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Metro One Loss Prevention Services Group (Guard Division NY) Inc. and Local One Security Officers Union. Case 29–CA–387808

October 21, 2026

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY
AND MAYER

This is a refusal-to-bargain case in which Metro One Loss Prevention Services Group (Guard Division NY) Inc. (the Respondent) is contesting the certification of Local One Security Officers Union (the Union) as bargaining representative in the underlying representation proceeding.¹ Pursuant to a charge filed by the Union on May 22, 2026, amended on September 4, 2026, the General Counsel issued a complaint on September 14, 2026, alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain with the Union following the Union’s certification in Case 29–RC–363545. (Official notice is taken of the record in the representation proceeding as defined in the Board’s Rules and Regulations, Sections 102.68 and 102.69(d). *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying

in part the allegations in the complaint and asserting affirmative defenses.

On September 23, 2026, the General Counsel filed a Motion for Summary Judgment. On September 24, 2026, the Board issued an Order Transferring the Proceeding to the Board and a Notice to Show Cause why the motion should not be granted. On October 2, 2026, the Respondent filed a response to the Board’s Notice and opposition to the General Counsel’s motion.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

The Respondent admits its refusal to bargain but contests the validity of the certification based on its contention, raised and rejected in the representation proceeding, that the Acting Regional Director for Region 22 erred by overruling its objection to the election without holding a hearing.²

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor has it established any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice

¹ During the underlying representation proceeding, the Acting General Counsel transferred the case from Region 29 to Region 22.

² In its answer, the Respondent denies that the Union has been the exclusive collective-bargaining representative of the unit based on Sec. 9(a) of the Act since June 13, 2025. The Respondent also denies that its conduct violates Sec. 8(a)(5) and (1) of the Act, that its unfair labor practices affect commerce within the meaning of Sec. 2(6) and (7) of the Act, and that any requested relief is warranted. Notwithstanding the Respondent’s assertions, all representation issues were fully litigated in the representation case. Accordingly, we conclude that the Respondent’s denials of the allegations in pars. 6(d), 8, 10, 11, and 12 of the complaint, and its response to the Notice to Show Cause, do not raise any issues warranting a hearing. In addition, the Respondent has admitted that it is refusing to bargain to test the Union’s certification. Such an admission permits a finding, notwithstanding the Respondent’s denials and assertions, that the Respondent has failed and refused to recognize and bargain with the Union. See *Biewer Wisconsin Sawmill, Inc.*, 306 NLRB 732, 732 (1992). We do, however, correct the date since which the Union has been the exclusive collective-bargaining representative of the unit to July 23, 2025, the date on which the Acting Regional Director issued the certification of representative.

We reject the Respondent’s first affirmative defense, which asserts that the complaint fails to state a claim upon which relief can be granted. As set forth above, the Respondent admits that it has refused to recognize and bargain with the Union. As such, “the complaint does indeed state claims upon which relief can be granted.” *Wolf Creek Nuclear Operating Corp.*, 366 NLRB No. 30, slip op. at 1 fn. 2 (2018), enf’d. 762 F. App’x 461 (10th Cir. 2019).

We also reject the Respondent’s cursory claims that the complaint’s allegations are barred in whole or in part by Sec. 10(b) of the Act (affirmative defense 2) and that the Board’s administrative law judges are unconstitutionally insulated from removal (affirmative defense 3). The Respondent has failed to offer any explanation or evidence to support these bare assertions. Thus, we find that they are insufficient to warrant denial of the General Counsel’s Motion for Summary Judgment. See, e.g., *Sysco Central California, Inc.*, 371 NLRB No. 95, slip op. at 1 fn. 1 (2022); *Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino*, 366 NLRB No. 58, slip op. at 1 fn. 1 (2018) (citing cases), enf’d. sub nom. *Operating Engineers Local 501 v. NLRB*, 949 F.3d 477 (9th Cir. 2020).

In any event, there is no merit to the Respondent’s Sec. 10(b) contention. The Respondent admits that it has refused to bargain with the Union since March 11, 2026, and the charge in this case was filed on May 22, 2026—well within the 6-month statute of limitations. In addition to finding the Respondent’s third affirmative defense unsupported, we also find it lacks merit. There is no evidence that the Respondent suffered any harm from the administrative law judges’ removal protections. See *SJT Holdings, Inc.*, 372 NLRB No. 82, slip op. at 1 fn. 4 (2023) (citing *Collins v. Yellen*, 594 U.S. 220, 257–258 (2021), and *Calcutt v. FDIC*, 37 F.4th 293, 316 (6th Cir. 2022), rev’d per curiam on other grounds 598 U.S. 623 (2023)); *K & R Contractors, LLC v. Keene*, 86 F.4th 135, 148–149 (4th Cir. 2023) (“[R]egardless of how we answer the constitutional question presented by the removal provisions, we would be required to deny the petition because K & R has not asserted any harm resulting from the allegedly unconstitutional statutes.”).

proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.³

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent has been a domestic corporation with its principal office located at 900 South Avenue, Suite 200, Staten Island, New York, and has been engaged in providing fire life safety and security services to various customers.

