

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO BRANCH OFFICE

B.R. MANAGEMENT SERVICES, INC.

and

**Cases 19-CA-352007
19-CA-355463**

NICOLE M. BENJAMIN

Ryan Connolly, Esq.
Eric Olson, Esq.
for the General Counsel

Robert Rettig, pro se
for the Respondent.

DECISION

STATEMENT OF THE CASE

JOHN T. GIANNOPOULOS, Administrative Law Judge. “Napoleon himself was fond of pointing out: ‘an army marches on its stomach.’” *Al Bihani v. Obama*, 594 F. Supp. 2d 35, 40 (D.D.C. 2009), *aff’d*, 590 F.3d 866 (D.C. Cir. 2010). In 1775, even before the United States declared independence, the Continental Congress made provisions for Continental Army enlistees to receive peas, beans, vegetables, milk, meat and bread as part of their food allowance.¹ During the Civil War, the first guidelines for an effective military diet were published. And, by World War II, the Army Quartermaster Corps centralized perishable food management; they fed the soldiers and furnished them with all the necessary provisions to live in the field. Today, by contrast, it is not uncommon for private contractors, instead of the government, to be responsible for providing food services to the military.²

This case involves a former Army cook, Nicole M. Benjamin (Benjamin), who worked for one such private contractor, B.R. Management Services Inc. (Respondent or B.R.

¹ See Chrissie Reilly, *Good Eats: Military Food Research and Development*, DEFENSE LOGISTICS AGENCY, <https://www.dla.mil/About-DLA/News/News-Article-View/Article/752290/history-highlights/> for the cited history of military food distribution, (last accessed on August 25, 2026).

² See Rose L. Thayer, “Army looks to expand dining privatization, says it’s learning for all the services,” *Stars and Stripes*, October 13, 2025. <https://www.stripes.com/branches/army/2025-10-13/army-campus-style-dining-ausa-19416916.html>; Alexander Nazaryan, “The Army Has a Fast-Food Problem. Can a TV Chef Fix That?” *New York Times*, March 31, 2025. <https://www.nytimes.com/2025/03/31/dining/robert-irvine-army-food.html> (both articles were last accessed on August 25, 2026).

Management).³ Benjamin was suspended and then fired after requesting to have a union representative present during a discussion with her direct supervisor, who was also a co-owner of the company. This matter was tried before me in Seattle, Washington, on March 24, 2026, pursuant to an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing alleging that Benjamin’s suspension and discharge violated Sections 8(a)(1) and (3) of the National Labor Relations Act (The Act).

Based upon the entire record, including my observation of witness demeanor, and after considering the brief filed by the General Counsel,⁴ I make the following findings of fact and conclusions of law.

I. JURISDICTION AND LABOR ORGANIZATION

The parties stipulated that Respondent is a Washington corporation engaged in the business of providing services to the Federal government under a contract with the Department of Defense, and that it also provides services valued in excess of \$50,000 to Joint Base Lewis-McChord, which the evidence shows is done via a subcontract. In a representative 12-month period Respondent purchases and receives goods within the State of Washington that are valued in excess of \$50,000 and which come directly from points outside the state. Respondent stipulates, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.⁵ The evidence also shows that the Industrial, Technical and Professional Employees Union, OPEIU Local 4873, AFL-CIO is a labor organization within the meaning of Section 2(5) of the Act. Accordingly, I find that this dispute affects commerce and the National Labor Relations Board (NLRB or the Board) has jurisdiction pursuant to Section 10(a) of the Act.⁶ (Tr. 11, 22, 51, 60–63; J. 1)

II. FACTS

A. Background

Located near Tacoma, Washington, Joint Base Lewis-McChord, known by the acronym “JBLM,” was created when the Department of Defense merged McChord Air Force Base with

³ I take judicial notice of filings with the Washington Secretary of State, Corporations & Charities Division, showing Respondent’s correct name is “B.R. Management Services, Inc.” and that it is a Washington for-profit corporation. A printout from the Corporations & Charities Division detailing this information is admitted into the record as ALJ Exhibit 1. See *American Dawn, Inc., v. Superior Linen & Laundry Serv., LLC*, No. CV13-03713 DMG, 2013 WL 12473601, at *2 (C.D. Cal. Sept. 16, 2013) (collecting cases and noting that, pursuant to Fed. R. Evid. 201, printouts from a state Secretary of State website pertaining to corporate status are subject to judicial notice).

