

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

STARBUCKS CORPORATION

and

Cases 05-CA-318025
05-CA-324434

MID-ATLANTIC REGIONAL JOINT BOARD
WORKERS UNITED A/W SERVICE EMPLOYEES
INTERNATIONAL UNION

Zachary Wooley, Esq., for the General Counsel
Ethan D. Balsam, Michael J. Lacourse, and Rosalie DiFlora, Esqs.
(*Littler Mendelson, P.C.*), for the Respondent

DECISION

STATEMENT OF THE CASE

MICHAEL A. ROSAS, Administrative Law Judge. This case was tried in Leesburg, Virginia on April 7-8, 2026, and Washington, D.C. from June 8 to 12, 2026. This proceeding involves timely filed charges by the Charging Party, Mid-Atlantic Regional Joint Board Workers United A/W Service Employees International Union (the Union), alleging unfair labor practices by Starbucks Corporation (Respondent or Starbucks) at its 44185 Ashbrook Marketplace Plaza, Ashburn, Virginia location (Ashbrook store)¹ between 2022 and 2023.²

The amended consolidated complaint (complaint), issued on March 12, 2026,³ alleged the following unlawful violations by Respondent of the National Labor Relations Act: Section 8(a)(1)—selective and disparate enforcement of its dress code; Section 8(a)(3) and (1)—preventing employees Marium Rashid and Gabrielle Duritsa from working as barista trainers; Section 8(a)(3) and (1)—issuing final written warnings to Gio Carvalho, Crystal Jewett, and Duritsa for attendance and punctuality violations; Section 8(a)(3) and (1)—discharging Nicole Kang for using profanity, and Chelsea Brent for entering the store alone and time theft; and Section 8(a)(5) and (1)—failing and refusing to bargain with the Union regarding Respondent’s implementation of an annual barista trainer recertification requirement and temporarily terminating its Partner of the Quarter program.

The Respondent answered the complaint on March 26, 2026, denying the central allegations and raising numerous affirmative defenses.

¹ Respondent also refers to its stores as “coffeehouses.”

² All dates refer to 2023 unless otherwise stated.

³ At hearing, the General Counsel amended Paragraph 10 the amended complaint and withdrew Paragraphs 7, 14, and 16. Tr. 373; GC Exh. 1(u).

Counsel for the General Counsel (General Counsel) requested several adverse inferences at hearing due to Respondent's failure to produce a custodian of records or responsive records in response to his two subpoenas duces tecum. Respondent opposed the requests, insisting that it produced all the responsive documents in its possession. I deferred rulings on the General Counsel's requests until I considered the entire record. My rulings on those requests are found throughout this decision.

On the entire record, including my observation of the demeanor of the witnesses,⁴ and after considering the briefs filed by the General Counsel, Charging Party, and Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent, a corporation, with an office and place of business in Seattle, Washington and various locations throughout the United States, including in Ashburn, Virginia, has been engaged in the retail operations of stores offering coffee and quick-service food. Annually, Respondent, in conducting its business operations, derives gross revenues more than \$500,000, and purchases and receives at its Ashburn facility products, goods, and materials valued more than \$5,000 directly from points outside the Commonwealth of Virginia. Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. *The Respondent's Operations*

The Respondent operates over 9,000 retail locations across the United States and has approximately 200,000 employees, which it refers to as partners. Each store is staffed with a store manager,⁵ shift supervisors and baristas. Some stores have assistant store managers.

Baristas are the entry level positions. They make drinks and food and serve the customers. Barista trainers train newly hired baristas over a one-to-two-week period. The program is voluntary and limited to employees in "good standing."⁶ They are selected by the store managers and are

⁴ Of the discriminatees, Gabrielle Duritsa, Marium Rashid, Crystal Jewett, and Nicole Kang appeared composed and gave detailed and unambiguous responses to difficult questions on cross-examination. Chelsea Brent, on the other hand, was anxious and her body language changed depending on the questions asked. On Respondent's side, Brittany Owens was the only witnesses who worked at the Ashbrook store. She was responsive and accommodating but lacked specificity in her answers. Briana Pelczer answered most questions in a forthright manner until presented with contradictory records. Dulce Holtz and Ashley Buchanan were Partner Relations personnel who had a role in the disciplinary process. Although they responded to most questions in a straightforward manner, they became evasive on cross-examination.

⁵ In 2025, Respondent renamed the store manager position to "coffeehouse leader."

⁶ "Good standing" means that the employee is "adhering to company policy, is meeting the expectations of the job as determined by the manager and has no recent corrective actions." (GC Exh. 49 at 49.) District Manager Briana Pelczer defined "recent" as any "corrective actions that were delivered within the last six

paid a training bonus of \$75. If selected, they are required to pass a training module, followed by a practical skills test. After completing the training modules, the employee receives a certification on the My Learning app.⁷

Shift supervisors perform the same duties as baristas but have additional responsibilities; they are “keyholders,” handle the money, convey messages from the managers to the baristas, deal with customer complaints, and provide “coaching and feedback to partners on shift to ensure operational excellence and to improve partner performance.”⁸ Shift supervisors and baristas are statutory employees under the Act.

The Ashbrook store (Store 9376) is part of Respondent’s District 733. The district includes ten other stores in Loudon County: Leesburg Plaza (Store 7423), Battlefield (Store 7827), Broadlands Village (Store 7915), Ashburn Crossroads (Store 11310), Countryside Marketplace (Store 11313), Lansdowne (Store 11383), Dulles Town Center (Store 13930), One Loudon (Store 29478), Greenway Crossing (Store 50368), and Compass Creek Parkway (Store 63946).⁹

At the relevant times, the following individuals were supervisors and agents of Respondent in District 733 within the meaning of Sections 2(11) and 2(13), respectively: Briana Pelczer—district manager for District 733; Giovanni Quinones—district manager for District 732; Craig Stots—Ashbrook store manager;¹⁰ Brittany Owens—Ashbrook assistant store manager and acting store manager; Omar Hemmings—Ashbrook assistant store manager; Desiree Perry—Leesburg Plaza store manager; and Nicole Kellner—Greenway Crossing store manager.¹¹

In 2022 and 2023, the Ashbrook store opened at 5:00 a.m. and closed around 7:00 or 8:00 p.m. The store had four to seven shift supervisors at that time. Craig Stots was manager from Fall 2022 to Summer 2023. Around May, Brittany Owens transferred to the Ashbrook store. By August, she became the acting store manager and remained there until 2024. Omar Hemmings was training to be assistant store manager during early 2023.¹²

B. Policies and Procedures

months.” (Tr. 1281.) However, her interpretation was not supported anywhere in the Partner Guide.

⁷ Tyler Hoffman, a former employee in Richmond, Virginia from 2018 to 2023, now working full-time for the Union, testified that he never had to recertify as a barista trainer. Tr. 298-300.

⁸ Shift supervisor Chrystal Jewett testified that one of her responsibilities is to “coach in the moment,” which could include compliance with the dress code. Tr. 181; R. Exh. 3.

⁹ GC Exh. 73.

¹⁰ On September 2, 2024, Respondent discharged Stots for violating the company’s “Close Relationship” policy. The notice of separation listed a previous written warning on May 11, 2023, which was issued for failing to train correctly. Tr. 1189-1193; R. Exh. 23.

¹¹ Respondent states that Giovanni Quinones, Oscar Hemmings, Desiree Perry, and Kellner, all current employees, were not called to testify because the testimony in which they were referenced is not contested.

¹² Tr. 36-41.

When hired, employees are given the Respondent's Partner Guide – U.S. Store Edition (the Partner Guide) and required to sign and acknowledge its receipt and awareness of its contents.¹³ Applicable provisions include the following:

1. Work Hours and Schedule (p. 15)

Employee schedules are made three weeks in advance. Commensurate with that timeframe, employees are required to submit Partner Availability Forms three weeks in advance of the days and hours that they are available to work.¹⁴ Based on that information, the store manager creates a weekly store work schedule "that balances partner availability and business needs." However, as stated at page 15 of the Partner Guide, employees' requested days and times are not guaranteed:

There is no assurance or guarantee that hourly partners will receive their preferred hours or shifts, the same schedule each week, a minimum or maximum number of hours, or that a request for a schedule change will be approved. From time to time, a partner will also be expected to report to work for events such as promotions, store meetings or inventory at times that may fall outside the partner's days or hours of availability.

* * *

The store manager posts weekly work schedules in advance so partners can plan ahead. For this reason, a partner should submit a request for planned time off from work to the store manager for approval as far in advance as possible. Once a schedule is posted, the partner is responsible for reporting to work as scheduled. (Refer to "Attendance and Punctuality" section of this guide for requirements when a partner cannot report to work as scheduled, including responsibilities for finding a substitute.)

2. Attendance and Punctuality

Ashbrook store employees clock in and out on the store computer or iPad. If digital punching is unavailable, they may record their times in the daily record book. The daily record book is also used for entering sick leave and vacation requests, schedule adjustments, temperature logs, and inventory.

If an employee clocked in more than five minutes after their scheduled start time, the iPad would indicate that they were late. In 2022-2023, if employees were a few minutes late, they were

¹³ All employees sign and acknowledge receipt of the Partner Guide when hired. The Partner Guide is periodically revised. From 2021 through 2023, the 2020 version of the Partner Guide was applicable to employees at the Ashbrook store. GC Exh. 49; Tr. 1188-1189.

¹⁴ I admitted Jewett's screenshot of the 2025 version of the Partner Availability Form solely for the purpose of establishing that there were different ways that employees could tender their availability. GC Exh. 7; Tr. 224-228, 231-232.

either verbally coached, or nothing was said.¹⁵ Employees' attendance and punctuality obligations are set forth at page 27 of the Partner Guide:

5 A partner's reliability in reporting to work when scheduled and on time is essential to a store's efficient operations and in providing customers with the Starbucks Experience.

10 If a partner cannot report to work as scheduled or will be late to work, the partner must call and speak directly with the store manager or assistant store manager with as much advance notice as possible prior to the beginning of the shift. If a manager is not in the store, the partner should notify the partner leading the shift. Leaving a message or note without first making reasonable attempts to directly contact a manager or the partner leading the shift is not acceptable. Sending an email or a text message is not an acceptable form of providing notice.

15 Responsibility for Finding a Substitute: Planned time off, such as for a vacation day, must be approved in advance by the manager. If a partner will be unable to report to work for a scheduled shift and knows in advance, it is the partner's responsibility to notify the store manager or assistant store manager and for the partner to arrange for another partner to substitute.

20 In the event of an unplanned absence, e.g., the sudden onset of illness, injury or emergency, or when the partner is using paid sick leave allowable by law, the partner will not be held responsible for finding a substitute. The partner is still responsible for notifying the store manager or assistant store manager (or partner leading the shift if the manager is not in the store) of the absence prior to the beginning of the shift so coverage can be arranged if needed.

30 Failure to abide by this policy may result in corrective action, up to and including separation from employment. Some examples of failure to follow this policy include irregular attendance, one or more instances of failing to provide advance notice of an absence or late arrival, or one or more instances of tardiness.

35 Under certain circumstances, inability to work due to a medical condition may entitle a partner to a leave of absence (Refer to the "Time Away from Work" section of this guide for more information.)

3. Dress Code and Personal Appearance

40 In addition to the Dress Code and Personal Appearance Policy in the Partner Guide (the dress code),¹⁶ a condensed version is posted in the back of Respondent's stores.¹⁷ The dress code states that employees "should direct questions to the store manager, who will decide what is appropriate or not within the dress code. Partners who come to work inappropriately dressed or

¹⁵ Tr. 68-70, 77-78.

¹⁶ GC Exh. 49 at 30-33.

¹⁷ GC Exh. 43.

with unacceptable appearance may not be permitted to start their shifts. Failure to adhere to the Dress Code Policy may result in corrective action, including separation from employment.”

The dress code provides specifics requirements relating to items such as aprons, shirts, pants, hats, footwear, hairstyles, and pins. While working, employees must wear Respondent’s standard-issue green apron. Employees are allowed to wear wrinkle-free tops within the permissible color palette, with “a small manufacturer’s logo” but not with any other “logos, writings, or graphics.”¹⁸ Sweatshirts or hooded shirts are not acceptable. Aprons must be removed “while on a rest or meal period, while in the restroom, or while removing or taking out the trash.”

Employees may wear “one reasonably sized and placed button or pin that identifies a particular labor organization or a partner’s support for that organization, except if it interferes with safety or threatens to harm customer relations or otherwise unreasonably interferes with Starbucks’ public image. Pins must be securely fastened. Partners are not permitted to wear buttons or pins that advocate a political, religious or personal issue.” Jewelry may not be worn on the hands or forearms, except for ring bands, and employees are limited to one small facial piercing.

Permissible hats include company hats with logos or visors, plain baseball caps, beanies, short-brimmed hats, headwraps, and wide-knotted headbands. Except for white, hat colors must fall within the color palette illustrated on the posted dress code. Shoes or boots fall under the same color palette requirements but may have a small amount of accent color.

In 2022 and 2023, Ashbrook store managers were lenient in their enforcement of the dress code. Brian Brandon, the Ashbrook store manager from 2021 until approximately late summer or early fall of 2022, did not strictly enforce the dress code. Although he instructed employees not to wear T-shirts with large graphic designs or logos if they were visible beyond their aprons, he never directed them to take them off or go home to change.¹⁹ The lax enforcement of the dress code at the Ashbrook store continued after Stots took over. Baristas often wore T-shirts or hats with large animated or sport-themed graphics and logos, clothing that did not comply with the color palette, and multiple piercings.²⁰

¹⁸ The logo or graphic limitation does not apply to Respondent’s promotional T-shirts, e.g., the Black Lives Matter T-shirts issued in 2020. Tr. 49.

¹⁹ Crystal Jewett testified that Brandon “was . . . not very strict on the dress code,” Tr. 51. Employees often wore shirts with large sports logos and graphic animal designs that were not always covered by the apron and/or were visible on the back of the shirt. Tr. 48-49, 184-185. Also, “lots of partners had more than one facial piercing at the time.” Tr. 48. Gabrielle Duritsa testified that Brandon tolerated dress code violations if they were “not too visibly out of compliance.” Tr. 802. Marium Rashid testified that Brandon tolerated tee shirts with large graphics and logos but did tell her on one occasion not to wear a tee shirt anymore because the graphic was partially exposed beyond the apron. Tr. 540, 743, 770. On the other hand, Rashid cited the example of a photograph of Gio Carvalho on the store’s Instagram account on August 10, 2022 after she won the Partner of the Quarter award; Carvalho was wearing a patterned T-shirt, which fell outside the color palette, and was visible outside of her apron. Tr. 691-692; GC Exh. 34. She was also wearing a pink headband, which did not comply with the dress code. Tr. 539. 691-692.

