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

UNWIRED BROADBAND, LLC

and **Case 32-CA-376939**

COMMUNICATION WORKERS OF AMERICA

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DECISION

STATEMENT OF THE CASE

JOHN T. GIANNOPOULOS, Administrative Law Judge. This case was tried before me in Fresno, California, on May 4–5, 2026, based upon an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing (Complaint), dated April 10, 2026, alleging that UnWired Broadband, LLC (UnWired or Respondent) violated the National Labor Relations Act (the Act). The Complaint was based upon charges filed by the Communication Workers of America (CWA or Union) in Cases 32-CA-376939 alleging that Respondent violated Section 8(a)(1) and (5) of the National Labor Relations Act and in Case 32-CA-365300, alleging violations of Section 8(a)(1) and (3) of the Act. Regarding the allegations in Case 32-CA-365300, the Complaint alleged that UnWired violated: (1) Section 8(a)(1) of the Act by maintaining unlawful employee handbook provisions and by interrogating employees about their union support; and (2) violated Section 8(a)(3) of the Act by discharging four employees because of their union activities. After the hearing opened a non-Board settlement was reached resolving these allegations; the Union's motion to dismiss the allegations relating to Case 32-CA-365300 and to withdraw the underlying charge, subject to compliance with the terms of the settlement, was granted. (ALJ. 1; Tr. 210–

213, 225–227)[1] The remaining Complaint allegations in Case 32-CA-376939 allege that Respondent violated Section 8(a)(1) and (5) of the Act by: (1) withdrawing recognition from the CWA as the collective-bargaining representative of certain UnWired employees; and (2) failing to provide the Union with information it requested that was necessary and relevant to the performance of its collective-bargaining duties.

Based upon the entire record, including my observation of witness demeanor, and after considering the briefs filed by the General Counsel, the Union,[2] and Respondent, I make the following findings of fact and conclusions of law.

I. JURISDICTION AND LABOR ORGANIZATION

Respondent is a California limited liability company headquartered in Fresno, California, with facilities located throughout California's Central Valley where it provides internet services to residential and commercial customers.[3] In conducting its business operations, Respondent derives annual gross revenues in excess of $100,000; it also purchases and receives goods and services at its Fresno headquarters valued in excess of $5,000 which come directly from points outside the state. Respondent admits, and I find, that the Union is a labor organization within the meaning of Section 2(5) of the Act. Accordingly, this dispute affects commerce, and the National Labor Relations Board (NLRB or the Board) has jurisdiction pursuant to Section 10(a) of the Act. (GC. 1(r), 1(n); J. 2, 3)

II. FACTS

1. Respondent's employees vote to unionize

On April 15, 2025, the Communication Workers of America (CWA or Union) filed a petition in Case 32-RC-363784 to represent a unit of Respondent's Fresno, California, area

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

[2] Instead of filing a brief the Union filed a 3-page document titled "Joinder in Counsel for the General Counsel's Post-Hearing Union's Brief" adopting the General Counsel's post-hearing brief as its own. The General Counsel's unopposed motion to correct the transcript is granted. Other errors in the transcript are further noted herein.

[3] The Complaint's caption lists UNWIRED BROADBAND LLC as the Respondent, while Complaint paragraph 2 alleges that, "[a]t all material times, Respondent has been a California corporation," instead of a limited liability company. (GC. 1(n)) In its Answer, Respondent admits that it falls within the Board's jurisdiction, while noting that it is a limited liability company and not a corporation. (GC. 1(r)) However, Respondent has signed at least two stipulated election agreements in related cases where the name of the employer is listed as "Unwired Broadband, Inc." (J. 2–3) Public documents on file with the California Secretary of State show that on April 21, 2021, "UnWired Broadband, Inc.," a California corporation (Entity #2532487), was converted to a Limited Liability Company with the name "UnWired Broadband, LLC" (Entity # #202112610068) and that Respondent has since operated as a California limited liability company. I take judicial notice of these filings. See *American Dawn, Inc. v. Superior Linen & Laundry Serv., LLC*, No. CV13-03713 DMG, 2013 WL 12473601, at *2 (C.D. Cal. Sept. 16, 2013) (collecting cases and noting that, pursuant to Fed. R. Evid. 201, printouts from a state Secretary of State website pertaining to corporate status are subject to judicial notice).