⁴ Despite being given an opportunity to do so, Respondent did not file a post-hearing brief. (Tr. 70-71).

⁵ Statutory jurisdiction is also established pursuant to the Board’s national defense substantial impact standard. *Ready Mix Concrete & Materials*, 122 NLRB 318, 320 (1959) (noting the Board eliminated requirements that an enterprise’s national defense operations must amount to at least \$100,000 a year); *Colonial Catering*, 137 NLRB 1607 (Board asserts jurisdiction over company that provides services to a defense contractor).

⁶ Citations to the General Counsel, Joint, and Administrative Law Judge exhibits are denoted by “GC,” “J,” and “ALJ” respectively. Transcript citations are denoted by “Tr.” with the appropriate page number. Transcript and exhibit citations are intended as an aid only. Factual findings are based upon the entire record and may include parts of the record that are not specifically cited. Testimony contrary to my findings has been specifically considered and discredited. Unless otherwise noted, witness demeanor was considered in making all credibility resolutions.

the United States Army’s Fort Lewis.⁷ JBLM supports more than 40,000 service members and about 14,000 full-time civilian employees. There are multiple dining facilities at JBLM, including grills, bistros, cafeterias, and food trucks; one of these is the Olympic Dining Facility (Olympic Cafeteria) which serves the Air Force’s 62nd Airlift Wing.⁸ (Tr. 17, 61)

Respondent has a workforce of civilian employees who work at the Olympic Cafeteria through a subcontract with Global Connections to Employment, Inc. (Global Connections). Global Connections has multi-million dollar contracts with the Federal government, primarily through the Department of Defense, to provide services to the military in several different states.⁹ Respondent provides Global Connections with qualified employees, including cooks and bakers, to staff operations at the Olympic Cafeteria.¹⁰ The Global Connections area manager overseeing operations that included the Olympic Cafeteria is named Debbie. (Tr. 21–22, 36–37, 53, 60–61, 64; J. 2)

Robert “Bob” Rettig (Rettig) is Respondent’s president and owner. As part of the company’s operations, Rettig had a business relationship, via a handshake agreement, with Dominica Quitevis (Quitevis), who owned a separate company. The two were longtime friends, and had been business competitors, until they joined forces to bid on contracts together.¹¹ Respondent has been a subcontractor at JBLM since 2013, with Quitevis handling the company’s day-to-day operations including those at the Olympic Cafeteria. (Tr. 5, 23–25, 60–61, 66–67)

During the relevant time period, Global Connections was party to a nation-wide collective-bargaining agreement (CBA) with the Industrial, Technical and Professional Employees Union, OPEIU Local 4873, AFL-CIO (Union), covering the company’s food service workers. Respondent’s employees at ten different locations, including those who worked at JBLM under the Global Connections subcontract, were also covered by this CBA through a memorandum of agreement entered into by B.R. Management. (Tr. 51–52; J. 2)

Benjamin worked for Respondent at the Olympic Cafeteria as a baker and cook from October 2023 until October 2024, when she was fired. At the time of her employment, Benjamin possessed experience working at JBLM and in food service. She had previously worked for several other food service contractors doing similar work, but at other facilities. Benjamin had also been in the United States Army for four years and was stationed at JBLM. While in the Army, Benjamin worked as a cook and achieved the rank of E-4 Specialist.¹² (Tr. 18–20, 23 42)

⁷ See *History*, JOINT BASE LEWIS-MCCHORD, <https://home.army.mil/lewis-mcchord/about/history> for the history and background of JBLM, (last accessed on August 25, 2026).

⁸ See *Dining Facilities*, JOINT BASE LEWIS-MCCHORD, <https://home.army.mil/lewis-mcchord/my-Joint-Base-Lewis-Mcchord/all-services/dining-facilities> (last accessed on August 25, 2026).

⁹ See <https://www.usaspending.gov/recipient/d0288c13-2db6-541a-4792-0388d6d6bdd0-P/latest>, (last accessed on August 25, 2026). *Smith v. Athena Constr. Grp., Inc.*, No. 18-CV-02080 (APM), 2025 WL 4666326, at *7 (D.D.C. Feb. 5, 2025) (noting that USAspending documents are publicly available and subject to judicial notice).

¹⁰ Transcript page 61, line 3 should read “could handle” instead of “couldn’t handle” and lines 19 and 20 should read “they were” instead of “they weren’t.”