²⁰ Rashid testified that Stots’ enforcement of the dress code in 2022 and 2023, and in 2023 by Brittany Owens, “was very lenient,” with baristas wearing T-shirts or hats with sports or other graphic logos “very often, almost daily.” Tr. 535-537, 539, 734-743. Jewett testified that Stots enforced some policies more than others: “Other times, he was more lenient. It would just depend on sometimes just his mood on

The Ashbrook store's shift supervisors were expected to implement the store manager's practice regarding the enforcement of the dress code. As such, they had the authority to coach baristas and inform the store manager if they were not in compliance with the dress code.²¹

4. How We Communicate (p. 43)

The Respondent's "How We Communicate" Policy states: "Partners are expected to always communicate with other partners and customers in a professional and respectful manner. The use of vulgar or profane language is not acceptable."

5. Corrective Action

Respondent's disciplinary policy is aimed at giving an employee "a reasonable opportunity to re-establish an acceptable level of performance or behavior." The policy sets forth a course of progressive discipline for violations of Respondent's policies and procedures:

Corrective action may take the form of a verbal warning, a written warning, demotion, suspension or separation from employment. The form of corrective action taken will depend on the seriousness of the situation and the surrounding circumstances. The evaluation of the seriousness of the infraction and the form of the corrective action taken will be within the sole discretion of Starbucks. There is no guarantee that a partner will

the day, what he would let slide." Tr. 38. Employees "would wear more vibrant colors for their pants," and wore wrinkled and dirty aprons, and shirts with "graphics or typography or other large logos, hooded tops." Tr. 156-157, 161. Employees also wore hats with union, sports, animated, or other logos without objection by Stots. In fact, Jewett wore one with a little ghost on the front and Stots called it "cute." Tr. 49-50, 219; GC Exh. 4. Duritsa testified that employees would wear dark sweatpants, graphic tees, patterned blouses or shirts, crew neck shirts, headbands, and sports hats. If Stots noticed, he would suggest that the employee wear something different next time. He later asked us to turn our shirts inside out if they did not comply. 798-802, 935-942. Rashid and Duritsa also identified an Instagram post of Ella Gould, a shift supervisor, wearing a graphic tee shirt while working with Owens' on July 27, 2024. GC Exh. 8; Tr. 731-735, 740-741, 803-806. Chong estimated that employees were out of dress code "[o]nce every two, three shifts at work" because Stots complimented them. Tr. 138. On direct examination, he testified that employees wore hats with sports and animated logos, and "Stots did not care at the time." Tr. 113. Nor were employees ever sent home to change. Tr. 116. Pressed on cross-examination as to when Stots told Jewett to remove her ghost hat, Chong appeared uncertain, stating it was during the "summer of 2022." Tr. 129-130. On redirect, however, he clarified that the incident occurred after Ashbrook store employees sent management a letter requesting union recognition. Tr. 131-132. Nicole Kang testified that it was "not uncommon for the graphics to peek out from the side of the apron." Tr. 937.

²¹ Jewett testified that shift supervisors were responsible to coach baristas if they were "wearing something largely out of dress code or . . . if it would impede their ability to get around the store safely." Tr. 51-52. They tried to follow the lead of the store manager. Tr. 180-181. Brent testified that baristas were rarely out of dress code. However, if they did, she would coach them and pass it on to the store manager. On one occasion in 2022, Brent reported to the store manager that an employee's shorts were too short. Tr. 346-348. Rashid conceded that, as a shift supervisor, she enforces the dress code based on the "standard . . . set by the manager." Tr. 731.

receive a minimum number of warnings prior to separation from employment or that corrective action will occur in any set manner or order.

In cases of serious misconduct, immediate separation from employment may be warranted. Examples of serious misconduct include, but are not limited to:

Violation of safety and/or security rules.
 Theft or misuse of company property or assets.
 Falsification or misrepresentation of any company document.
 Violation of Starbucks drug and alcohol policy.
 Possession of or use of firearms or other weapons on company property.
 Harassment or abusive behavior toward partners, customers or vendors.
 Violence or threatened violence.
 Insubordination (refusal or repeated failure to follow directions).
 Violation of any other company policy.

6. Travel and Business Expenses

Page 37 of the Partner Guide states that employees “may be required to conduct business travel during the course of their employment.” However, in the case of store employees, the use of their vehicles for business purposes is voluntary:

Store partners are not required to drive for work or use a personal vehicle for business reasons. However, a store partner may be asked to use their own personal vehicle for business errands, such as transferring or picking up product from another store location or making a business-related purchase. A partner who agrees to use a personal vehicle for business purposes will be reimbursed for personal vehicle use mileage at the standard government rate per mile.

Reimbursement will be made only for certain business purposes and for miles driven consistent with Starbucks guidelines. To receive a cash reimbursement from the store's till, the partner must complete the information required on the Mileage Reimbursement Log located in the store.

7. Safety and Security

The Partner Guide policy for “Maintaining a Secure Work Environment” refers employees to the policies and procedures in the Store Operations Manual.²² The manual’s “Opening and Closing Safety Procedures,” requires:²³

All stores must open with a minimum of two partners. Partners who are opening should enter the store together. If it is unsafe for an opening partner to wait outside the store alone and if there is no alternative safe place to wait (such as the partner's car or a nearby open business), a partner may enter the store alone. In that instance, the partner should communicate any

²² GC Exh. 49 (52).

²³ R. Exh. 40 at 1.

concerns to their district manager. Single entry into closed stores is not regularly permitted except in pre-approved situations which require approval by the district manager.

8. Policies Prohibiting Time Theft

An employee must punch in at the start of their scheduled shift. If an employee “forgets to punch in or out, or makes a time recording error, the partner must immediately notify a shift supervisor, assistant store manager or store manager and record the time actually worked on the store’s Punch Communication Log.”²⁴

C. Employees’ Union Activities

1. The Organizing Campaign and Certification

Craig Stots became the Ashbrook store manager in the Fall of 2022. Around that time, certain Ashbrook store employees contacted the Union about organizing their store. By early November 2022, Ashbrook store employees decided to seek labor representation. Tyler Hoffman, a Union organizer and former employee at Respondent’s store 23129 in Richmond, Virginia, assisted the store’s employees in navigating the process.²⁵

On November 11, 2022, Gabrielle Duritsa, a barista at the time, notified Chief Executive Officer Howard Schultz, District Manager Briana Pelczer, and Store Manager Craig Stots of their intention to unionize (the Dear Howard Letter).²⁶ The emailed letter listed the names of 15 employees on the Ashbrook store’s organizing committee. Duritsa, Marium Rashid, Jeremy Corboy, and Sofia Egnew were listed as “Leading Union Organizers.” The remaining names were Gio Carvalho, Christine Perry, Nicole Kang, Crystal Jewett, Davy Hopper, Kelly Risher, Christopher Chong, Gerald Montano, Devon Cox, Amandine Pruzensky,²⁷ and Grace Dugan.

On November 29, 2022, the Union filed an RC Petition with Region 5, Case No. 05-RC-307885, to represent the following employees at the Ashbrook store:²⁸

Included: All full-time and regular part-time Baristas, Shift Supervisors, Asst. Store Managers. Excluded: Store managers, office clericals, guards and supervisors as defined by the Act.

On January 9, a representation election was conducted in Case 05-RC-307885. Duritsa was an observer for the Union; Pruzensky was an observer for Respondent. The Union prevailed in the

²⁴ GC Exh. 49(18-19)

²⁵ Hoffman worked for Respondent from 2017 to 2023. Tr. 285-290, 305-306. He was separated on May 22, 2022, but was reinstated in January 2023 pursuant to a settlement between Respondent and the Union. Tr. 309-311 .

²⁶ GC Exh. 9.

²⁷ Pruzensky no longer works for Respondent. Although she signed the letter, Pruzensky was not considered a Union supporter. Tr. 269, 534-535.

²⁸ GC Exh. 39.

election. After the results were announced, Stots gave Duritsa a handshake, but Pelczer did not acknowledge her. Pruzensky appeared distressed and cried.²⁹

On January 18, a Certification of Representative was issued certifying the Union as the exclusive collective-bargaining representative of the following Unit:

Included: All full-time and regular part-time baristas and shift supervisors employed by the Employer at its facility currently located at 44185 Ashbrook Marketplace Plaza, Ashburn, Virginia. Excluded: All office clerical employees, guards, professional employees, and supervisors as defined in the Act.

Since January 18, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit. While there has been bargaining on the national level between the Union and Respondent, there has been none specific to the Ashbrook store.³⁰

2. Post-Election Union Insignia, Strikes, and Walkouts

After the Union's certification, employees engaged in various strikes. On February 14, several employees handed out Union flyers across the street from the Ashbrook store. They included Rashid, Duritsa, Carvalho, and Corboy.³¹

On March 22, Ashbrook store employees participated in a nationwide strike at Respondent's stores. Rashid sent the notification that morning to Stots and Pelczer.³² Duritsa was copied. The strike letter was signed by 11 employees: Rashid, Carvalho, Corboy, Jewett, Sara Benner, Grace Moon, Duritsa, Chris Chong, Sofia Egnew, Pruzensky, and Samantha Rodriguez.³³ At 12:04 p.m., Rashid emailed Pelczer and Stots the following demand, stating in part:³⁴

This is a formal cease and desist announcement for intimidation during the legal right to strike by claiming "not showing up is an unexcused absence[.]" Unfair Labor Practice charges can and may be filed for the individual that has already experienced this today.

On June 3, Rashid emailed Stots and Pelczer, notifying them that Ashbrook store employees would be on strike beginning that day and "unconditionally return to work" on June 4 at 7:30 p.m. The notice alleged several "unfair labor practices" as the reason for the strike:

²⁹ I base this finding on Duritsa's undisputed testimony. Tr. 821-822.

³⁰ Tr. 288-289, 600-601.

³¹ GC Exhs. 11-12; Tr. 822-823.

³² Rashid started working at the Ashbrook store in 2021. She has been a shift supervisor since November 2024. Rashid was among the employees who reached out to the Union. She helped write and gather signatures for, and signed, the Dear Howard Letter. She ultimately became the store's Union delegate. (Tr. 530-532, 560.) She participated in the February 14, 2023 day picket with Duritsa, Carvalho, and Jeremy. Stots was present. Also, the March 22 strike, which was part of a strike by employees at Respondent's store around the country. Tr. 665.

³³ GC Exh. 13; Tr. 665-667.

³⁴ GC Exh. 33.

discharge of an employee; understaffing; retaliation against Union supporters; unfair scheduling; unfair distribution of labor hours and work; and failure to bargain in good faith.³⁵

5 On June 8, Duritsa emailed Pelczer, Stots, and Giovanni Quinones, District Manager of District 732, notifying them that Ashbrook store employees would strike that day from 12:00 p.m. to 7:30 p.m. The strike was attributed to management's "Failure to Turn off Channels."³⁶

10 On June 24, Union organizer Tyler Hoffman notified Pelczer and Stots that Ashbrook store employees would be on strike that day. The email alleged unilateral alteration or termination of the store's Pride decoration policies and other unspecified unfair labor practices, including the refusal to negotiate over a first contract.³⁷

15 On August 12, Hoffman notified Brittany Owens, Stots, and Pelczer that Ashbrook store employees would be on strike that day. The email alleged the unlawful termination of an employee and final written warnings issued to two others in retaliation for their union activities, "as well as untenable working conditions at our store, resulting from management's failure to follow proper training procedures." The notice was signed by 10 Ashbrook store employees. They included Duritsa, whose name was listed first in bold, and Brent, Jewett, Carvalho, and Jennaca Bodden.³⁸

20 At 12:30 p.m. on September 27, Ashbrook store employees walked out. At 6:36 a.m. on September 28, Hoffman notified Owens, Stots, and Pelczer that Ashbrook store employees would be on strike, "effective at 12:30 p.m. 09/27/2023," and "concluding at [09]/29/2023."³⁹ The email alleged the "unlawful denial of transfers" and "improper staffing for events." The notice was signed by eight Ashbrook store employees. They included Rashid, Carvalho, and Jasmine Owen. 25 Brent, the scheduled opener on September 28, did not sign the notice but participated in the strike.⁴⁰

30 On October 4, Ashbrook walked out to protest Chelsea Brent's discharge. At 9:09 p.m. that day, Duritsa emailed Owens and Pelczer notifying them that the strike would be effective from 11:30 a.m. on October 4 to 7:30 p.m. on October 5. The email was signed by eight employees "[and] Other Striking Partners." Duritsa and Rashid were listed in bold. Others included Carvalho, Boden, and Camren Brown.⁴¹

35 On October 6, a Union-led handbilling event took place outside of the Ashbrook store, again in support of Brent.⁴²

³⁵ GC Exh. 15.

³⁶ GC Exh. 16.

³⁷ GC Exh. 24.

³⁸ GC Exh. 25.

³⁹ The notice contained several typos, "August 12, 2023" and "0/29/2023." GC Exh. 26; Tr. 296-297.

⁴⁰ Rashid "helped facilitate the walkout, and then I helped get everybody on board for it as well." GC Exh. 26; Tr. 670-672.

⁴¹ GC Exh. 23; Tr. 673-674.

⁴² Tr. 938-939, 952.

D. Stots' April 7 Enforcement of the Dress Code

Crystal Jewett has worked at the Ashbrook store since February 2020. In May 2022, she was promoted to shift supervisor. Jewett mostly works closing shifts on Fridays, Saturdays, and Sundays. She has also picked up shifts at other stores in District 733, including Broadlands, Countryside, Leesburg Plaza, and One Loudon stores. Prior to April 7, Jewett had never been issued verbal coaching for tardiness.