employees.[4] The CWA "is an international union" representing hundreds of thousands of workers in the United States and Canada in over 2,000 bargaining units. *Finerty v. NLRB*, 113 F.3d 1288, 1290 (D.C. Cir. 1997), affirming *CWA, Local 9403 (Pac. Bell)*, 322 NLRB 142 (1996), cert. denied, 522 U.S. 995 (1997). Administratively, the CWA is divided into "geographical Districts, which are administrative units of the International Union and not separate local organizations." Id. Within each District, the "CWA charters locals . . . defined in terms of geographic areas and employers." *CWA, Local 9403 (Pac. Bell)*, 322 NLRB at 146. Regarding their collective-bargaining units, it is the CWA, not its Districts or affiliated locals, that is the certified collective-bargaining representative.[5] *Finerty*, 113 F.3d at 1290; *CWA, Local 9403 (Pac. Bell)*, 322 NLRB at 146. (J. 1)

The president of the CWA is Claude Cummings, whose office is in Washington DC. CWA District 9 (District 9), which covers California, Nevada, Hawaii, and Guam, is overseen by Frank Arce (Arce), who holds the title of vice president. Since August 2023, Michael Barfield (Barfield) has served as the CWA District 9 staff representative, where he oversees and administers contracts and represents different locals. Shawn Heape (Heape) has worked at District 9 since about 2024 as the staff organizing coordinator, working on organizing campaigns within the District. Both Barfield and Heape are paid directly by the CWA. Arce, along with national organizing manager Yonah Camacho Diamond oversee organizing decisions within CWA District 9. About 20 separate local unions are within District 9's boundaries, including CWA Local 9333 (Local 9333).[6] Local 9333 covers a territory that includes cities in California's Central Valley and Bay Area. Elaina Savaiki (Savaiki) is the president of Local 9333 and has held this position for about 11 years. Savaiki reports directly to Arce. Regarding Savaiki's salary, she is paid by the CWA through District 9. Other Local 9333 officials include steward and lead-organizer Steve Dutey (Dutey), along with executive vice president Anthony Cisneros (Cisneros).[7] (Tr. 26, 38, 127–129, 136–137, 145, 155, 174, 188–191, 196–199)

After the petition was filed, the CWA and UnWired signed a stipulated election agreement to hold a mail-ballot election where the following unit of employees (referred to as the Installation and Construction Unit or Unit) would vote to determine whether they wanted to be represented by the CWA for purposes of collective bargaining:

> All full-time and regular part-time Installation Technicians, Bucket Truck Technicians, Lead Bucket Truck Technicians, Aerial Construction Technicians, and Service Technicians, excluding all other employees, guards, and supervisors as defined by the Act.

[4] All dates are in 2025 unless otherwise noted.

[5] See also *Indiana Bell Telephone Co., Inc.*, 370 NLRB No. 135 (2021) (noting that: (1) the "CWA operates through various Districts;" (2) the Districts, defined by geographic area, are established under the CWA constitution as administrative units; and (3) the CWA's constitution provides that "all contracts or agreements entered into shall be in the name of the International Union and bear the signature of approval of an authorized agent or representative of the International Union.").

[6] At various points in the transcripts Local 9333 is misidentified as Local 933.

[7] Transcript page 128, line 17 should read "that goes to argument," instead of "goes to argument" and line 19 should read "her case," instead of "your case."

The stipulated election agreement was approved by the Regional Director for NLRB Region 32 (Regional Director) on April 24. Under the terms of the agreement, ballots were to be mailed to employees on May 12 and counted on June 4; parties would be able to attend the count via videoconference. (J. 2)

On April 25, the CWA filed a petition in Case 32-RC-364505, to represent a separate unit of Respondent's employees that were excluded from the Installation and Construction Unit. The parties signed a stipulated election agreement, which was approved by the Regional Director on May 5, where Respondent's "Tower Service" employees (the "Tower Service Unit") would vote by mail ballot on whether they wanted representation by the CWA. The agreement called for ballots to be mailed on May 19, and to be opened on June 10. (Tr. 14; J. 3)

The election in Case 32-RC-363784, involving the Installation and Construction Unit, proceeded as scheduled and the ballots were opened and counted on June 4, via videoconference. The Tally of Ballots shows that 10 employees voted to be represented by the CWA, one voted against union representation, and five ballots were challenged. Heape attended the vote count via videoconference and authorized his signature on the Tally of Ballots on behalf of the Union. (Tr. 193–194; J. 4).