¹¹ Respondent stipulated that Quitevis was an agent of the company pursuant to Section 2(13) of the Act and was also a Section 2(11) supervisor. (J. 2) Quitevis died in 2025, before the Complaint in this matter issued. (Tr. 14–15)

¹² An E-4 Specialist has the same pay grade as a corporal, although a corporal has a higher rank. (Tr. 19) See also <https://www.goarmy.com/benefits/while-you-serve/money-pay>. (last accessed on August 25, 2026)

Three shifts worked at the Olympic Cafeteria, first shift (from about 5:00 a.m. until 1:30 p.m.), second shift (from about 11:00 a.m. until 7:30 p.m.), and the third or overnight shift (from about 7:00 p.m. until 3:00 a.m.). Benjamin worked full-time on the overnight shift, Tuesday through Saturday. While she worked primarily as a baker, Benjamin also helped cook the “midnight” meal when needed. Quitevis was the only B.R. Management official that Benjamin had ever interacted with while employed with Respondent. Although Benjamin knew Rettig was Quitevis’s business partner, she had never met him or seen him at work. Because Quitevis did not work on the overnight shift, Benjamin would start work directly without specifically reporting to anyone. Before her suspension/discharge, Benjamin had never been disciplined by Respondent. And, while working for B.R. Management, Benjamin received an award for outstanding service from the military; it was awarded to her by a lieutenant colonel overseeing a particular unit at JBLM. Benjamin was a member of the Union and had been a member even before she started working for Respondent. (Tr. 20–29, 33–34, 42–43)

B. Quitevis texts Benjamin about dirty ovens

During the afternoon of Tuesday, October 1, 2024,¹³ Benjamin was driving home from the grocery store when she received a text message from Quitevis about dirty ovens at the Olympic Cafeteria. The text message read as follows: “Good afternoon, I took pictures of one of the ovens. We are responsible to clean, with the third shift workload one oven per night should be taken care of.” Quitevis included in her text message two pictures showing a dirty oven. Benjamin responded texting that she had cleaned every oven that week, as she does every week, and that Quitevis should take up the issue with Benjamin’s coworkers, Adrienne and Miko, as the pictures did not depict what the oven looked like when Benjamin left work a few days earlier on Saturday. Miko worked at the Olympic Cafeteria on Sundays and Mondays, which were Benjamin’s days off, while Adrienne worked on the third/overnight shift. According to Benjamin, both Adrienne and Miko used the ovens, as did everyone else who works in the kitchen on the different shifts. Quitevis replied to Benjamin texting that she took the pictures “yesterday” at 6:00 a.m., to which Benjamin responded writing that the last day she worked was on Saturday. Benjamin also wrote that “they” spill bacon grease in that oven “every single day,” and asked Quitevis why Adrienne and Miko did not clean the oven. Quitevis ended the text exchange saying that the ovens did not look clean when she did an inspection “yesterday morning” and that Benjamin had been part of the group that worked “permanent” while Adrienne and Miko filled-in on “the days off.” Before the October 1 text exchange, Quitevis had never previously discussed the issue of dirty ovens with Benjamin. (GC. 29–32–36; GC. 2)

C. October 2 discussion with Quitevis

On October 2, Benjamin was at work and speaking with Debbie, the Global Connections manager, about what Benjamin was going to bake that night when Quitevis approached and said that she needed to speak with Benjamin. According to Benjamin, Quitevis’s demeanor was aggressive. Benjamin told Quitevis, “can you just wait a minute? I’m talking to Debbie.” (Tr. 37) Benjamin continued her conversation with Debbie and Quitevis interrupted saying that she needed to speak with Quitevis “right now.” (Tr. 37) Benjamin told Quitevis to wait, as she was having a conversation, and would “be with you in just a second.” (Tr. 37) When Quitevis again

¹³ All dates are in 2024 unless otherwise noted.

interrupted the conversation, Benjamin told Quitevis that she was uncomfortable speaking without a union representative because of Quitevis's aggressive behavior. At that point, a coworker named Natalie, who was working the shift as a cook, joined the discussion; Quitevis told Benjamin that "Natalie was going to be her representative as a witness" to their conversation. (Tr. 38) Benjamin asked Natalie whether she was a union representative, and Natalie responded saying that she was not. Benjamin then said that she was not going to continue the conversation without a union representative. Quitevis told Benjamin that she "could talk to Bob," and Benjamin said "great, is Bob a union representative?" (Tr. 39) Quitevis responded, saying that Bob was her business partner. Benjamin told Quitevis that, in an effort to de-escalate the situation, she was going to go to work and that Quitevis would have to send her home if she did not want Benjamin to work. Quitevis responded by telling Benjamin to go home. (Tr. 36–39, 54)