Along with Rashid, Jewett was a key organizer for the Union. She signed the Dear Howard Letter, was involved in the organizing campaign, and signed several strike notices. After the Union election, Jewett and her coworkers wore Union T-shirts and Union pins. The T-shirts had large, circular Union logos on the front. Depending on how employees wore their aprons, some or none of the logos was visible.⁴³

On one occasion in March, Jewett wore a black T-shirt with a large, circular Union logo to work. Her apron covered all but the edges of the logo. On April 7, Jewett again wore her Union shirt to work.⁴⁴ During a break in the back room, Jewett took her apron off. Stots, appearing annoyed, approached Jewett and told her she could not wear the shirt because it did not conform to the dress code. Jewett replied that she was entitled to wear it under the Act. Stots reiterated that the shirt violated the dress code and asked Jewett if she had another shirt to change into. Jewett replied that she did not and Stots walked away. Jewett finished her break and went back to work.

About 90 minutes later, Stots approached Jewett again in the back. He told Jewett that he double-checked the rules and determined that her shirt violated the dress code. As they walked to the front of the store, Stots asked Jewett again if she had another shirt to change into. She reiterated that she did not. At that point, Desiree Perry, the Leesburg Plaza store manager, entered the conversation.⁴⁵ She stated that employees at her unionized store were prohibited from wearing the Union shirt because of the graphic logo. Stots then ordered Jewett to go home and change her shirt.⁴⁶ Christopher Chong, a barista, interjected on Jewett's behalf and showed Stots and Perry a screenshot of the NLRB website. However, Stots stated the Act did not apply; Perry referred to the screenshot as "a newspaper scrap," a comment mimicked by Stots when Chong continued to insist

⁴³ Tr. 46, 59-60, 205-206.

⁴⁴ Jewett conceded that she was trying to conceal the T-shirt because she "knew another partner had been reprimanded for it, but I'd been told [by the Union] we could wear it." Tr. 59-60, 199-204.

⁴⁵ It is unclear why Perry, whose daughter worked at the Ashbrook store, was there.

⁴⁶ Stots never told shift supervisors during Jewett's shifts to send baristas home if they were not in compliance with the dress code. Tr. 52.

that Jewett was lawfully entitled to wear the shirt.”⁴⁷ Jewett then clocked out, went home, changed her shirt, and returned to work about 30 minutes later.⁴⁸

Jewett was not disciplined.⁴⁹ Nevertheless, Stots was not pleased by Chong’s advocacy on her behalf. On the same day, he sought to terminate Chong. Stots opened a performance consultation, asking if Chong, who had already given a two-week notice that he was resigning, could be separated before then. Stots’ basis for the request was that Chong “has become more combative and hostile in the workplace, since given notice and patterned call offs. Partner has become more aggressive towards SM, due to unrelated issues involving himself. Chris’s attitude towards our Mission and Values are not aligned and promotes more negative mindset.” Stots also confirmed that Pelczer was “aligned on this recommendation.”⁵⁰

E. Respondent’s Enforcement of the Time and Attendance Policy

1. Gio Carvalho

Gio Carvalho openly supported the Union. She signed the Dear Howard Letter, participated in the February 14 handbilling event outside the Ashbrook store with Duritsa and Corboy, and signed onto the March 22, June 3, August 12, and October 4 strike notice letters.

On February 5, Carvalho was scheduled to work the afternoon shift, while Rashid was scheduled to work the morning shift. However, Rashid had a conflict that morning and asked Carvalho to switch shifts. Carvalho agreed. They asked Assistant Store Manager Omar Hemmings and he verbally approved. However, before he could approve it on the Partner Hours app, Stots, while on vacation, denied it. Rashid spoke to Hemmings, who told her not to worry, it was still approved, and he would let Stots know.⁵¹

That morning, Rashid received a call from Hemmings telling her that Carvalho did not show up to work. Hemmings told Rashid that whoever showed up to work would not receive a

⁴⁷ Chong and Jewett provided generally consistent accounts of the statements made by Stots and Perry. Tr. 61-65, 114-116, 124, 161-162, 204-206; GC Exh. 5. Respondent highlighted the relatively minor inconsistency in Chong’s testimony—that Jewett was “was told to go home or be disciplined,”—and his failure to mention that statement in his Jencks affidavit. Tr. 125-128. However, his prior consistent statement after the incident on April 7 further corroborated the opposing party statements made by Stots and Perry. Tr. 132-134, 273-276.

⁴⁸ Jewett was not sure if she took her one unpaid 30-minute break or “another unpaid 30-minute break” when she went home to change her shirt. (Tr. 223-224, 231-232.)

⁴⁹ In fact, prior to October 10, Respondent never disciplined an employee for violating the dress code. On that day, Brittany Owens issued a written warning to Garbielle Frierson for several performance deficiencies, use of cell while working, time arriving late to two shifts, and a dress code violation for “repeatedly [being] coached on pulling her hair back, not wearing graphic shirts, and that her pants do not meet dress code policy.” R. Exh. 27.

⁵⁰ R. Exh. 16 at 13; GC Exh. 71 at 11.

⁵¹ It is undisputed that Carvalho was responsible for showing up for the swapped shift. Tr. 547-549, 601-606, 610, 616-624, 748, 1223-1224; GC Exh. 30-31.

corrective action. Rashid tried to reach Carvalho but was unsuccessful. She came in early for her afternoon shift but was still unable to cover the morning shift. Rashid was not disciplined.⁵²

On February 20, Stots issued a final written warning to Carvalho for failing to cover the February 5 morning shift. The notice, dated February 7, stated that Carvalho “failed to work the shift and failed to communicate their absence or arrange for coverage prior to the start of the shift.” There was no mention of prior discipline or coaching issued to Carvalho.⁵³

2. Crystal Jewett

Crystal Jewett knew that Respondent’s attendance policy required her to contact the store manager if she was not coming to work as scheduled. She also knew that, if the store manager was not present, she was to notify someone at the store.⁵⁴ That obligation included tasting sessions for new beverages, which are posted on employees’ schedules, both online and in the back of the store. Employees unable to attend would be sent to a session on another day at another store.

On May 3, Respondent conducted a mandatory tasting session for all employees at the Ashbrook store. At the time, based on her scheduling availability, Jewett did not work on Thursdays; she attended college classes on those days. However, since the tasting session was listed on her schedule for that day, Jewett was obligated to call the store and notify the store manager—or someone else if they were not present—that she would not be able to attend. However, Jewett failed to do so.⁵⁵

On May 21, Stots opened a Partner Relations case recommending “Final Corrective Action” for Jewett’s no call/no show on May 3, “[a]long with 6 following shifts tardiness for scheduled shifts.”⁵⁶ On May 22, Senior Partner Relations Associate Ashlei Buchanan asked Stots to send her copies of any prior corrective action and notes from his conversation with Jewett as to why she missed the shift.⁵⁷ Stots replied that Jewett did not have prior discipline and told him that she missed the shift because she had college exams. Buchanan replied that Jewett “has been a partner for a while now with no corrective action history,” and then asked, “does Crystal have any irregular concerns? Do they have anything happening at home that would cause this unexpected behavior?” Stots replied that he was unaware of anything affecting Jewett “outside of work,” but she “does have irregular attendance, noted on the proposed document.”

⁵² Hemmings told Rashid not to worry and that the one who did not show up would get, at most, a warning. Tr. 550-551.

⁵³ GC Exh. 32.

⁵⁴ Jewett also conceded that an employee’s failure to call in if they were not coming into work on a day that the store was short-staffed would have serious implications for the business. Tr. 207-208, 216.

⁵⁵ Jewett explained that she “did not usually review my schedule until Thursday of that week because I didn’t expect to be scheduled other than my availability,” (Tr. 211.) . . . “It was out of my availability, so I didn’t even check that I was working that day.” Tr. 217-218. She conceded, however, that she was remiss in failing to check her schedule, which is posted three weeks in advance. Tr. 36, 75-76, 207-214.

⁵⁶ GC Exhs. 58, 73; R. Exh. 16.

⁵⁷ Buchanan’s maiden name was Carry.

On May 23, Buchanan followed up with Stots regarding the proposed corrective action. She asked Stots why he waited until May 21 to report Jewett's no call-no show absence and if he had "addressed and coached Crystal for their tardiness." Stots did not respond. On May 25, Buchanan noted that she spoke to Stots and concurred with his recommendation that Jewett be issued a final written warning.⁵⁸

On June 2, Stots issued Crystal Jewett a final written warning "for irregular attendance and unexcused absence. Crystal has displayed an irregular pattern over the past two weeks."⁵⁹ The document was generated on May 17 ("Date Created") and listed eight dates. The first date listed, May 3, a Wednesday, was for "No Call/No Show for Partner Session 6 pm-8 pm." The other seven dates were for lateness: May 5 and 6—6 minutes; May 7—3 minutes; May 12 and 13—4 minutes; May 19—8 minutes; and May 20—4 minutes. Although noted on the corrective action, Jewett did not appeal the final written warning.⁶⁰

3. Gabrielle Duritsa

Gabrielle Duritsa began working for Respondent in June 2015. She was promoted to shift supervisor in 2016 but transferred to the Ashbrook store as a barista in 2021. In 2024, Duritsa was promoted again to shift supervisor. She typically works mornings to mid-morning shifts, Tuesdays through Saturday.

Beginning in 2022, Duritsa was actively involved in the Union campaign. She signed the Dear Howard Letter, took on the role of lead organizer at the Ashbrook store, and was an observer for the Union during the January 9 election. Thereafter, Duritsa served as strike captain, participated in hand billing in front of the store, and was a member of the National Contract Action Team and the Regional Organizing Committee.⁶¹

Duritsa picked up an unassigned shift for June 27.⁶² She later realized that she had a conflict on June 27 and would be unable to make it into work that day. Duritsa posted the option on Partner Hours for others to pick up the shift. By June 27, no one had picked up the shift. However, instead of calling the store and letting the store manager know, Duritsa messaged the store's group chat.⁶³ The group chat included Brent and Rashid, both of whom were working that morning.⁶⁴

⁵⁸ Buchanan testified that "the consistent recommendation" for a "no call, no show," is a final written warning. Tr. 1045-1046, 1049-1050.

⁵⁹ Jewett was only available on weekends because she attended college but did not deny that it was on her schedule and she failed to call the store to let them know she would not be able to make it. Tr. 75-76. She insisted, however, that "there had been lots of other partners who had no call, no show, of not once, multiple times, and hadn't received a final written warning to my knowledge. GC Exh. 6; Tr. 70-73.

⁶⁰ R. Exh. 4; Tr. 214.

⁶¹ GC Exh. 11; Tr. 819-822.

⁶² GC Exh. 75; Tr. 888.

⁶³ Duritsa admitted that, by not calling the store manager, her no call-no show violated the attendance and punctuality policy. Tr. 975, 977-978. Rashid acknowledged that a group chat notification was not acceptable because it was like leaving a text message. Tr. 752-753.

⁶⁴ I conditionally overruled Respondent's hearsay objection to Rashid's testimony that Duritsa told her

On July 7, Stots recommended to Partner Relations that Duritsa be issued “Final Corrective Action” for the “[no call/no show] for the scheduled shift, which she picked up herself through the partner hours app.” Stots listed under “Other Pertinent Details” that:⁶⁵

Partner is organizer in store, which would be high risk for disturbance. Select partners/organizers has shown a recent pattern of picking up unfilled shifts (to prevent other partners from picking up shifts) and not showing up for work to protest and strike.

On July 10, Partner Relations Associate Corrin Crowley asked Brittany Owens, copying Pelczer, for a statement as to why Duritsa was a no call-no show on June 27.⁶⁶ On July 11, Pelczer responded that Stots reported that Duritsa picked up the missed shift but failed to show “due to an appointment” but did not call the store. On July 11, Owens replied, “[a]s you can see by the documentation coming your way, as well as some others we are addressing, there have been several T&A issues that we are following up on, nothing stands out in particular for [Duritsa’s no call/no show].”⁶⁷ The documentation included Duritsa’s written statement:

Missed shift. I had picked up an open shift outside my availability 1-2 days before the scheduled shift and then realized I had a Dr. Appt. on my day off scheduled so I “released” it but the system doesn’t acknowledge that it wasn’t originally a scheduled shift.

On July 12, Owens asked Duritsa to write an explanation as to why she did not show up to work on June 27. Duritsa complied. She provided Owens with the following note:⁶⁸

I had picked up an open shift outside my availability 1-2 days before the scheduled shift and then realized I had a Dr. Appt. on my day off scheduled so I “released” it out the system doesn’t acknowledge that it wasn’t originally a scheduled shift.

On the same day, Respondent prepared a final written warning for Duritsa for violating the attendance and punctuality policy on June 27:⁶⁹

Gabrielle picked up an unfilled shift on 6/27/23 from 6:15am to 1:45pm. Gabrielle failed to show up for her shift and failed to communicate her absence, and instead no call/no showed for the shift.

she would not be coming in on June 27. Rashid did see a call from Duritsa on Brent’s phone. Tr. 641-644. However, Duritsa did not testify about a conversation with Rashid regarding her inability to come to work on June 27. Tr. 878-879, 888-889. Accordingly, Rashid’s testimony about a verbal communication with Duritsa on June 27 is stricken.

⁶⁵ GC Exh. 71 at 1.

⁶⁶ GC Exh. 75.

⁶⁷ Owens did not identify the other time and attendance issues that she and Pelczer were “addressing” or “following up on.” However, it is evident that she was referring to Duritsa’s six tardies.

⁶⁸ GC Exh. 75; Tr. 889-890.

⁶⁹ GC Exh. 22.

On August 2, Stots asked to meet with Duritsa to hand her the final written warning. However, Duritsa requested to have a Weingarten representative present. Stots agreed and Duritsa called Rashid. However, Rashid was not available, and the meeting was rescheduled to August 4.

On August 4, Stots and Pelczer met with Duritsa. Rashid was present as a witness and recorded the meeting. Stots informed Duritsa that she was being issued a final written warning for failing to show up and for her shift and was a no call/no show on June 27. Duritsa asked why she was being issued a final written warning “if it wasn’t a problem before.” Pelczer replied:

So, anytime that there’s no-call, no-shows in any store at any Starbucks, it automatically goes to a final written warning, so it’s really clear about like it can’t happen again. Like, if a partner calls out or something happens, like we’ll work around it, but the biggest piece is around like the communication. So, if like a shift is posted and we need the coverage and someone covers it and we think, hey, the team is covered and then nobody comes, nobody calls, that’s really like what the behavior piece is about.⁷⁰

Duritsa replied that she picked up “open shift,” which “no one was working it in the first place, and then it was outside my availability that I picked up, That’s on me.” She explained that she “opened” the shift “back up again” after realizing that she “couldn’t work it.” With respect to the charge that she failed to notify the store manager that she was not coming in, Duritsa said she understood “there should have been different communication styles.”