Regarding the Tower Service Unit, the ballots in Case 32-RC-364505 were never opened. Instead, citing Section 103.20(b) of the Board's Rules and Regulations, the Regional Director held the matter in abeyance based upon the charge allegations in Case 32-CA-365300.[8]

2. Respondent's objections to the election and charge against the Union

On June 11, Respondent, through its counsel Rana Roumayah (Roumayah) filed with the Regional Director objections to the conduct of the Installation and Construction Unit election in Case 32-RC-363784. Many of the claims made in Respondent's objections, including allegations of unlawful picketing, track allegations UnWired made in a May 19 unfair labor practice charge it filed against the Union in Case 32-CB-366029,[9] alleging violations of Section 8(b)(1)(A) of the Act.[10] (Tr. 218; J. 5)

Regarding Case 32-CB-366029, in April 2026, the Regional Director approved a unilateral settlement agreement, which contains a non-admissions clause, signed by the Union whereby the CWA agreed to refrain from physically blocking the entry and exit of Respondent's facility. The Regional Director dismissed all the other charge allegations in July 2026. Respondent appealed the appropriateness of the settlement and the dismissal of the remaining charge allegations; both appeals were denied by the NLRB's General Counsel in September 2026.

[8] I take judicial notice of the representation proceeding in Case 32-RC-364505, including the Regional Director's June 10 abeyance letter. See *J. S. Abercrombie Co.*, 83 NLRB 524, 524-525, (1949) (Board takes judicial notice of representation proceeding, noting it "is the practice of the Board to take judicial notice of its own records and proceedings."); *Lord Jim's*, 264 NLRB 1098, 1098 fn.1 (1982) (The Board may take notice of its own files).

[9] I take judicial notice of the case file in Case 32-CB-366029 along with the disposition of Respondent's objections in Case 32-RC-363784. *Lord Jim's*, 264 NLRB at 1098 fn.1.

[10] All of the charge allegations in Case 32-CB-366029 were also included in Respondent's election objections.

As for Respondent's objections to the election in Case 32-RC-363784, on September 25, the Regional Director issued a decision and certification of representative, dismissing Respondent's objections and certifying the CWA as the exclusive collective-bargaining representative of the Installation and Construction Unit. Respondent filed with the Board a request for review of the decision and certification on November 21. The Union filed a response on December 1. The Board denied Respondent's request for review on September 17, 2026.[11] (J. 6, 8)

3. The Union's pre-certification request for bargaining

On July 28, Barfield emailed a letter to Roumayah formally requesting that Respondent initiate negotiations with the CWA for an initial collective-bargaining agreement. In the letter the Union also made eight separate information requests to prepare for bargaining and reminded Respondent of its status quo obligation to refrain from making any unilateral changes. (GC. 2) The letter is signed by Barfield as "Staff Representative CWA District 9," and is on letterhead that reads "Communication Workers of America AFL-CIO District 9." (GC. 2)

On July 29, Roumayah emailed Barfield a letter containing UnWired's response writing, in part, "[a]s you are aware, on June 11, the Company filed objections to the election," which "are still pending with the Region," and "[t]o date, the Union has not been certified as the collective bargaining representative." (GC. 3) Therefore, Roumayah wrote that Respondent was not under a legal obligation to start bargaining or provide the Union with the information it requested. Finally, the letter notes that UnWired "remain[s] committed to fulfilling our legal duty to maintain the status quo and will not implement any changes" to employee working conditions "without first notifying the Union and offering to bargain, as required." (GC. 3) Barfield acknowledged receiving and reading Roumayah's July 29 letter. (Tr. 102–103; GC. 3)

Regarding the Installation and Construction Unit, Heape testified that he assigned Local 9333 to represent Unit employees, and did so for geographical reasons as Dutey, who he speaks with daily, was closest geographically to the UnWired workforce. Also, it is District 9's general practice that the local union involved in the organizing represents the employees in question. As for contract bargaining, Barfield testified that in July, his supervisor asked him to oversee the bargaining for Local 9333 regarding the UnWired contract, and he agreed to do so.[12] (Tr. 28, 145, 194–195, 200–203)

4. The Union's post-certification request for bargaining

After the Regional Director's September 25th certification of the Installation and Construction Unit, on October 2 Barfield emailed Roumayah requesting bargaining. In the email, Barfield wrote that he was confirming that the Union's July 28, letter constituted a continuing demand to bargain and request for information. Because the Union was now certified, Barfield said in the email that "the Company's obligation to meet and bargain in good faith, and to provide the requested information, is now in full effect under Section 8(a)(5) of the NLRA." (GC. 4) Therefore, Barfield asked that Respondent provide its earliest available dates