Benjamin testified that, while working for Respondent, she had never seen a representative of the Union present at the Olympic Cafeteria at night, and she did not know whether there was a designated union steward at the facility. (Tr. 56) Notwithstanding, Benjamin believed that on the night in question she needed to have a union representative present during the conversation with Quitevis.¹⁴ (Tr. 56–57)

D. Quitevis is fired on October 8

On October 3, at around 11:30 a.m., Quitevis texted Benjamin saying, "we are not talking. I will be on post tonight," referring to JBLM. Benjamin replied texting, "am I working tonight?" (Tr. 45) Quitevis wrote back saying that she had "called Trina to schedule a meeting" on October 8, at 10:30 a.m. Trina referred to Trina Williams (Williams), a representative from the Union. Benjamin replied, "this doesn't answer my question. Am I working tonight?" Quitevis texted Benjamin saying "remember, you refuse[d] to talk to me—per your grievance," and "insubordination towards management is not acceptable." Quitevis further wrote "I will not message—you may call." Benjamin responded by text saying that that she refused to speak to Quitevis without a union representative because Quitevis was "behaving aggressively." Benjamin further wrote, "I told you I will go to work or you can send me home but I will not tolerate toxic aggressive behavior. I will not speak to you on the phone without the conversation being recorded because of your aggressive and dishonest behavior." Quitevis did not respond and the text exchange ended. (Tr. 40, 43–48, 57; GC. 3)

Benjamin, Quitevis, and Williams had a telephone conversation on October 8. During the call Quitevis said everyone loved her and that she never had problems with employees. Quitevis then told Williams that Benjamin should do as she is told and clean the oven with baking soda and lime juice. Williams replied saying that Benjamin was "on the phone," and "can hear you. I don't know why you're talking to me." Benjamin then said, "that's not even how you clean an oven," referring to Quitevis's request that baking soda/lime juice be used for cleaning. Benjamin also said that she had cleaned the ovens before leaving on Saturday, as she does every week, and that multiple witnesses could attest to this. During the call Quitevis kept saying that Benjamin did not clean the oven and started comparing the oven in question to one at

¹⁴ Transcript page 56 line 34 should read "That's all right" instead of "That's right."

another facility. Benjamin testified that she did not understand Quitevis’s comparison or what it had to do with the issue at hand. (Tr 40–41)

During the call Quitevis told Benjamin that, in their October 1 text exchange, she wanted to know why Benjamin had not cleaned the ovens and that Benjamin’s response, telling Quitevis to ask Miko and Adrienne, was insubordinate. Benjamin raised the fact that Quitevis was texting on a Tuesday, asking about ovens that Benjamin had cleaned when she worked the previous Saturday, noting that the building is open 24-hours a day. Williams also asked Quitevis about the fact that multiple days had passed between the time Benjamin last worked and Quitevis’s October 1 text message. Quitevis told Williams that it was Benjamin’s job to clean the ovens, since she was “the full-time person,” and that the other employees were “just the fill-in people.” (Tr. 42) Eventually Williams asked Quitevis, “what are we doing here,” and Quitevis answered by saying that Benjamin was fired. Williams asked the reason for Benjamin’s termination, and Quitevis said that it was for insubordination. When asked by Williams how Benjamin was being insubordinate, Quitevis responded saying that: Benjamin was loud and outspoken; and that Benjamin refused to speak with Quitevis without a union representative present. After she was sent home on October 2, Benjamin performed no further work for Respondent. (Tr. 41–43)

E. Rettig’s testimony

Regarding the October 2 conversation between Quitevis and Benjamin, Rettig testified that Quitevis was not there to reprimand Benjamin, but instead wanted to pass information to her so Respondent would not be written up or receive a “discrepancy” from either the government or Global Connections. (Tr 63) Therefore, Rettig said the information had to be passed to Benjamin regardless of whether a union shop steward was present.¹⁵ (Tr. 63–64)