After Pelczer responded that Duritsa could include her explanation in her statement and/or appeal to Partner Resources, Rashid asked if it mattered that Duritsa messaged Brent and Rashid to let them know that she would not be in. Again, Pelczer responded that Duritsa could add that information on an appeal.

Duritsa was issued the final written warning. The document listed Brittany Owens as store manager but was signed by Stots and witnessed by Pelczer on August 4. Duritsa signed, “I do not agree. I will appeal.”⁷¹

4. Respondent Applied Stricter Discipline to Union Supporters

Prior to November 29, 2022, Respondent’s response to no call/no show absences at District 733 stores ranged from written warnings to termination.⁷² On July 29, 2022, Cole Eisner, an employee at the Leesburg Plaza store, was terminated by Pelczer and Kellner for six no call/no shows.⁷³ On February 9, 2022, Jennifer Jackson, an employee at the Battlefield store, was issued a final written warning for one no call/no show absence. On May 17, 2022, Jake Daniel, an employee at the Greenway Crossing store, was issued a final written warning for one no call/no show

⁷⁰ GC Exh. 35; Tr. 627-631, 633-635.

⁷¹ There is no evidence that Duritsa appealed the discipline.

⁷² Buchanan and Pelczer conceded that no call/no show absences were excused if there were extenuating circumstances, such as medical emergencies, domestic violence situations, or other emergencies that preventing the employee from contacting the store. Tr. 1048, 1221.

⁷³ R. Exh. 28.

absence.⁷⁴ On the other hand, sometime prior to the Union election in 2022, Christopher Chong was coached for tardiness and subsequently issued a written warning for a no call/no show absence at the Ashbrook store.⁷⁵

5 After November 29, 2022, Respondent's response to no call/no show absences ranged from no discipline to final written warnings.⁷⁶ The Ashbrook store's Daily Coverage Report documented the following no call/no shows that evaded any disciplinary action: Abby Detorie - June 26;⁷⁷ Aberly Sommers - June 27;⁷⁸ Smayan Navudu - August 7;⁷⁹ Sean Sidhu - August 24;⁸⁰ Johnavon Massey - September 23 and 24;⁸¹ Jannah Toure - October 12;⁸² Kenisha Santosh - October 14;⁸³
10 Gabrielle Frierson - November 7;⁸⁴ and Micah Laperriere - December 26.⁸⁵

During the week of June 5, Nicole Kellner, the Leesburg Plaza store manager covered for Pelczer while she was on vacation. In her notes about the Ashbrook store's operations on Friday,

⁷⁴ R. Exh. 34.

⁷⁵ Chong, unsure of the date, testified that he received a "written discipline," but "not a final written warning." Tr. 107-108, 118-119.

⁷⁶ Respondent was ordered to comply with the General Counsel's subpoena duces tecum for Daily Coverage Reports from November 11, 2022 through November 11, 2023. However, Respondent only responded in part. Having considered the credited testimony that no call/no show absences occurred on numerous occasions throughout 2022 and 2023, the General Counsel's request for an adverse inference is granted. Accordingly, I find that the remaining Daily Coverage Reports, if produced, would have shown additional instances of no call/no shows at the Ashbrook store where Respondent issued no discipline or discipline that was less severe than a final written warning. GC Exhs. 42 (6), 48 (2); Tr. 906-912.

⁷⁷ GC Exh. 44.

⁷⁸ GC Exh. 45; Tr. 907.

⁷⁹ GC Exh. 85 at 1; Tr. 1244, 1247-1248.

⁸⁰ Id. at 2; Tr. 1244-1245.

⁸¹ Given Respondent's failure to provide subpoenaed documentation of subsequent disciplinary action, Pelczer's speculation that Massey would have been separated cannot be credited. Id. at 4-5; Tr. 1248-1250.

⁸² Pelczer's vague and uncorroborated hearsay testimony as to why Toure evaded discipline was not credible. She testified that Toure, who was old enough to be employed by Respondent, was not disciplined for a no call/no show because she was a "minor" who was left home alone and unable to contact management. Pelczer claimed to have found an email from the store manager stating that she did not issue discipline after Toure explained her situation. GC Ex. 85 at 6; Tr. 1250-1251. However, Respondent failed to produce any evidence of such an email pursuant to the General Counsel's subpoena. Tr. 911.

⁸³ I did not credit Pelczer's uncorroborated testimony that Santosh was not disciplined because she resigned before she could be issued discipline. GC Exh. 85 at 7; Tr. 1251-1252.

⁸⁴ The entry only referred to "Gabrielle." Based on Duritsa's undisputed testimony that it was not her, the only other Ashbrook store employee by that name was Frierson. Id. at 8; Tr. 912.

⁸⁵ Pelczer speculated that Laperriere would have received a final written warning. However, Respondent failed to produce subpoenaed documentation to support that assertion. Nor is it credible to believe that Pelczer was unable to obtain Laperriere's file simply because he transferred to another district. GC Exh. 69; Tr. 1242-1243.

June 9, Kellner reported “[t]here was multiple call outs/no call no shows, Broadland send over 2 partners to support the peak.”⁸⁶ Respondent did not issue discipline to any of those employees.⁸⁷

During June and July, Respondent took steps to discipline some employees for no call/no show absences. None resulted in the issuance of final written warnings.⁸⁸ Stots’ performance accountability consultations documented additional no call/no show absences for Aberly Sommers on June 25 and 29, in addition to her June 27 absence. Stots recommended a written warning, which Pelczer agreed with. He wrote that Sommers “planned a trip after schedule posted and failed to cover her shifts. . . and said she was out of town with family. Partner was understanding that she needed to find coverage for her scheduled shifts. Aberly failed to get shifts covered. Aberly called out for her shift on July 4th.”⁸⁹

On July 5, Stots’ performance accountability consultation documented a no call/ no show absence by Samantha Rodriguez. Stots recommended a written warning, noting that the shift supervisor “confirmed this pattern when speaking with [store manager]. . . Partner has a history of call offs and attendance.” Pelczer agreed.⁹⁰

Besides the disciplines issued to Carvalho, Jewett, and Duritsa, the only other final written warnings for no call/no show absences were issued to five Ashbrook store employees who openly supported the Union: Devon Cox – December 7, 2022; Jeremy Corboy and Gerald Montano– January 20; Abbie Detorie – June 12; and Gabrielle Frierson – December 23. Of those, only Frierson had a significant history of performance and attendance issues, including several disciplines and dress code violations.

⁸⁶ Pelczer initially testified that the June 9 note “listed on the incorrect day,” and meant to refer to June 10, when there were “multiple callouts.” Tr. 1255-1261; GC Exh. 61; R. Exhs. 38-42. She later retracted that testimony. Tr. 1286-1290. Nevertheless, Respondent contends that the June 9 shift schedule and punch communications log show that that every employee scheduled for that day, except for one callout, clocked in. However, those entries do not sufficiently demonstrate that Kellner’s report was incorrect. She wrote that “the opener” did not show up and “Broadlands sent over 2 partners to support peak.” Kellner, an admitted supervisor, was not called to testify.

⁸⁷ The General Counsel’s request for an adverse inference that Respondent issued no discipline to employees who were no call/no shows on June 9 or that, if produced, the discipline would have been less severe than a final written warning, is granted. Tr. 465-468.

⁸⁸ The General Counsel subpoenaed disciplinary documents issued to Ashbrook store employees for attendance and punctuality violations in June, July, or August. GC Exh. 40 at 11. Despite being ordered to comply with the request, Respondent failed to produce any disciplines other than those issued to Carvalho, Jewett, and Duritsa. GC Exh. 41 at 15. Accordingly, the General Counsel’s request for an adverse inference is granted and I find that, had Respondent produced responsive documents, they would have been averse to its position that no call/no shows issued during those months “automatically [went] to a final written warning.”

⁸⁹ The General Counsel’s request for an adverse inference here is unnecessary since there is no evidence that Sommers was issued a final written warning. GC Exh. 71 (13).

⁹⁰ Id.

Cox had two no call/no show absences, one lateness, and called out without any sick time on two other days.⁹¹ Corboy had one no call/no show absence;⁹² Montano was a no call/no show on two occasions and late on two others.⁹³ Detorie had one no call/no show absence, late on two occasions, and two call outs without enough sick time.⁹⁴ Frierson had three no call/no show absences, along with insubordination and violating policies prohibiting cell phone use or wearing bracelets on the floor. The discipline was preceded by a written warning on October 20 for similar violations.⁹⁵

Outside of the Ashbrook store, there was only one other final written warning issued within District 733. On December 2, Fisayo Onifade, an employee at the Greenway Crossing store, was issued a final written warning after previously being coached about attendance, for calling out of one shift without sick time, and a no call/no show on a second shift.⁹⁶

F. Nicole Kang

Nicole Kang worked as a barista at the Ashbrook store from August 28, 2022 to February 20. Brian Brandon was the store manager when she started. Stots took over a few weeks later. Kang worked mostly morning shifts. Kang openly supported the Union, having signed the representation petition and Dear Howard Letter, and regularly wore a Union pin on her apron.

Prior to February 20, Kang had never been disciplined. Nor had she been counseled for her use of profanity at work. In fact, employees often used profanity at the Ashbrook store. They cursed during casual conversation or moments of anxiety, in the presence of Brandon and Stots in the back of the store, as well as the front of the store when there were no customers around. If profanity was used in the presence of customers, it was verbally coached and the employee was told to stop it by the store manager. Stots also used profanity.⁹⁷

⁹¹ R. Exh. 33.

⁹² R. Exh. 32.

⁹³ R. Exh. 31.

⁹⁴ R. Exh. 37.

⁹⁵ R. Exh. 30; Tr. 1215-1216, 1312.

⁹⁶ R. Exh. 29.

⁹⁷ Ashbrook store employees frequently used profanity prior to February 20 without being disciplined. Crystal Jewett testified that cursing was tolerated if it was not within the earshot or presence of customers. Tr. 41-44, 194-199, 219-222. Christopher Chong and Nicole Kang testified that the “F word” and “S word” were used frequently. Tr. 108—109, 236-239, 270-271. Kang also admitted to regularly using profanity in the back of the store and occasionally with customers present. Tr. 267-268. Chelsea Brent testified that profanity was used daily, especially when “everyone gets anxiety of when we’re backed up through the drive-thru or in the lobby, so. Or even if you drop something, like, oh, bad word. But we do our best not to do too much cussing.” Profanity was addressed with “verbal coaching” to “keep it down. Make sure that if there’s customers around we’re not doing too much talking, we’re focusing on them.” Tr. 319-320. If cursing in front of customers became habitual, Brent would escalate it to the store manager but could not recall any instance when she did so. Tr. 350-351. Rashid heard profanity “[a]ll throughout the day.” She even heard Stots curse over the headset in frustration in January. Tr. 540-543, 781. However, Rashid did not hear cursing in front of customers or within their hearing range. It was usually over the headsets or in the back. Tr. 743-746. Duritsa provided similar testimony. She typically heard cursing in the back of the store and not within earshot of customers. On one occasion in 2023, Duritsa cursed while appealing to the

On February 8, Kang worked the opening shift with shift supervisor Pruzensky and Rashid. The ice machine had been broken for several days. Typically, if a store ran out of supplies, baristas with vehicles would be asked to drive to another store to pick up them up. Although they were reimbursed for mileage, the process was voluntary.⁹⁸

5

Prior to the store opening, Pruzensky called Stots for guidance regarding the ice issue. While still on the telephone with Stots, at his direction, Pruzensky directed Kang to go to a nearby Starbucks store to pick up ice.⁹⁹ Kang asked if she would be compensated for gas and mileage. Pruzensky said she would not be compensated. Kang abruptly declined because she did not want to ruin her vehicle. A few minutes later, Pruzensky approached Kang again and asked her to reconsider. Kang again refused to go get bags of ice because she did not want to ruin her car.¹⁰⁰

10

The initial exchange between Pruzensky and Kang took place near the back of the store.¹⁰¹ Rashid was standing nearby and heard the conversation. After that conversation, Pruzensky shared her frustration with Rashid in the back of the store. Kang was at the front of the store at the time.¹⁰²

15

Stots came to the store later that day. When business slowed down, he pulled Rashid to the back of the store. Rashid expressed her frustration with Stots because staff were unable to turn off mobile ordering for iced beverages, which frustrated customers who expected to find ice in their drinks. She also told Stots that the problem was eventually solved when a customer went to get

20

store manager on the telephone to turn off mobile orders. She had worked four hours straight without a break. He counseled her later that day and she apologized. Tr. 815-818.

⁹⁸ Kang, Jewett, Brent, and Holtz confirmed that, if the store ran out of supplies, baristas with vehicles would be asked to drive to another store to pick them up. Although the baristas were reimbursed for mileage and gas, the process was voluntary. Tr. 34-36, 218-219, 246, 317-318, 420; GC Exh. 49 at 37.

⁹⁹ Kang testified and stated in her Jencks affidavit that Pruzensky told her to get the ice. However, in her text to Oscar Hemmings, Kang stated that “Stots called.” She clarified that it meant that Pruzensky called Stots and was on the phone with him when she asked Kang to get the ice. Tr. 262-263.

¹⁰⁰ Kang conceded that saying the “F-word” to another person was not a professional, respectful or an acceptable form of communication, especially if uttered within earshot of customers. If stated in front of customers, it would reflect poorly on Respondent. Tr. 257-260. However, there was no testimony to refute Kang’s otherwise credible denial that she said the word, “fuck,” in rejecting Pruzensky’s directive to go get ice at a nearby gas station. Tr. 244-250, 265. Nor was there any testimony or other evidence that there were customers who were present during Kang’s conversation with Pruzensky, with Rashid standing nearby. Kang did not recall if there were any customers present during the second conversation when Pruzensky “did circle back to me and tell me that she really wishes I would just go and get the ice,” and Kang “still told her no.” Tr. 271. However, Pruzensky’s written version of the incident omitted any reference to a second conversation or the presence of customers. GC Exh. 56.