[11] See *UnWired Broadband, Inc.*, 21-RC-363784, unpub. order dated September 17, 2026.
[12] Barfield testified that while "the district owns the contract," it is the locals who do the bargaining. (Tr. 128)

to commence bargaining and respond to the information request. The email is signed by Barfield and includes his title as "Staff Representative" for "Communication Workers of America District 9." Savaiki and Arce were copied on the email. Barfield received an automated response to his October 2 email indicating that Roumayah was out of the office and that someone named "Ms. Baker" should be contacted in her absence. Barfield forwarded the October 2 email to Ms. Baker later that day. He also re-sent the email to Roumayah on October 3. (Tr. 30–32, 35–38, 95–96, 123–124; GC. 4–6, J. 6)

Roumayah responded to Barfield by email on October 7, stating that "[w]e are working on your information request, and should have it completed in the next few days." (GC. 7) As for bargaining, in her email Roumayah wrote that Respondent was unavailable from October 29 through November 5 and asked the Union to provide available dates for the weeks of October 20 and November 10. Roumayah sent a copy of her response to everyone Barfield had copied in his original email, including Savaiki and Arce.[13] (GC. 7)

Representatives from both the Union and Respondent met for lunch on October 8 at a Fresno area restaurant. Present for the Union was Barfield, Savaiki, Heape, Cisneros and a CWA national organizing official named Chris Calabrese. About five company officials attended, including John Majors (Majors) and Patrick Seitz (Seitz). At the time Majors served as Respondent's vice president of operations and Seitz was Respondent's director of human resources. (Tr. 44, 155–156, 215–216)

The meeting was described by both Barfield and Savaiki as a "meet and greet." No bargaining took place. Instead, the parties discussed their individual backgrounds, the general industry/business, and got to know each other. The luncheon occurred because the Union had agreed to cancel an upcoming protest that involved an inflatable rat.[14] After Roumayah's October 7 email asking the Union for available bargaining dates, the protest was cancelled and Savaiki arranged the luncheon. (Tr. 43–44, 98–99, 155–156, 221)

Barfield emailed Roumayah on October 9, thanking her for the update and confirming Roumayah's statement in her October 7 email that the response to the Union's information request was progressing. In his email Barfield also wrote that the Union was available to meet on November 12, 13, and 14, and asked to have a brief call with Roumayah to discuss logistical details, including the confirmation of the respective bargaining teams. (Tr. 38–39; GC. 7)

Roumayah sent Barfield two emails on October 16. In the first email Roumayah apologized for the delay regarding the information request, saying she had just received, and was reviewing, the information. Roumayah also wrote that she would have answers to Barfield's "other questions by Monday," as they were "working out the logistics." (GC. 7) In the second email Roumayah wrote that Respondent was available to bargain on November 14, and recommended the parties meet at the company's Fresno headquarters, saying that she would be happy to schedule a call to discuss logistics. Roumayah also wrote that UnWired would be "represented at the bargaining table" by herself and Seitz, and that one additional individual may

[13] In all of her October emails to Barfield discussed above, Roumayah copied everyone who was included in Barfield's original October 2 email, including Savaiki and Arce.

[14] Transcript page 96, line 25 should read "protest" instead of "press."

participate. Finally, regarding the information request, Roumayah asked whether Barfield preferred receiving the portions of the response that she had already reviewed "piecemeal" or would prefer getting the "entire response at once." (GC. 6) (Tr.39, 42)

Barfield emailed Roumayah on October 20, confirming November 14 as an available bargaining date. However, since this was the parties' first collective-bargaining agreement, Barfield wrote that one day would not be sufficient to make meaningful progress and expressed the Union's desire to "establish multiple bargaining dates to ensure a consistent and good-faith schedule moving forward." (GC. 6) As such, Barfield wrote that the Union's team was available on November 17, 20, 21, 24, 25, and December 1–23, 29 for bargaining, and asked Roumayah to "review these options with the Company and confirm additional dates that work on your end." (GC. 6) Finally, Barfield said in the email that the Union preferred to receive the information it requested as it became available, and set times that he was available for a telephone call to finalize logistics. Roumayah responded later that day asking that he call her "tomorrow" and noting that she was checking with Respondent on the other proposed bargaining dates. Roumayah also wrote that she should be able to send Barfield a portion of the information that the Union had requested the next day. (Tr. 40; GC. 6)

Barfield spoke with Roumayah on October 22. During the call, they confirmed that the first day of bargaining would occur on November 14, delineated the location of the meeting, and agreed that Respondent and the Union would split the associated costs. (Tr. 43) They also discussed having an employee named Aaron Lein (Lein) released from work for bargaining, as he had been elected to the Union's bargaining team a few days earlier. (Tr. 42–44)

