, has been a labor organization within the meaning of Section 2(5) of the Act.
3. Respondent committed unfair labor practices in violation of Section 8(a)(1) of the Act by interrogating employees about their protected concerted activities.
4. The unfair labor practices found affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent engaged in unfair labor practices, I recommend that the Board order it to cease and desist

interrogation on May 23. (GC Br. p. 7 , fn. 7.) I grant the General Counsel's motion to withdraw that portion of the complaint.

[23] Hart goes by the pronouns "he/they." (Tr. 134.) I have chosen to use the singular "he."

[24] Over Respondent's objections, I permitted General Counsel to amend paragraph 5(g) of the complaint to add the words "and text." The amended language thus now reads, "On or about July 14, 2022, Respondent by Kim Davis by phone and text, interrogated its employees about their protected concerted activities." (Added language underlined.) (Tr. 163–165.)

therefrom and to take certain affirmative actions designed to effectuate the policies of the Act. Furthermore, I order Respondent to post the notice to employees marked as "Appendix" at the 5th & Pike Store and the Westlake Drive-Thru Store. As the 505 Union Station store is closed, I order it to mail the notice to all individuals who were employed at that store anytime between July 14 and 31, 2022.

In addition to standard Board remedies, the General Counsel seeks notice readings, the posting of an Explanation of Rights, and a mandatory 45-minute training for District Managers and Store Managers at the 5th & Pike and the Westlake Drive-Thru stores. But given the limited nature of the violations found here, such enhanced remedies are not warranted.

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended[25]

ORDER

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

1. Cease and desist from

(a) Interrogating employees about their protected concerted activities, and

(b) In any like or related manner interfere with, restrain, or coerce employees in the exercise of rights guaranteed to them by Section 7 of the Act.

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

Within 14 days after service by the Region, post at its 5th & Pike and Westlake Drive-Thru stores copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to the physical posting of paper notices, notices shall be distributed electronically, such as by email and text, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If either of Respondent's stores has closed, Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current and former employees employed by the Respondent at the 5th & Pike store anytime during the period April 15, 2022, through closure of the store, and at the Westlake Drive Thru any time from June 25, 2022, through closure. [26]

Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current and former employees employed by the Respondent at the 505 Union Station store anytime between July 14, 2022, and its closure on July 31, 2022.

Within 21 days after service by the Region, file with the Regional Director for Region 19 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 31, 2024

APPENDIX

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

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

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

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

WE WILL NOT coercively interrogate you about your intentions to work during a strike.

WE WILL NOT ask you questions about working during a strike without explaining our purpose in asking those questions and without providing you the necessary assurances that no adverse actions will be taken against you.

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

STARBUCKS CORPORATION

The Administrative Law Judge's decision can be found at https://www.nlrb.gov/case/ 19-CA-299573 or by using the QR code below. Alternatively, you can obtain a copy of the decision

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

[26] For all of Respondent's stores involved in this proceeding which are open and staffed by a substantial complement of employees, the notice must be posted within 14 days after service by the Region. For any of Respondent's stores involved in this proceeding that are 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 have returned to work. If, while closed or not staffed by a substantial complement of employees due to the pandemic, the Respondent is communicating with 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 Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940