¹⁰¹ Rashid testified that there are three cameras in the front of the store and one in the back. One of the cameras in the front covers the area where Kang and Pruzensky were speaking. Tr. 663-664, 769. She did not know if they recorded audio. Tr. 754. Although there is no evidence that the cameras recorded audio, I credited Rashid’s unrefuted testimony that she did not hear Kang curse. Tr. 777, 781.

¹⁰² Rashid testified that she was “near the back of the house,” about “four to seven feet away,” when Pruzensky and Kang were speaking. The store had not yet opened. The lights were off because they were not turned on until the store opened. She heard Pruzensky ask Kang, “if she could go grab ice from another store.” Kang stated, “I don’t want to ruin my car.” Tr. 647, 651-657.

ice. However, Stots told Rashid that her frustration was misplaced and should have been directed at Kang for refusing to get ice. He asked Rashid to write a statement of what happened. Stots also said that Pruzensky told him that Kang cursed at her and asked if she heard the same. Rashid said she did not hear Kang curse. Stots insisted again that Rashid write a statement. Rashid said she would think about it. Stots approached Rashid in the front of the store two more times, later that day and on February 9, and urged her to write the statement because he wanted to retrain Kang.¹⁰³

That afternoon, Stots asked Pruzensky to email him “all detailed information and verbiage used in situation this morning.” Pruzensky emailed the following statement:¹⁰⁴

Upon opening our store (ashbrook marketplace #9376) we found we had no useable ice due to cleaning the evening prior during clean play. At or before 5:30am after speaking with my manager, (Craig) I learned our MOP channel would not be disabled and we should go and purchase ice bags from the Shell fuel station a few yards from our store location. I informed SM "Craig" I would give the store card to barista Nicole, (who was our only viable option) and send her to purchase the necessary supplies. As it was only myself: Amandine, (ssv who must remain in the store) and barista (Marium,, who does not have a license to operate a motor vehicle, and also witnessed the transactions accounted for in this message), when I informed Nicole I would need her to perform such a task she responded to me, verbatim: “What?! Why the fuck do I gotta do it? I am not putting miles on my car!” (Note the round trip doubly would've put even 1 mile on said car) the language/attitude was deemed inappropriate and reported to my superior.

Under continued pressure from Stots and Pruzensky to provide a statement, Rashid emailed the following statement when she got home on February 9:¹⁰⁵

Wednesday morning (2/08/2023), Before we opened and set up, we did not have ice as the ice in our ice bin was unsafe to use due to being cleaned out the night before. Nicole Kang was asked by Shift supervisor Amandine Pruzensky, per the direction of our Store manager, Craig Stots, to get some ice from the gas station 500 ft away from our store

¹⁰³ I based this finding on Rashid’s credible, detailed, and undisputed testimony regarding her interactions with Stots on February 8 and 9. Tr. 657-663.

¹⁰⁴ I gave no weight to Pruzensky’s uncorroborated written statement as to what happened on February 8, except as to what it did *not* say—that the store had opened or there were customers present. GC Exh. 56.

¹⁰⁵ Rashid denied on cross-examination that her statement accurately described the February 8 incident. She specified that all but the last sentence of the statement was inaccurate. Tr. 708-710. Notwithstanding Rashid’s failure to mention in her June 20, 2023 affidavit that Stots pressured her to write the statement, Tr. 703-704, I still credited her unrefuted, unwavering testimony that she felt intimidated after Stots issued her a documented coaching for “irregular attendance and unexcused absences” on November 7, 2022. GC Exh. 29; Tr. 543-544, 770. As a result, Rashid complied, first, with Stots’ request that she write that Kang cursed when asked by Pruzensky to go get ice, and then at Pruzensky’s insistence that she write that Kang stated she was not going to “ruin her car for this fucking job.” Tr. 661-663, 708-709, 772-773. In any event, Rashid’s testimony aligns with her February 8 written statement and lengthy explanation in her June 20 affidavit that the store had not yet opened, no customers were present, and she did “not recall hearing Kang use any profanity during the exchange with Pruzensky.” GC Exh. 54; Tr. 707-708.

because Nicole was the only one with a car who wasn't a shift supervisor. Nicole replied that "there's no fucking way she was going to do it because she didn't want to put miles on her car," I found the language and matter of speaking very inappropriate for a workplace. Nicole also said, "She wasn't going to ruin her car for this fucking job," This is not her first time speaking with a wildly inappropriate tone and language at work. She constantly brings up and goes on a tangent about inappropriate workplace topics.

On February 14, Stots told Kang that he was investigating a complaint against her for conduct that made someone uncomfortable. He asked to write her version of the incident on his laptop. She complied:

On the morning of February 8, 2023, between the hours of 5:00AM-6:00AM, it was brought to the morning shift's attention that there was mold in the ice machine and therefore was unsalvageable. I was then demanded to use my personal vehicle to go to another store to retrieve ice, to then which I declined. From my recollection, I do not remember using any sort of offensive terminology, especially not directly to my partners. I sincerely apologize if any of my peers found my language unacceptable. I have since reflected and received help over the time being.¹⁰⁶

On February 13, Stots opened a Partner Relations case against Kang stating that she "used derogatory and profanity towards and around other partners and customers." He recommended separation, reported that Pelczer agreed with his recommendation, and attached the written statements from Pruzensky and Rashid. On February 14, Buchanan spoke with Stots and reviewed the witness statements but did not seek to obtain security camera footage of the incident. She advised Stots to get Kang's statement, concurred with Stots' recommendation and, shortly thereafter, escalated the matter to Dulce Holtz and Shari Ruge.¹⁰⁷

On February 16, Stots emailed Partner Relations Manager Dulce Holtz with the proposed separation letter for Kang. Holtz replied a few minutes later, copying Pelczer. She asked when Stots intended to deliver it to Kang and if "you foresee any potential protest or disruption as a result." Stots replied that he did "not foresee any potential protest or disruption as a result" and would issue the separation notice to Kang at their "next shift working together" on February 20. Pelczer, however, disagreed, anticipating "possible disruption either from the team or Nicole" because it was the store's first separation and Kang's "first documentation and is separation." Holtz replied that it was "best that we won't get to the [separation] until [February 20] to give the other departments "a little time."¹⁰⁸

¹⁰⁶ Kang's statement confirmed the abruptness of her response to Pruzensky. GC Exh. 55; Tr. 851-852.

¹⁰⁷ Buchanan testified that the "profanity was separation in itself and then with the added integrity concerns" due to Kang's "soft apology" coupled with her failure to recall using offensive terminology. Tr. 1062-1063, 1075-1076; R. Exh. 17. However, she reluctantly confirmed that the witness statements indicated that the Kang-Pruzensky conversation occurred before the store opened. But not before diminishing her credibility by attempting to justify Stots' false statement by suggesting that the witness' statements did not align with his. Tr. 1078-1080.

¹⁰⁸ Holtz was evasive when asked about the Kang investigation. She testified that she did not have knowledge of the investigation but admitted that she was aware of Stots' email when she wrote the February 17 emails because she "was given some notes." Tr. 420-421; GC Exh. 72.

That afternoon, Holtz emailed Labor Relations Manager Tonya Broadnax, Regional Director Shannon Koval, and Pelczer a “Notice of Planned Separation” for Kang.¹⁰⁹

5 On 2/8/23, BAR Nicole Kang used profanity, saying the word "Fuck" in front of customers. This was corroborated by partners during the course of a PR investigation.¹¹⁰

Summarizing the investigation, Holtz stated that she consulted with the “SM and DM” (Stots and Pelczer) and agreed with their recommendation based on Respondent’s “policies on
10 How We Communicate and Mission Values.” Broadnax replied by asking the following questions:

1. What is the partners level of involvement with the union? Pro-union or Pro-Starbucks
2. Was this partner involved in the organizing campaign?
3. What type of influence does this partner have involving other partners at the locations?
- 15 4. Overall, what is the level of disruptive activity at this location?
5. Please provide a specific date and time the NOS will be delivered and the first and last names of the parties who will deliver the NOS

On February 22, Pelczer replied as follows:

- 20 1. Pro-union
2. Not to my knowledge
3. No influence - SSVs had difficulty coaching this partner & her not following the expectations - SSV reported the use of profanity on the floor near customers
- 25 4. Only one disruption - solicitation 3 partners - no coffee, no contract pledge
5. Monday 2/20/2023 - SM Craig Stots & SM Nicole Kellner

About two hours later, Broadnax asked if the separation was already issued. Pelczer replied that Stots “already delivered the separation and I apologize if it was too soon! I thought once the
30 executive summary went out, we were good to proceed. Let me know if we should do something differently in the future.”

On February 20, Kang clocked in and, almost immediately, was called to the back of the store to meet with Stots and Nicole Kellner, the One Loudon store manager. Kang asked to have a
35 witness present if it was going to be a disciplinary proceeding. However, Kellner denied her request. Stots then handed Kang a notice of separation stating:¹¹¹

¹⁰⁹ Holtz acknowledged that she “was not made aware” of any customer complaints about Kang using profanity. GC Exh. 57; Tr. 413-414.

¹¹⁰ The notice of separation was premised on false information. When asked to confirm that there was no mention in Pruzensky’s statement that customers were present, Holtz equivocated: “There’s nothing that indicates that they were or were not.” Tr. 505-506. As established by Rashid’s undisputed testimony, as well as Respondent’s inexplicable failure to prove otherwise through its security footage, the store was closed at the time, lights were off, and no customers were present. GC Exhs. 54-56; Tr. 652.

¹¹¹ GC Exh. 28; Tr. 240-244.

This document is Nicole Kang's separation for continued violation of the Starbucks's Mission and Values policy. On 02/08/2023 It has been corroborated Nicole used profanity by saying fuck in the front of house with customers present. Due to this violation, Starbucks is separating Nicole's employment effective immediately.

5

Aside from the fact that Respondent relied on the false allegation that Kang cursed at Pruzensky in front of customers on February 8, Kang's discharge was more severe than the discipline issued by Pelczer's store managers to other employees for profanity in District 733.

10

Alyssa Brodie was verbally coached on June 3, 2022 for using profanity after a Leesburg Plaza store meeting in front of employees, the store manager, and Pelczer. On June 11, 2022, Brodie was issued a documented coaching for violating the attendance and punctuality policy. On July 19, 2022, however, Brodie's conduct escalated to another level, and she was discharged for cursing at a customer—"Get the fuck out of my store"—through the drive-through window of the Leesburg Plaza store on June 21, 2022. Pelczer was present, witnessed the incident, and signed the notice on behalf of the store manager.¹¹²

15

20

Stephanie Jackson was issued a final written warning by Pelczer on June 3, 2022 for insubordination and disruptive behavior on May 18, 2022. The document stated that Jackson was coached by the Leesburg Plaza store manager over beverage routines. However, she refused to comply and left her workstation. Jackson then proceeded to shout at customers in the lobby "to call corporate" and began clapping. After returning to her work area, the store manager "thanked her for completing a task." Still defiant, Jackson replied, "fuck you."¹¹³

25

G. Chelsea Brent

30

Chelsea Brent began working for Respondent in July 2016 as a barista. She became a shift supervisor in 2017 or 2018. Brent transferred to the Ashbrook store in February 2020. She regularly worked the morning shift from 4:30 or 5:00 a.m. until 11:30 or 12:00 p.m. Brent received the Partner of the Quarter award several times. Prior to October 4, she was disciplined only once, a written warning for arriving 10-15 minutes late at the Dulles Town Center store.¹¹⁴

35

Brent did not sign the Dear Howard Letter in November 2022. From mid-December 2022 until May 2023, she went out on maternity leave for six months, using all her vacation and sick time as paid time off. Brent's request for that PTO was approved. When she returned from maternity leave, she wore the Union pin on her apron every day. No one ever told Brent to remove the pin. Brent also signed the August 12 strike notice letter.¹¹⁵ On September 27 and 28, she participated in the Union's walkout and strike at the Ashbrook store. Since she participated in that strike, Brent did not open the Ashbrook store as scheduled.¹¹⁶

40

¹¹² GC Exh. 51; Tr. 425-428, 1313.

¹¹³ GC Exh. 52.

¹¹⁴ Tr. 328, 343.

¹¹⁵ GC Exh. 25.

¹¹⁶ GC Exh. 86.

On August 17, Brent was scheduled to work from work 5:00 a.m. to 12:00 p.m. She was to open the store at 6:00 a.m., along with two baristas, Jennaca Bodden and Jasmine Owens. However, Brent woke up late. Although required by Respondent's attendance policy, she did not call Stots to let him know that she would be late. Instead, she called the two baristas and told them she was on her way. Brent arrived around 6:15 a.m. The baristas were not there, so she called them. They told her they were having breakfast across the street. Brent waited for about a minute, but the baristas still did not come. Anxious because the store was supposed to open at 6:00 a.m., Brent entered the store, turned off the alarm and opened the safe. By doing so, Brent was aware that she could be subject to discipline.¹¹⁷ The iPad was not working, so Brent clocked in by writing in the daily records book and punch communication log that she arrived at 5:00 a.m.¹¹⁸ Bodden and Owens arrived a few minutes later. The store opened at 6:38 a.m.

Stots called Brent later that day or the next day and asked Brent why the store opened late. Brent told him that she woke up late and opened the store as soon as she got there. Stots told Brent that a customer called and complained that the store was not open. He told her that "corporate" was going to check the cameras to see what happened.¹¹⁹ Brent finished her shift at 12:34 p.m.

On August 22, Stots opened a Partner Relations case reporting that the Ashbrook store did not open on time on August 17, "customers were turned away, and unable to pick up Mobile orders." He also reported that "time stamps" indicated that the shift supervisor and two baristas were in the store an hour before it opened, with the lights off and customers in the drive thru. After speaking with customers, Stots also concluded that Brent had turned off mobile ordering without management approval.¹²⁰

On August 23, Buchanan reviewed the store's surveillance footage, which revealed that: Bodden arrived at 5:11 a.m.; Jasmine Owens arrived at 5:25 a.m.; Brent unlocked the doors and entered the store alone at 6:19 a.m.; Bodden and Jasmine Owens arrive back at the store at 6:23 a.m. and Brent let them in; and the doors opened for business at 6:38 a.m. Bodden and Jasmine Owens provided Buchanan with statements.¹²¹

¹¹⁷ Brent's explanations for her actions on August 17 abounded with inconsistencies. She initially testified that she "stood at the door at first for a minute, because I was, like, they're at the store getting breakfast, so let me wait. So then I waited. And I was like; I can't wait any longer because I need to get in and get started, because I was already late. So I just wanted to get the store opened." Tr. 328-331. On cross-examination, however, Brent admitted that she knew she was violating Respondent's two-person policy and falsified time records. Tr. 357-358. She was also aware of the "two partner rule," Respondent's requirement that at least two employees were present when opening the store. She understood the safety rationale behind the rule and was aware that violating the rule warranted a disciplinary infraction. Tr. 317, 349.