According to Rettig, Quitevis called him the night of October 2, saying that she was trying to pass information to Benjamin who did not want to speak. Quitevis asked Rettig, who was not present at the facility, if he would talk to Benjamin and he agreed to do so. However, Rettig testified that Quitevis said Benjamin would not talk to him. Rettig also testified that Quitevis told him, “she’s going home,” and “I have to find somebody to replace her,” referring to Benjamin. (Tr. 69) (Tr. 65–69)

Regarding Benjamin’s discharge, Rettig testified that Quitevis was solely responsible for the decision and that he had no input into the matter. Rettig said that, along with their October 2 call, Quitevis called him one additional time to say that she was having a meeting with Benjamin. Rettig could not recall ever having any conversations with Quitevis about firing Benjamin. (Tr. 66, 68–69)

III. ANALYSIS

A. Legal Standard

When an adverse employment action is allegedly based on an employee’s protected insistence on her *Weingarten* right to a witness, the Board applies the burden-shifting *Wright*

¹⁵ There is no evidence showing Respondent received any type of write-up or discrepancy.

Line framework,¹⁶ and the “General Counsel must first establish that the employee’s protected activity was a motivating factor in the employer’s . . . decision.” *Wal-Mart Stores, Inc.*, 351 NLRB 130, 133 (2007). The elements required to support such a showing are union or other protected activity, knowledge of that activity, and animus on the part of the employer.

5 *Consolidated Bus Transit*, 350 NLRB 1064, 1065 (2007), enfd. 577 F.3d 467 (2d Cir. 2009); *Acumen Cap. Partners, LLC v. NLRB*, 122 F.4th 998, 1003 (D.C. Cir. 2024).

The burden of proof then shifts to the employer to establish, by a preponderance of the evidence, that it would have taken the same action absent the employee’s protected conduct.

10 *Wal-Mart Stores, Inc.*, 351 NLRB at 133. “In other words, a respondent must show that it *would* have taken the challenged adverse action in the absence of protected activity, not just that it *could* have done so.” *Rhino Northwest, LLC*, 369 NLRB No. 25, slip op. at 3 (2020).

B. The General Counsel has established a prima facie case of discrimination

1. Benjamin was engaged in protected activity

In *NLRB v. J. Weingarten, Inc.*, the Supreme Court affirmed that Section 7 of the Act “guarantees an employee’s right to the presence of a union representative at an investigatory

20 interview in which the risk of discipline reasonably inheres.” 420 U.S. 251, 262 (1975). In determining whether an employee has a reasonable belief that an interview may result in discipline an objective standard is applied, considering all of the surrounding circumstances. *Id.* at 257 fn. 5; *Exxon Co.*, 223 NLRB 203, 206 (1976); *J. Weingarten, Inc.*, 420 U.S. at 257 fn. 5.

25 Applying these factors the evidence shows Benjamin reasonably believed that Quitevis was asking her to participate in an investigative discussion which could result in discipline on October 2, thereby entitling her to a union representative upon request. Recall, Quitevis did not work on the overnight shift. Therefore, her appearance at the Olympic Cafeteria during the

30 overnight shift on October 2, wanting to speak with Benjamin the day after their brusque text message exchange about cleaning ovens, supports a finding that Benjamin reasonably believed Quitevis was going to ask her about the dirty ovens or their text messages and that such a discussion could result in discipline. *Lennox Industries, Inc., v. NLRB*, 637 F.2d 340 (5th Cir. 1981), enforcing 244 NLRB 607 (1979) (because the risk of discipline is inherent in interviews focusing on poor work or upon an employee/supervisor confrontation, a union representative is

35 required); *Wendt Corp. v. NLRB*, 26 F.4th 1002, 1009 (DC. Cir. 2022) (employee had reason to believe he might face discipline where he was called in for questioning just two days after a safety incident).

40 That Quitevis was aggressive in her demeanor on October 2, further supports a finding that Benjamin’s belief that discipline may have resulted in any ensuing discussion was reasonable. *Wendt Corp.*, 26 F.4th at 1009 (that supervisor’s eyes “doubled in size” as he glared at employee when confronting him with alleged wrongdoing was a factor supporting a finding that the employee reasonably believed he might face discipline and was entitled to a *Weingarten* representative). Also, at no time did Quitevis tell Benjamin that any discussion would *not* lead to

¹⁶ See *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983).

discipline; this is also a relevant objective factor supporting Benjamin’s reasonable belief. *Verizon California, Inc.*, 364 NLRB 1008, 1012 (2016) (supervisor’s failure to inform employee that the interview would not lead to discipline is a proper factor to consider in perceiving how a reasonable employee would perceive the situation). Accordingly, the record supports a finding that Benjamin had reasonable cause to believe that any discussion with Quitevis on October 2 might result in discipline against her, and she was therefore entitled to a union representative when she requested one. Benjamin’s actions therefore were protected under Section 7 of the Act. Cf. *Prudential Insurance Co.*, 275 NLRB 208, 209 (1985) (noting that the protected nature of the *Weingarten* right is grounded in Section 7 of the Act).