During the past twelve-month period, which period is representative of its operations in general, the Respondent, in conducting its business operations, provided services valued in excess of \$50,000 directly to customers in the state of New York, who in turn purchased goods valued in excess of \$50,000 directly from entities located outside the state of New York.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. *The Certification*

Following an election conducted by mail ballot between May 14 and June 4, 2025, the Acting Regional Director for Region 22 issued a Decision on Objection and Certification of Representative in Case 29–RC–363545 on July 23, 2025, certifying the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

INCLUDED: All full-time and regular part-time fire life safety directors not performing guard duties as defined in Section 9(b)(3) of the National Labor Relations Act, employed by the Employer at 546, 566, and 526 Gulf Ave., Staten Island, New York.

EXCLUDED: All other employees and supervisors as defined in the Act.

On March 11, 2026, the Board denied the Respondent's request for review of the Acting Regional Director's decision. The Union continues to be the exclusive collective-bargaining representative of the unit employees under Section 9(a) of the Act.

B. *Refusal to Bargain*

On about March 11, 2026, and on multiple subsequent occasions, the Union requested that the Respondent bargain collectively with the Union as the exclusive collective-bargaining representative of the unit employees. Since about March 11, 2026, and continuing to date, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit.

We find that the Respondent's conduct constitutes an unlawful failure and refusal to recognize and bargain with the Union in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By failing and refusing since about March 11, 2026, to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning on the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); accord *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964).⁴

³ The Respondent's request that the complaint be dismissed is therefore denied.

⁴ For the reasons stated in his dissent in *Longmont United Hospital*, 374 NLRB No. 52 (2026), in order to effectuate Sec. 10(c) of the Act, Member Prouty believes that additional remedies are required to remedy the harm caused by an employer's unlawful refusal to bargain with its employees' chosen union in a test of certification case. To address the damage created by the unlawful delay in initiating bargaining, Member Prouty would also order the Respondent to make the union and affected employees whole for any provable, reasonably quantifiable economic harm resulting from the unlawful refusal to bargain; provide the union

on-site access to the bargaining unit; adhere to a bargaining schedule; post a notice of employee rights for a period of 1 year; and read and distribute a remedial notice to employees. See *Longmont*, *supra*, slip op. at 2–5; see also *CP Anchorage Hotel 2 d/b/a Hilton Anchorage*, 371 NLRB No. 151 (2022) (Member Prouty, concurring) (setting forth his view that notice reading and distribution should be standard for all unfair labor practices found by the Board), *enfd.* 98 F.4th 314 (D.C. Cir. 2024). Member Prouty believes that these remedies are necessary where, as here, employees have been deprived of the benefit of their chosen representative because of the Respondent's unlawful refusal to bargain.

ORDER

The National Labor Relations Board orders that the Respondent, Metro One Loss Prevention Services Group (Guard Division NY) Inc., Staten Island, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with Local One Security Officers Union (the Union) as the exclusive collective-bargaining representative of the employees in the bargaining unit.

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

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

(a) 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 fire life safety directors not performing guard duties as defined in Section 9(b)(3) of the National Labor Relations Act, employed by the Employer at 546, 566, and 526 Gulf Ave., Staten Island, New York.

EXCLUDED: All other employees and supervisors as defined in the Act.

(b) Within 14 days of service by the Region, post at its facility in Staten Island, New York copies of the attached notice marked "Appendix."⁵ Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former

employees employed by the Respondent at any time since March 11, 2026.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 29 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. October 21, 2026

James R. Murphy, Chairman

David M. Prouty, Member

Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

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

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to recognize and bargain with Local One Security Officers Union (the Union) as the exclusive collective-bargaining representative of our employees in the bargaining unit.

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

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

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the following appropriate bargaining unit:

INCLUDED: All full-time and regular part-time fire life safety directors not performing guard duties as defined in Section 9(b)(3) of the National Labor Relations Act, employed by the Employer at 546, 566, and 526 Gulf Ave., Staten Island, New York.

EXCLUDED: All other employees and supervisors as defined in the Act.

METRO ONE LOSS PREVENTION SERVICES
GROUP (GUARD DIVISION NY) INC.

The Board's decision can be found at [www.nlrb.gov/case/ 29-CA-387808](http://www.nlrb.gov/case/29-CA-387808) 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.