¹¹⁸ Brent's excuse for writing the wrong time was also farfetched—that she "put 5 in my haste" because the "iPad's not working, let me just throw it in. And I didn't realize I put 5 until later." Tr. 331-332.

¹¹⁹ Brent testified that she did not call Stots because she "was already full of anxiety" and "already running late." Tr. 332-333. In her explanation to Brittany Owens, however, Brent gave yet another reason—that she did not call because "she was only a couple of miles away from the store." R. Exh. 14.

¹²⁰ R. Exh. 14.

¹²¹ The video surveillance aligned with the statements by Bodden and Jasmine Owens. Tr. 1029-1031, 1143; R. Exhs. 15, 21-22.

On August 28, Brittany Owens pulled Brent to the side and asked what happened on August 17. Owens told her that she also heard that the two others were late. Brent said it was her fault. Owens then asked Brent to write an email of what happened that day. About a day later, Brent crossed out the 5:00 a.m. entry and wrote 6:00 a.m.¹²²

5

On August 30, Brent emailed her statement to the Ashbrook store email address:

On Thursday August 17, 2023 I Chelsea brent was late I called the partners to let them know I was late. I made it to the store a few minutes before six and me and the other partners opened 30 mins past the time of opening due to me being late to the store.¹²³

10

On September 14, Buchanan informed Brittany Owens and Pelczer that “the appropriate units have reviewed this case and supported a recommendation of separation.”¹²⁴ She suggested they “coordinate with [Holtz] before delivery.” On September 26, Pelczer asked Holtz, “[c]an we deliver this week?” On September 27, Holtz asked if Pelczer expected “disruption upon delivery.” Pelczer replied that she expected “disruption or a ULP” because Brent was “long term partner, returned from maternity leave a few months ago and liked by partners to my understanding.”¹²⁵ Holtz asked if separation was based on previous discipline or the level of the violation. Pelczer replied that separation was based on Brent “entering the store alone, a wage theft, and then wrote 1.25 hours in when she was late lying on the punch log.”¹²⁶

20

On October 4, Pelczer and Brittany Owens met with Brent, told her that “corporate” reviewed the camera footage for August 17, and “decided to go with separation.” Brent replied that she was only alone in the store for a few minutes. However, they told her that it did not matter. Pelczer explained the safety reasons behind the policy. They handed her the notice of separation, she signed it, and left.¹²⁷

25

¹²² Brent’s explanations as to why and when she changed the 5:00 a.m. entry to 6:00 a.m. was inconsistent and implausible. She testified on direct examination that she “scratched it out and put the correct date” in when Brittany Owens spoke to her: “And she’s like, okay, well, put it in the punch communication log properly. Put it in as 6:00 a.m. on a separate line that - - what time you came in and what time that you left.” Tr. 333-335; GC Exh. 80 at 2. On cross-examination, however, she testified that she corrected the time to 6:00 a.m. “a day or two after Owens told Brent that “corporate would be looking into it” and Brent replied that ” she “might have put 5.” Tr. 362-365; R. Exh. 35. While other employees have made corrections in the punch communication log whenever they realized there was a mistake, Brent only made the correction after Brittany Owens spoke to her on August 28. Tr. 1040.

¹²³ Brent acknowledged that she was not a few minutes late, but one hour and 19 minutes late. R. Exh. 9; Tr. 333-335, 359.

¹²⁴ Buchanan acknowledged that her typical recommendation for a violation of the two-partner rule is a final written warning. However, coupled with the “egregious misconduct of time theft,” separation was appropriate. Tr. 1042.

¹²⁵ Shortly thereafter, Brent’s discharge became a topic of discussion on the group chat that included most of the Ashbrook store’s employees. Tr. 97-98.

¹²⁶ Holtz, Pelczer, and Buchanan credibly testified that time falsification, regardless of the number of minutes, was a serious offense that warranted separation. GC Exh. 76; Tr. 512, 1040-1042, 1277.

¹²⁷ The transcript at page 339, lines 21-24, incorrectly identified me as the speaker instead of the General Counsel. GC Exh. 27; 335-338.

This serves as a notice of separation for Chelsea Brent for failing to meet the expectations of the safety and security policy and violated the time recording policy.

On 8/17/2023 Chelsea falsified the Punch Communication Log by writing her start time as 5am when she arrived to work at 6:19am, 1 hour and 19 minutes late. Due to Chelsea's tardiness the stores operations were also impacted by the store opening late. This negatively impacted the partners and customers experience as partners and customers were waiting on Chelsea to arrive. In addition, Chelsea also violated the Safety and Security policies by entering the store alone at that time without any other partners present and failed to inform the store managers of critical information of their tardy and the impact to the stores operations.

Due to the egregious policy violations, Chelsea's employment is separated, effective immediately.

On October 10, Partner Relations Associate Shari Ruge emailed Pelczer and copied Holtz regarding Brent's appeal that she entered the store briefly as the other employees were approaching.¹²⁸ Noting Brent's assertion "that others have violated this policy, specifically SS [Camren] Brown on 9/28/23," Ruge requested that a case be opened against Brown if they were able to substantiate that claim.¹²⁹

On October 16, Pelczer replied that the Ashbrook store was closed on September 28 due to a strike, Brown went to work at another store and asked if she still needed to open a case. Ruge replied that the store manager should still investigate the matter to see "if there have ever been instances of other [shift supervisors], including [Brown], entering store alone. If nothing then we have done our due diligence, if you find anything then can address."

On October 23, Owens initiated a performance management consultation case for Brown. After speaking with Brown, Owens reported his version of what occurred on September 28:¹³⁰

New SSV, entered store alone to get phone numbers. Store went on strike and he wasn't aware and went to get a phone number of the partner he was supposed to open with.¹³¹

After speaking with Brittany Owens on November 6, Buchanan closed Brown's case after recommending that he receive a documented coaching and "and reset the policy with all SSVs and be clear that this is a [Safety and Security] violation and can lead straight to a FWW moving forward." Buchanan based her recommendation on the following: Brown had a "fully executed training plan; he admitted "coming into the store to get partner numbers;" and "he realizes now why he shouldn't go into the store but didn't know what to do." However, although Owens agreed

¹²⁸ GC Exh. 81.

¹²⁹ Although Brent referred to "others" having violated the two-partner rule, she only knew of Brown's case. GC Exh. 82. Based on Respondent's failure to produce documents in response to the General Counsel's subpoena duces tecum, I find that there were no other disciplinary actions at the Ashbrook and One Loudon stores between November 11, 2021 and November 11, 2024 for conduct comparable to that for which Brent was discharged on October 4. GC Exh. 40 (13); GC Exh. 41 (17); Tr. 118.

¹³⁰ GC Exh. 82; Tr. 1116.

¹³¹ Brown was supposed to open the store with Brent, but she participated in the strike.

with Buchanan's recommendation as "fair and great," Brown was never disciplined for entering the Ashbrook store alone on September 28.¹³²

A few months later, however, Brown did it again. After the two scheduled baristas did not arrive on time for the opening shift, he called Owens. Owens told Brown to enter the store, set everything up, and there would be another barista there by the time the store opened at 6 a.m. Brown entered the store, set up, and a barista showed up 45 minutes later. He was not disciplined for entering the store alone.¹³³

H. Barista Training Assignments

Respondent's stores are not required to utilize barista trainers. However, Pelczer preferred to have two to four certified barista trainers in each of her district's stores.¹³⁴ After completing the training modules in the My Learning app on the store's iPad, Duritsa became a barista trainer on February 11, 2022 and Rashid became a barista trainer on April 19, 2022.¹³⁵

During the summer of 2022, Rashid was assigned as a barista trainer to 3-4 new employees. After the Union election, however, Rashid did not get another assignment until the end of 2023. New baristas were either trained by the store manager or directed to shadow other baristas. Approximately 4-5 baristas shadowed Rashid during that time. The other baristas were not compensated for the shadowing.¹³⁶

In April, Rashid asked Stots why she had not received any training assignments. Stots told her that Brittany Owens, who had just arrived at the store, was the only barista trainer. Rashid replied that the existing baristas were all training the new baristas that were "supposed to be trained by her." She asked, "when am I going to get assigned this work?" Stots replied that he would assign the modules again because annual recertification was necessary. He said it was a new policy to get annually certified as a barista trainer.¹³⁷

At some point on or before June, Rashid also approached Owens about the lack of barista training assignments. Owens told her that the store had reduced "labor hours" because it had a "labor shortage."¹³⁸

¹³² Brown testified pursuant to subpoena. He worked as a barista and then as a shift supervisor at the Ashbrook store from mid-2023 to the end of 2024. Brown returned as a barista in October 2025. Tr. 277.

¹³³ Brown testified that the incident occurred a few months after Brent, who trained him, was discharged. However, given that he called Owens on this occasion before going into the store, I do not credit his testimony that he was unaware of the two-person entry rule prior at that time. Tr. 279-283.

¹³⁴ Tr. 1320-1322.

¹³⁵ GC Exh. 38; Tr. 673-675, 855-856.

¹³⁶ Tr. 675-676, 756-759.

¹³⁷ Respondent asserts that barista trainers are not required to recertify. However, it offered no evidence to dispute Rashid's testimony. Tr. 676-677.

¹³⁸ Rashid disputed Brittany Owens' claim that the store was understaffed, testifying that "we had the staff, but we - - they weren't being scheduled." Tr. 724-726. However, that claim was not substantiated.

In 2022, Duritsa received three barista training assignments from Brandon. However, after Stots took over in the summer of 2022, Duritsa did not receive any barista training assignments, and that continued for several months after the Union election.¹³⁹ However, at some point, Stots assigned Duritsa to train Sean Sidhu on one occasion to operate the espresso bar and she was compensated.¹⁴⁰ In May or June, Duritsa asked Stots why she was not getting training assignments. Stots told Duritsa that her certification expired, and she needed to be recertified. Duritsa was unaware that barista training certificates expired.¹⁴¹

By late July, barista training assignments picked up again. Grace Sandez, who transferred to the Ashbrook store from Colorado in June, was given a barista training assignment on July 26. Between August 1 and 11, Sandez and/or Brittany Owens trained newly hired baristas Johnavon Massey, Gabrielle Frierson, and Anneliese Tadayon. On August 10-11, Duritsa also worked.¹⁴²

Rashid addressed the issue again around that time because she still had not received a barista training assignment. She asked Stots and Brittany Owens why she had not been assigned to do the modules or asked to train new employees. Owens replied that Rashid needed to recertify. Rashid replied that she had already asked Stots to assign the modules.¹⁴³ On August 24, after speaking with Stots a third time, Rashid and Duritsa were assigned new training modules. Rashid completed hers on August 27 and was given training assignments by the end of 2023 or early 2024. Duritsa, however, did not complete her training modules until November 24.¹⁴⁴

I. Partner of the Quarter

Respondent's Partner of the Quarter is a performance award that is given to a barista or shift supervisor at the Ashbrook store. The process is intended to be held each quarter by the store manager requesting nominations from the store's employees. Nominations are entered on

¹³⁹ Duritsa testified that barista trainers were not being assigned after the Union election because "there were issues within the store of training and then people leaving," However, she failed to explain why she did not receive assignments from Stots prior to the election. Tr. 857-859.

¹⁴⁰ Duritsa denied that she functioned "effectively" as a barista trainer on that occasion because it was limited to teaching a new barista about the espresso bar. Given Respondent's failure to produce subpoenaed documents showing otherwise, I find that neither Duritsa nor Rashid were given formal barista training assignments after the election. Duritsa did, however, accept the one-day training assignment and testified that she was compensated. Tr. 957-961, 985-986. Moreover, Respondent failed to produce subpoenaed records documenting that Duritsa was assigned barista training on any day in 2023. GC Exh. 40(1).

¹⁴¹ Tr. 859, 969-970.

¹⁴² Respondent attributes the absence of barista training assignments after the Union vote to employee turnover and staffing shortages. Tr. 703, 759, 857, 950. However, by July 27, Respondent no longer considered that an impediment to the assignment of barista trainers. GC Exhs. 46-47, 60, 68; Tr. 860-879.

¹⁴³ Owens did not dispute Rashid's testimony regarding their conversation about recertification as a barista trainer. Tr. 678-683, 758, 762; GC Exh. 38. Nevertheless, Respondent relies on Pelczer's testimony that, although barista trainers received additional training in "district sessions," as opposed to the My Learning app training modules, they did not have to recertify. However, it was clear from Pelczer's testimony that she had no personal knowledge as to what Stots and Owens told employees about recertification. (Tr. 1281-1285.)

¹⁴⁴ GC Exhs. 37-38; Tr. 678-680, 737-738, 757-758, 880-882, 965.

Respondent's Everyday Uplift website.¹⁴⁵ The winner is determined by a vote of the store's employees and typically gets a certificate, flowers, chocolate, and a \$75 bonus.