2. Respondent’s knowledge and animus

Benjamin made her request for a union representative directly to Quitevis, the individual who made the suspension and termination decisions. As such, Respondent’s knowledge of Benjamin’s protected conduct is not disputed. Animus is established by Quitevis’s statement during the October 8 telephone call that Benjamin was fired for insubordination, which included her refusal to speak with Quitevis without a union representative. *Natural Life, Inc. d/b/a Heart and Weight Institute*, 366 NLRB No. 53, slip op. at 12 (2018) enfd. 827 Fed.Appx. 724 (9th Cir. 2020) (Statements linking adverse employment actions to employee protected activity evidence of animus for purposes of *Wright Line*.). Accordingly, the General Counsel has shown that Benjamin’s protected activities were a motivating factor in Respondent’s decision to suspend and fire her. Therefore, the burden of persuasion shifts to B.R. Management to show that it would have taken the same action against Benjamin even in the absence of her protected conduct.

C. Respondent’s defense

During the hearing, Rettig said that Benjamin was not at the facility on October 2 to reprimand Benjamin but only wanted to pass information to her so Respondent would not have issues with either the primary contractor or the government. Even if true, Benjamin’s right to have a union representative present during her October 2 discussion with Quitevis is measured using an objective standard considering all the circumstances; Respondent’s actual intent is not relevant. *Verizon California, Inc.*, 364 NLRB 1008, 1012 (2016) (supervisor’s subjective intentions are irrelevant as the “focus of a proper *Weingarten* analysis is the objective evidence.”). As discussed above, the objective evidence shows Benjamin had reasonable cause to believe that any discussion with Quitevis on October 2 might result in discipline against her and she was therefore entitled to have a union representative present upon request. Quitevis admitted in the October 8 telephone call that the decision to fire Benjamin was based, in part, upon her protected Section 7 conduct, and Respondent has not presented evidence showing that Benjamin would have either been suspended or fired notwithstanding her protected conduct. *American Automatic Sprinkler Systems, Inc.*, 323 NLRB 920, 922–923 (1997), enfd. in part. 163 F.3d 209 (4th Cir. 1998) (violation where manager admitted that discharge decision was, in part, motivated by protected activity). Under these circumstances, Respondent has not met its *Wright Line* defense burden. Therefore, Benjamin’s suspension and discharge violated Section 8(a)(1) and (3) of the Act. *Circuit-Wise, Inc.*, 308 NLRB 1091, 1109–1110 (1992), enfd. mem. 992 F.2d 319 (2d Cir. 1992) (Employer violated Section 8(a)(1) and (3) of the Act for discharging employee because he insisted on his *Weingarten* rights).

CONCLUSIONS OF LAW

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

2. The Industrial, Technical and Professional Employees Union, OPEIU Local 4873, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By suspending and discharging Nicole M. Benjamin, Respondent violated Section
 10 8(a)(1) and (3) of the Act.

4. The above unfair labor practices affect commerce within the meaning of Section
 15 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall
 20 order it to cease and desist therefrom and to take certain affirmative actions, as further set forth
 in the Order below, designed to effectuate the policies of the Act. Having found that Respondent
 violated Sections 8(a)(1) and (3) of the Act by suspending and discharging Nicole M. Benjamin,
 I shall order Respondent to reinstate her and make her whole for any loss of earnings and other
 benefits she suffered as a result of the unlawful actions.¹⁷ Backpay shall be computed in
 25 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).

Respondent shall compensate Benjamin for any adverse tax consequences of receiving a
 lump-sum backpay award in accordance with *Don Chavas, LLC d/b/a Tortillas Don Chavas*,
 30 361 NLRB 101 (2014). As set forth in *Thryv, Inc.*, 372 NLRB No. 22 (2022), enf. denied on
 other grounds 102 F.4th 727 (5th Cir. 2024), Respondent shall be required to compensate
 Benjamin for any other direct or foreseeable pecuniary harms incurred as a result of her unlawful
 suspension and discharge, including reasonable search-for-work and interim employment
 35 expenses, if any, regardless of whether these expenses exceed interim earnings. Compensation
 for these harms shall be calculated separately from taxable net backpay, 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).