Prior to the election, the Ashbrook store's last Partner of the Quarter award was given to Gio Carvalho on August 10, 2022.¹⁴⁶ At some point thereafter, Brent asked Stots why there had been no awards since then, but Stots did not have an answer. The Ashbrook store was not alone. Other stores in District 733 that did not always nominate anyone for the Partner of the Quarter included Battlefield, Broadlands Village, Countryside, and Dulles Town Center.¹⁴⁷

Rashid and Duritsa approached Brittany Owens in August. Owens told them that she was about to hold a vote for the award and placed links on the store's iPad and QR codes by the posted schedules for employees to vote. The results, however, were not announced until September. Owens said she was waiting for the Partner of the Quarter pins to be shipped before she announced the winner. However, Rashid checked the desk in the back of the store, which had pins. The winner was announced in September.¹⁴⁸

LEGAL ANALYSIS

I. THE SECTION 8(A)(1) ALLEGATIONS

Section 8(a)(1) makes it unlawful for an employer to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7 of the Act. Section 7 guarantees employees the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. The concept of "mutual aid or protection" focuses on the goal of concerted activity; chiefly, whether the employee or employees involved are seeking to improve terms and conditions of employment or otherwise improve their lot as employees. *Fresh & Easy Neighborhood Market*, 361 NLRB 151, 153 (2014). In deciding whether an employer's statement or conduct violates Section 8(a)(1), the Board applies the objective standard of whether it would reasonably tend to interfere with the free exercise of an employee's statutory rights and does not consider the motivation or actual effect. *Midwest Terminals of Toledo*, 365 NLRB No. 158, slip op. at 21 (2017), *enfd.* 783 Fed. Appx. 1 (D.C. Cir. 2019); *Farm Fresh Company, Target One, LLC*, 361 NLRB 848, 860 (2014).

As Jewett explained, Stots enforcement of Respondent's policies prior to April 7 depended on his mood. Stots, like Brandon before him, was lenient in enforcing the dress code, with employees often wearing clothes out of the color palette, wrinkled aprons, shirts with large logos

¹⁴⁵ The Everyday Uplift website for Partner of the Quarters nominations was accessible to all employees through the Partner Hub in 2022-2023. R. Exhs. 25-26; Tr. 1199-1210.

¹⁴⁶ GC Exh. 34.

¹⁴⁷ Pelczer explained several reasons why the store would not have had a quarterly selection: "Missed the time window. . . It could be that the store has no partner chose to nominate anyone." Tr. 1208-1209. However, the record indicates that Stots did not take the initiative to request nominations after he became the manager after August 2022. Tr. 354-355.

¹⁴⁸ Although Rashid found award pins in the back of the store, there is no evidence that Owens knew they were there. Tr. 686-689, 763-768, 1136-1137, 1140.

and graphics, hooded sweatshirts, and hats with sports and animated logos. Stots' reaction ranged from complimenting the employee to telling the employee to wear something different next time or turn the shirt inside out if they did not comply. In any event, no employee was ever sent home to change because their clothing did not conform to the dress code.

On April 7, Stots certainly was not in a complimentary mood when he told Jewett during her break that her Union T-shirt did not conform to the dress code. Jewett's apron covered all but the edges of the Union logo. However, instead of telling her not to wear it again or turn the shirt inside out, Stots ordered her to clock out, go home, change into another shirt, and return to work. His strict enforcement of the dress code was unprecedented.¹⁴⁹ Instead of telling Jewett not to wear the shirt again or turn it inside out, he took the extreme action of making her go home to change.

In this instance, Stots coerced Jewett in the exercise of her Section 7 rights in violation of Section 8(a)(1) by selectively and disparately enforcing Respondent's dress code. *Be-Lo Stores*, 318 NLRB 1, 6–7 n. 17, 19 (1995) (disparate enforcement of dress code by requiring employee to remove union T-shirts or cover it up, while permitting her to wear her a Pepsi T-shirt); *Medical Center of Beaver County, Inc.*, 266 NLRB 429, fn. 1 (1983) (disparately enforcing policy to prohibit employees from wearing union pins, while permitting them to wear other similarly constructed pins and buttons); *Cintas Corp. v. NLRB*, 589 F.3d 905, 915 (8th Cir. 2009) (selectively applying dress code by requiring employees to remove union stickers and hats while allowing them to wear holiday and decorative pins).

II. THE SECTION 8(A)(3) ALLEGATIONS

A. Applicable Law

Section 8(a)(3) of the Act prohibits an employer from discriminating against employees to hinder or promote union membership. In determining whether an employer's activity violates the Act, the Board applies the test outlined in *Wright Line*, 251 NLRB 1083 (1980), enfd. on other grounds, 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Corp.*, 462 U.S. 393, 399-403 (1983). The General Counsel has the burden of establishing that the adverse employment action was motivated by the employee's protected activity. The elements required to establish a prima facie case include union or other protected activity, employer knowledge of that activity, and union animus 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). Discriminatory motivation "may be inferred from both direct and circumstantial evidence on the entire record as a whole." Circumstantial evidence "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.

¹⁴⁹ Respondent's discipline of Gabrielle Frierson in December 2023 for multiple infractions, including blatant dress code issues, is particularly instructive because she was repeatedly *coached* to pull her hair back and not wear graphic shirts or pants that did not comply with the dress code. In contrast, Jewett was not coached but was directed to go home, change into another shirt and return to work 30 minutes later.

If the General Counsel makes a prima facie case, “the burden of persuasion shifts to the employer to demonstrate that the same action would have been taken even in the absence of the protected conduct.” *Donaldson Bros. Ready Mix, Inc.*, 341 NLRB 958, 961 (2004), citing *Wright Line*, supra at 1089. See also *Cintas Corporation*, 372 NLRB No. 34, slip op at 5 (2022), citing
 5 *Metropolitan Transportation Services*, 351 NLRB 657, 659 (2007) (employer’s burden not met by merely showing a legitimate reason); *Willamette Industries*, 341 NLRB 560, 563 (2004) (same). When the stated motives for an employer’s adverse actions “are found to be false, the circumstances may warrant an inference that the true motive is an unlawful one that the respondent desires to conceal.” *Electrolux Home Products*, 368 NLRB No. 34, slip op. at 3 (2019) (noting that
 10 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).

Respondent does not dispute that its decision makers, including Pelczer, Stots, Brittany Owens, Holtz, and Buchanan, all had knowledge of the significant union activities engaged in by the discriminatees. It denies, however, that union animus played any role in the actions at issue.

B. Nicole Kang

Nicole Kang openly supported the Union and, according to Pelczer, was “Pro-union.” On February 8, prior to the store opening, and with no customers present, Stots, via shift supervisor
 20 Amandine Pruzensky, asked Kang to get ice at a nearby location. Kang rudely refused, adding that she did not want to ruin her car. On February 20, one month after the Union certification, Respondent discharged Kang for “continued violation of Starbucks Mission and Values policy. On [February 8, it] has been corroborated that Nicole used profanity by saying fuck in front of house with customers present.”

Respondent’s animus towards Kang’s union activity is evident in several respects. First, Respondent discharged her just one month after the Union was certified. See *Starbucks Corp.*, 372 NLRB No. 122, slip op. at 4 (2023) (manager recommended discharge 2 1/2 weeks after discriminatee attended representation hearing).

Second, Respondent based Kang’s separation on the assertion that Kang used profanity in the presence of customers. However, it failed to produce any witnesses to dispute the testimony by Kang and Rashid that Kang did not curse. Assuming, arguendo, that Stots had a reasonable belief based on Pruzensky’s uncorroborated statement and Rashid’s coerced statement that Kang cursed,
 35 all the evidence clearly established that the store was closed and there were no customers present at the time. Moreover, the notice stated that the February 8 incident was a “continued violation of the Starbucks Mission and Values policy.” However, Kang had never been coached about the use of profanity. Nor had she received any other form of discipline. Respondent’s false and exaggerated reasons for Kang’s discharge are evidence of pretext. See *Lucky Cab Co.*, 360 NLRB
 40 271, 275 (2014).

Lastly, Respondent’s animus and discriminatory motivation is inferred from the disparate treatment Kang received. *Tubular Corp. of America*, 337 NLRB 99 (2001); *In re Medic One, Inc.*, 331 NLRB 464, 475 (2000). Prior to February 8, Ashbrook store employees, including Stots,
 45 regularly used profanity. At most, employees were verbally coached to “keep it down” if customers were around. However, no one was ever disciplined for profanity; Kang was the first. Moreover,

Respondent's discharge was more severe than the discipline issued by Pelczer to other employees for profanity in District 733. On June 3, 2022 Alyssa Brodie received only a verbal coaching for using profanity after a Leesburg Plaza store meeting in front of employees, the store manager, and Pelczer. Six weeks later, Brodie was discharged when she cursed at a customer through the drive-thru window. Stephanie Jackson was issued a final written warning by Pelczer on June 3, 2022 for insubordination and disruptive behavior after being coached by the Leesburg Plaza store manager over beverage routines. Jackson refused to comply, left her workstation, shouted at customers in the lobby "to call corporate" and began clapping. After returning to her work area, the store manager "thanked her for completing a task." Still defiant, Jackson replied, "fuck you." See *Constellium Rolled Prods. Ravenswood, LLC*, 371 NLRB No. 16, slip op. at 4 (2021) (suspension and discharge of union supporter for writing profanity on sign-up sheet was evidence of discriminatory motive when record showed the use of profanity and graffiti was commonplace and tolerated by management).

As alleged at Paragraph 9 of the complaint, Respondent violated Section 8(a)(3) and (1).

C. Chelsea Brent

Brent did not sign the Dear Howard Letter. However, after she returned from maternity leave during the summer of 2023, Brent openly supported the Union by wearing a Union pin and participating in strikes. On August 17, she was scheduled to open the Ashbrook store at 5:00 a.m. However, Brent woke up late, arrived at 6:19 a.m. and entered the store alone in violation of the two-person policy. Brent then entered a false entry in the daily records book and punch log that she arrived at 5:00 a.m. About two weeks later, Brittany Owens asked Brent what happened on August 17. Brent crossed out the 5:00 a.m. time stamp and entered yet another false entry, 6:00 a.m. On August 30, she falsely reported to Stots that she arrived at the store "a few minutes before six." Respondent knew that Brent submitted falsified time records because the store's video footage recorded her arriving at 6:19 a.m.

On October 4, Respondent discharged Brent for violating the safety and security policy and time recording policy on August 17. The notice stated, in part, that she wrote "her start time as 5am when she arrived to work at 6:19am, 1 hour and 19 minutes late" and violated the safety and security policy by "entering the store alone at that time without any other partners present."

The General Counsel failed to prove that Brent's discharge was motivated by her union activity. She was discharged for violating the two-person in the store policy and time theft. The General Counsel's argument was twofold: (1) Respondent knew that Brent accidentally entered the wrong punch time, an oversight that is a common occurrence at Respondent's stores; and (2) Respondent exaggerated the offense to include the violation of the two-person policy.

Respondent's investigation produced substantial evidence that Brent knowingly entered falsified time punches. If there was any doubt that Brent intentionally entered a false 5:00 a.m. entry, it was erased by her false "correction" of 6:00 a.m. after realizing that she was being investigated for her actions on August 17. The General Counsel referred to instances in which employees corrected their time punches. However, there is no evidence showing that Respondent excused employees for intentionally submitting falsified time entries.

With respect to the safety and security violation, the General Counsel cited the example of Camren Brown as evidence of another employee who only received a documented coaching for entering the store alone in 2023. He did again a few months later but was not disciplined because Brittany Owens gave him permission to enter the store alone.

Based on Respondent's past practice, Brent's violation of the two-person in store policy alone did not warrant separation. However, the evidence supports Respondent's contention that it had a reasonable belief that Brent engaged in "serious misconduct" justifying "immediate separation" under Respondent's disciplinary policy based upon her falsified time entries: "theft" and "falsification or misrepresentation of any company document."

The complaint allegations at Paragraph 18 are dismissed.

D. Crystal Jewett, Gabrielle Duritsa, Gio Carvalho

The complaint alleges that Respondent violated Section 8(a)(3) by issuing final written warnings to Gio Carvalho on February 20, Crystal Jewett on June 2, and Gabrielle Duritsa on August 4 for violating the attendance and punctuality policy. The evidence established that Carvalho, Jewett, and Duritsa violated the policy. Carvalho agreed to take Rashid's shift on February 5 and then failed to show up. Jewett failed to notify the store that she would not be able to attend a mandatory taste testing on May 3. Duritsa picked up an unassigned shift on June 27 and then failed to properly notify the store that she would be unable to cover the shift. However, the comparator evidence demonstrated Respondent's disparate treatment of Carvalho, Jewett, and Duritsa for their attendance violations.

Prior to the Dear Howard Letter on November 11, 2022, Respondent's response to no call/no show absences at District 733 stores ranged from written warnings to termination. At the Ashbrook store, however, the only discipline for a no call/no show absence was a written warning issued to Christopher Chong. Chong was previously coached for tardiness.

After the election, the response of Stots and Brittany Owens to no show/no call absences at the Ashbrook store varied from no discipline to final written warnings. The Ashbrook store's Daily Coverage Reports documented 10 no call/no shows between June 26 and December 26 that evaded any disciplinary action (Abby Detorie, Aberly Sommers, Smayan Navudu, Sean Sidhu, Johnavon Massey—twice, Jannah Toure, Kenisha Santosh, Gabrielle Frierson, and Micah Laperriere. On June 12, the acting district manager reported that there were "multiple call outs/no call no shows" on June 9, none of were disciplined.

Stots issued written warnings in June to Aberly Sommers for two no call/no show absences and in July to Samantha Rodriguez for a no call/no show absence with "a history of call offs and attendance." Aside from Carvalho, Jewett, and Duritsa, between December 7, 2022 and December 23, 2023, final written warnings for no call/no show absences were issued only to Ashbrook store employees who openly supported the Union: Devon Cox, Jeremy Corboy, Gerald Montano, Abbie

Detorie, and Gabrielle Frierson. Of those, only Frierson had a significant history of performance and attendance issues, including several disciplines and dress code violations.¹⁵⁰

Stots' evidence of Union animus was evident in his disparate application of discipline to Carvalho, Jewett, and Duritsa for their no call/no show absences. Non-supporters were either not coached or received, at most, written warnings. In every case that a final written warning was issued, it involved a Union supporter. One of them, Frierson, had serious performance and attendance issues. However, Carvalho, Jewett, and Duritsa had perfect disciplinary records. Respondent knew that they had no prior violations but noted that they were Union supporters in considering whether to discipline them. See *Mondelez Global, LLC*, 369 NLRB No. 46, slip op. at 3-4 (2020) (lack of evidence that employer disciplined non-union supporters for similar offenses shows animus); *Stoody Co., Div. of Thermadyne, Inc.*, 312 NLRB 1175, 1183 (1993) (departure from usual disciplinary policies and harsher enforcement of those policies against an employee who participated in protected activity was evidence that disciplinary action was pretextual.)