In accordance with *AdvoServ of New Jersey, Inc.*, 363 NLRB 1324 (2016), Respondent
 40 shall also file with the Regional Director for Region 19, 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 year(s). In addition, pursuant to *Cascades Containerboard
 Packaging–Niagara*, 370 NLRB No. 76 (2021), as modified in 371 NLRB No. 25 (2021),
 Respondent must file with the Regional Director for Region 19, within 21 days of the date the

¹⁷ See *Taracorp Inc.*, 273 NLRB 221, 223 fn. 12 (1984) (make whole remedy is appropriate if an employee is discharged or disciplined for asserting their right to a union representative).

amount of backpay is fixed either by agreement or Board Order or such additional time as the Regional Director may allow for good cause shown, a copy of the corresponding W-2 forms reflecting the backpay award.

The Respondent shall also be required to remove from its files any references to Benjamin's unlawful suspension and discharge and notify her in writing that this has been done and that the adverse actions will not be used against her in any way.

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended¹⁸

ORDER

Respondent B.R. Management Services, Inc., its officers, agents, successors, and assigns, shall:

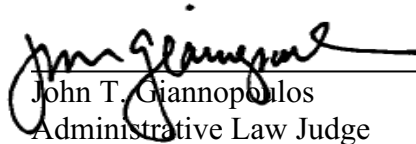
1. Cease and desist from suspending or discharging employees because they request union representation before participating in an interview in which they reasonably believe may result in discipline or because they engaged in union activities protected by the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act
 - (a) Within 14 days from the date of this Order, offer Nicole M. Benjamin full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights or privileges previously enjoyed.¹⁹
 - (b) Make Nicole M. Benjamin whole for any loss of earnings and other benefits, and for any other direct or foreseeable pecuniary harms suffered as a result of the discrimination against her, in the manner set forth in the Remedy section of this decision.
 - (c) Compensate Nicole M. Benjamin for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 19, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year.
 - (d) File with the Regional Director for Region 19, 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 Nicole M. Benjamin's corresponding W-2 form reflecting the backpay award.

¹⁸ 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.

¹⁹ Respondent admitted that it continues to perform cooking work at JBLM and the evidence shows Benjamin is qualified to work as both a cook and baker. (Tr. 19, 23, 63)

- (e) Within 14 days of the date of this Order, remove from its files any reference to the unlawful suspension and discharge of Nicole M. Benjamin and within 3 days thereafter, notify her that this has been done and that the discharge will not be used against her in any way.
- (f) Within 14 days after service by the Region, post at its jobsites at Joint Base Lewis-McChord (JBLM) copies of the attached notice marked "Appendix."²⁰ 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 physical posting of paper notices, notices shall be distributed electronically (such as by email, text message, 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 no longer employs individuals at JBLM, it shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at JBLM at any time since April 3, 2024.
- (g) 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. August 28, 2026


 John T. Giannopoulos
 Administrative Law Judge

²⁰ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX
NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD
AN AGENCY OF THE UNITED STATES GOVERNMENT

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

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
 Choose a representative 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 suspend or discharge employees because they request union representation before participating in an interview in which they reasonably believe that discipline may issue against them or because they engaged in union activities protected by the Act.

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

WE WILL make Nicole M. Benjamin whole for any loss of earnings and other benefits resulting from the unlawful discrimination against her, less any net interim earnings, plus interest, and **WE WILL** also make her whole for any other direct or foreseeable pecuniary harms suffered as a result of the unlawful discrimination, including reasonable search-for-work and interim employment expenses, plus interest.

WE WILL compensate Nicole M. Benjamin for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and **WE WILL** file with the Regional Director for Region 19, 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 Nicole M. Benjamin's corresponding W-2 form reflecting the backpay award.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful suspension and discharge of Nicole M. Benjamin, and **WE WILL**, within 3 days thereafter, notify her in writing that we have done so and that we will not use the unlawful suspension and discharge against her in any way.

 B.R. Management Services, 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

915 2nd Avenue, Room 2948; Seattle WA 98174-1078
(206) 220-6300, Hours: 8:15 a.m. to 4:45 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/19-CA-352007 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 (206) 220-6300.