Respondent also failed to rebut the presumption that it would have issued the same level of discipline to Carvalho, Jewett, and Duritsa, absent their Union activities. It produced no evidence that a final written warning was issued to an Ashbrook store employee for a no call/no show absence prior to November 11, 2022. After that point, the evidence showed that Respondent issued final written warnings only to Ashbrook store employees who supported the Union, while others received no discipline or, at most, written warnings, for no call/no show absences.

As alleged at Paragraphs 8, 11, and 17, Respondent violated Section 8(a)(3) and (1).

*E. The Lack of Barista Training Assignments
to Gabrielle Duritsa and Marium Rashid*

The complaint alleged that, since about November 11, 2022 and continuing to date, Respondent prevented Gabrielle Duritsa and Marium Rashid from working as barista trainers. Applying a *Wright-Line* analysis, there is no doubt that Respondent knew that Rashid and Duritsa were key organizers and supporters of the Union. However, the evidence failed to demonstrate that Stots' failure to give them barista training assignments constituted an adverse action. Duritsa and Rashid were certified as barista trainers. However, there is no evidence of a practice or policy requiring Respondent to assign new employees to barista trainers. Nor is there any evidence precluding store managers or assistant managers from training new employees or having them shadow other baristas.

The evidence also failed to establish that the union activity of Duritsa and Rashid was a motivating factor in Stots' failure to issue them barista training assignments. Stots took over as store manager in late summer of 2022. Between that time and November 11, 2022, neither Rashid nor Duritsa received any training assignments. As the organizing letter and subsequent strike letters noted, the Ashbrook store experienced significant turnover and staffing shortages in 2022 and

¹⁵⁰ The only other final written warning in District 733 was issued to Greenway Crossing employee Fisayo Onifade on December 2 after calling out of a scheduled shift without any sick time and then failing to call out for her next scheduled shift. However, that discipline is distinguishable because, unlike Carvalho, Jewett, and Duritsa, Onifade had never been previously coached for an attendance violation.

2023. As a result, baristas were either trained by the store manager/assistant manager or directed to shadow other baristas. That practice continued until the late summer of 2023. Rashid and Duritsa inquired with Stots and/or Owens and were informed that the lack of barista training assignment was due to employee turnover, the staffing shortage, and a new policy requiring that they be recertified annually. On August 24, after several requests, Stots finally provided Duritsa and Rashid with the training modules for recertification. Rashid completed her modules on August 27 and was given training assignments by the end of 20223 or early 2024. Duritsa, however, did not complete her training modules until November 24.

The allegations at Paragraphs 5 and 6 of the complaint are dismissed.

III. THE SECTION 8(A)(5) ALLEGATIONS

A. Applicable Law

The General Counsel contends that Respondent violated Section 8(a)(5) by: (1) unilaterally implementing a new policy requiring Ashbrook store employees to recertify annually as barista trainers; and (2) unlawfully terminating the Ashbrook store's Partner of the Quarter Program from February 2023 to about Summer 2023. Respondent disagrees, arguing that: (1) there is neither a certification nor recertification requirement for Ashbrook store barista trainers; (2) any recertification requirement to review an online training module was not a material, substantial, or significant change; (3) the Ashbrook store's Partner of the Quarter program was never terminated; and (4) any changes to either program were *de minimis*.

In *NLRB v. Katz*, 369 U.S. 736 (1962), the Supreme Court held that, upon commencement of a bargaining relationship, employers are required to maintain the status quo, i.e., refrain from making material changes to wages, hours, and other terms or conditions of employment considered to be mandatory subjects of bargaining, unless notice and an opportunity to bargain regarding a contemplated change to the status quo is provided to the union. Thus, in the absence of impasse, delay tactics by the union, or "economic exigencies," an employer may not change employment policies, including those implemented through past practice, without giving the union notice and an opportunity to bargain. See *RBE Electronics of S.D.*, 320 NLRB 80, 81 (1995) (exigent circumstances limited to external causes beyond employer's control); *Wendt Corp.*, 369 NLRB No. 135 at p. 1, 5-6, 23 (2020) (temporary layoffs were unlawful where employer failed to show that they were consistent with a longstanding practice).

The Union was certified on January 18, 2023, as the collective-bargaining representative for Ashbrook store employees. There have been no communications between the parties with respect to the Ashbrook store while Respondent engages in negotiations with employees' representatives on the national level. Nevertheless, Respondent remains obligated to notify and negotiate with the Union before making any material, substantial, or significant changes to the terms and conditions of employment of Ashbrook store employees, including barista training assignments and the Partner of the Quarter program.

It is Respondent's practice to pay employees a \$75 bonus for each barista training assignment or Partner of the Quarter award. Bonuses are considered wages and therefore any

change to either program would have been a mandatory subject of bargaining. See *Ohio Edison Co.*, 362 NLRB 777 (2015) (employee recognition policy that paid a bonus based on performance); *Waxie Sanitary Supply*, 337 NLRB 303, 304 (2001) (holiday bonuses based on the employer's gross profits); *Sartorius, Inc.* 323 NLRB 1275 (1997) (production incentive bonus); *Laredo Coca-Cola-Bottling Co.*, 241 NLRB 167, 174 (1979), *enfd.* 613 F.2d 1338 (5th Cir. 1980) (individual bonuses based on employee earnings).

B. Barista Training Assignments

After the Union was certified on January 18, Respondent committed a *prima facie* violation of Section 8(a)(5) by requiring barista trainers to be recertified. Stots informed Rashid in April and Duritsa in May or June of the new policy requiring them to complete training modules to be recertified annually to receive barista training assignments. Respondent's unilateral implementation of this new requirement for Ashbrook store barista trainers constituted a material, substantial and significant change to the ability of employees to earn extra compensation, a mandatory subject of bargaining. Respondent did not provide notice of this change to the Union, and the parties had not reached an impasse in contract negotiations. Nor did Respondent meet its burden to show that the unilateral change was in some way privileged. E.g., *Cypress Lawn Cemetery Assn.*, 300 NLRB 609, 628 (1990); *Van Dorn Plastic Machinery Co.*, 265 NLRB 864, 865 (1982), *enf. denied* on other grounds 736 F.2d 343 (6th Cir. 1984). Accordingly, Respondent's unilateral implementation of an annual recertification policy for barista trainers at the Ashbrook store violated Section 8(a)(5) and (1) of the Act as alleged at Paragraph 13 of the complaint.

C. Partner of the Quarter Award

Stots became the Ashbrook store manager in August 2022. The evidence established that he did not take the initiative to request nominations for the Partner of the Quarter award after Carvalho won the award in August 2022. It is unclear whether the August 2022 award was for the second or third quarter of 2022. However, it is evident that there was no Partner of the Quarter award for the final quarter of 2022. In essence, Stots discontinued the Partner of the Quarter contest until employees raised the issue with Owens in August 2023. The Ashbrook store was one of five stores in District 733 that did not always nominate someone for the Partner of the Quarter award.

It is undisputed that the Partner of Quarter program affected employee compensation—whenever it was conducted. However, in the absence of evidence that Respondent consistently issued the Partner of the Quarter award to an Ashbrook store *every* quarter prior to the January 18 certification, there is no material change to a mandatory subject of bargaining.

The allegations at Paragraph 15 of the complaint are dismissed.

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. Respondent violated Section 8(a)(1) of the Act by selectively and disparately enforcing its dress code and personal appearance policy on April 7, 2023.

4. Respondent violated Section 8(a)(3) and (1) of the Act by discharging Nicole Kang on February 20, 2023, and issuing final written warnings to Gio Carvalho on February 20, 2023, Crystal Jewett on June 2, 2023, and Gabrielle Duritsa on August 4, 2023, because they supported the Union.

5. Respondent violated Section 8(a)(5) and (1) of the Act by implementing a new requirement in April 2023 that barista trainers be annually recertified without notifying the Union and giving it an opportunity to bargain over the change.

6. Respondent's unfair labor practices affected commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

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

Respondent shall be ordered to cease and desist from selectively and disparately enforcing its dress code and personal appearance policy, discharging employees because they support the Union or any other labor organization, disciplining employees because they support the Union or another labor organization, and refusing to bargain collectively with the Union.

Respondent, having discriminatorily discharged Nicole Kang, must offer her reinstatement to her former position or, if that position no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights or privileges previously enjoyed. It shall also expunge any reference to her discharge from its files and records, and to notify her in writing that it has been done and that the discharge will not be used against her in any way. Respondent shall also be ordered to make Kang whole, with interest, for any loss of earnings and other benefits suffered because of the unlawful layoff or discharge. 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).

In accordance with the Board's decision in *King Soopers, Inc.*, 364 NLRB 1153 (2016), enfd. in relevant part 859 F.3d 23 (D.C. Cir. 2017), Respondent shall also be ordered to compensate Kang for her search-for-work and interim employment expenses regardless of whether those expenses exceed interim earnings. Search-for-work and interim employment expenses shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra. In addition, in accordance with the Board's decision in *Thryv, Inc.*, 372 NLRB No. 22 (2022), Respondent shall compensate Kang for any other direct or foreseeable pecuniary harms incurred because of the unlawful discharge, 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*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Respondent, having discriminatorily issued final written warnings to Gio Carvalho, Crystal Jewett, and Gabrielle Duritsa, shall expunge any reference to their discipline from its files and records, and notify them in writing that it has been done and the discharge will not be used against them in any way.

As requested by the General Counsel, Respondent will be ordered to physically post the attached notice to employees at the Ashbrook store facility and disseminate it electronically to all current and former employees who were employed by Respondent at any time since February 20, 2023. *J. Picini Flooring*, 356 NLRB 11 (2010); *Thryv, Inc.* 372 NLRB No. 22 (2022); *Inland Waters Pollution Control, Inc.*, 375 NLRB No. 15 (2026).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended¹⁵¹

ORDER

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

1. Cease and desist from

(a) Selectively and disparately enforcing its dress code and personal appearance policy.

(b) Discharging employees because they support the Union or any other labor organization.

(c) Disciplining employees because they support the Union or another labor organization.

(d) Refusing to bargain collectively with the Union by unilaterally modifying the requirements to be a barista trainer.

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

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

(a) Within 14 days from the date of this Board's Order, offer full reinstatement to Nicole Kang as a barista or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights or privileges previously enjoyed.

¹⁵¹ 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.

(b) Make Nicole Kang whole for any loss of earnings and other benefits, and all other direct or foreseeable pecuniary harms, caused by the discrimination against her, in the manner set forth in the remedy section of the decision.

(c) Within 14 days from the date of this Order, compensate Nicole Kang for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 5 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 years.

(d) File with the Regional Director for Region 5, 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 Kang's corresponding W-2 forms reflecting the backpay award.

(e) 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.

(f) Within 14 days from the date of the Board's Order, remove from its files any reference to these unlawful discharges and disciplines of Nicole Kang, Gio Carvalho, Crystal Jewett, and Gabrielle Duritsa, and within 3 days thereafter, notify them in writing that this has been done and that the discharges and disciplines will not be used against them in any way.

(g) Upon request by the Union, and to the extent it has not already done so, rescind the unilateral changes to Barista Training certification requirements and make such employees whole for any loss of earnings and other benefits, and for any other direct or foreseeable pecuniary harms, suffered because of this unilateral change.

(h) 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.

Included: All full-time and regular part-time baristas and shift supervisors employed by the Employer at its facility currently located at 44185 Ashbrook Marketplace Plaza, Ashburn, Virginia (the facility).

Excluded: All office clerical employees, guards, professional employees, and supervisors as defined in the Act.

- (i) Within 14 days after service by the Region, post at its facilities copies of the attached notice marked Appendix.¹⁵² Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent at its facility and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In addition to physical posting of paper notices, the notices shall be mailed, at Respondent's expense, and distributed electronically, such as by email, posting on an intranet or internet site, by text message and/or other electronic means, if the Respondent customarily communicates with its employees by such means to all current employees and former employees who were employed at any time since February 20, 2023.
- (j) Within 14 days after service by the Region, e-mail copies of the attached notice marked Appendix to all current and former employees who were employed by Respondent at its facility any time since February 20, 2023.

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

Dated, Washington, D.C. September 30, 2026



Michael A. Rosas
Administrative Law Judge

¹⁵² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

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

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

FEDERAL LAW GIVES YOU THE RIGHT TO

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

WE WILL NOT selectively and disparately enforce rules to stop you from wearing union shirts, and other union insignia or require you to remove them while you are working.

WE WILL NOT discharge, or otherwise discipline you, because of your membership in activities on behalf of, or sympathies with, the Mid-Atlantic Regional Joint Board, Workers United a/w Service Employees International Union (SEIU), or any other labor organization.

WE WILL offer Nicole Kang immediate and full reinstatement to her former job, or if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights and/or privileges previously enjoyed.

WE WILL pay Nicole Kang for her lost wages, benefits and other expenses she incurred because we fired her.

WE WILL compensate Nicole Kang for the adverse tax consequences, if any, of receiving lump-sum backpay awards and **WE WILL** file with the Regional Director for Region 5, a report allocating her backpay awards to the appropriate calendar year(s).

WE WILL remove from our files all references to the discharge of Nicole Kang and the final written warnings issued to Gabrielle Duritsa, Crystal Jewett, and Gio Carvalho and **WE WILL** notify them in writing that this has been done and that the discharge will not be used as a basis for any future personnel action or made reference to in response to any inquiry by any employer, prospective employer, employment agency, unemployment insurance office, or reference-seeker.

WE WILL, before implementing any changes in wages, hours, or other terms and conditions of unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of our employees in the following bargaining unit:

Included: All full-time and regular part-time baristas and shift supervisors employed by the Employer at its facility currently located at 44185 Ashbrook Marketplace Plaza, Ashburn, Virginia (the facility).

Excluded: All office clerical employees, guards, professional employees, and supervisors as defined in the Act.

STARBUCKS CORPORATION

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation, and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Callers who are deaf or hard of hearing who wish to speak to an NLRB representative should send an email to relay.service@nlrb.gov. An NLRB representative will email the requestor with instructions on how to schedule a relay service call.

Edward A. Garmatz U.S. Courthouse
101 W. Lombard Street, Suite 700
Baltimore, MD 21201
(410) 962-2822, Hours: 8:15 a.m. to 4:45 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/05-CA-318025 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER (410) 962-2880.