On October 22, UnWired responded to the Union's information request. Roumayah sent Barfield a series of emails with attached documents containing the information the Union had requested; Savaiki and Arce were also copied on the emails. With the documents attached to emails, Barfield testified that Respondent's response to the Union's July 28/October 2 information request was complete. (Tr. 49–54; GC. 9–11)

On Monday November 10, Savaiki emailed Seitz about scheduling Lein's release from work so he could participate in bargaining; Cisneros was copied on the correspondence. In the email, Savaiki wrote that she wanted to "ensure release time for Aaron Lein since he is on the bargaining" team and asked that he be released from work on Wednesday, November 12 and Friday, November 14 for eight hours each day. Seitz responded that he was "hoping to get some clarification," and asked whether Savaiki wanted Lein to be off at a certain time those days, or to not work at all. Seitz then wrote that Respondent generally assigns work schedules a week in advance, and that Lein "has jobs on hos route" for both days. Seitz said that he would "get the team to see if they can move those jobs around," but it may result in upset customers or annoyed coworkers. Therefore, in his email Seitz asked that, in the future, Savaiki let Respondent "know a week or more in advance so we can avoid that." (GC. 8)

Savaiki responded to Seitz the same day, this time including both Barfield and Cisneros on the email chain. In her email, Savaiki wrote:

> So the understanding is that Aaron [Lein] was elected to the bargaining team and that he would not be scheduled any field work during bargaining. I would have to assume your lead bargainer should have made notifications to you and the team. Moving forward, I'll get all the dates confirmed and notif[y] you immediately.

Although she was not included in the November 10 email chain, on November 11, Roumayah forwarded Savaiki's email to Barfield in a separate email and wrote she knew Barfield was copied on the correspondence and that it was the "responsibility of the Union, not the Company, to request the release time of an employee for bargaining and/or bargaining preparation." (GC. 8) As such, and to confirm their understanding, Roumayah asked that Barfield provide sufficient notice of no less than one week, and to inform his "team" so they can avoid problems going forward. Barfield responded to Roumayah on November 13, copying Seitz, and writing that the "issue has been resolved on my end, and we are aligned on the release procedure. Sorry for any confusion." (GC. 8) Roumayah responded on November 14, writing "Thanks Michael!" (GC. 8) (Tr. 44–47)

5. November 14 bargaining session

Respondent and the Union met for bargaining on November 14, at Respondent's facility in Fresno. The Union's bargaining team, which included Lein, had caucused a day earlier to prepare for the bargaining session. Present at the November 14, meeting for Respondent was Seitz and a human resources employee named Jack, who served as Respondent's notetaker; Roumayah attended the meeting virtually via Zoom. Barfield, Cisneros, and Lein, were present for the Union, with Lein serving as the Union's notetaker.[15] The bargaining notes from both the Union and Respondent were introduced into evidence.[16] (Tr. 54–56, 220–221; GC. 12, 39)

The meeting started around 10:00 a.m. with an opening statement and a discussion of ground rules; each party was responsible for taking their own notes. The exchange of proposals and the process for making edits on proposals was also discussed. The parties also confirmed that the next scheduled bargaining dates would occur on December 4 and December 5. And, Cisneros mentioned that Barfield would be making another information request the following week. (Tr. 57–58, 105–106; GC. 12, 13, 39)

Just after 10:15 a.m., the Union presented the following 17 contract proposals: (1) Union Recognition; (2) Company-Union Relations; (3) Dues Deductions; (4) Non-Discrimination; (5) Hours of Work; (6) Overtime; (7) Benefits; (8) Paid Time Off; (9) Paid Holiday; (10) Discipline;

[15] Transcript page 55 line 11 should read "5 pages" instead of "50 pages."

[16] Unless otherwise cited, I have credited the bargaining notes over contradicting trial testimony as to what occurred during the November 14, bargaining session. Accordingly, trial testimony about the November 14, meeting that is inconsistent with the bargaining notes, or that is not otherwise discussed herein, has been specifically considered and discredited. The fact that Seitz did not proofread the Respondent's notes, which contain some typographical errors, does not change my findings. (Tr. 228–229) It is undisputed that both sets of bargaining notes were taken contemporaneously, and no party has shown that the bargaining notes are somehow untrustworthy or that either notetaker had reason to mischaracterize what occurred. Cf. *SCC Alameda Point LLC v. City of Alameda*, 897 F. Supp. 2d 886, 898 (N.D. Cal. 2012) (Court finds that contemporaneous meeting notes were the most reliable extrinsic evidence available as to what was said during the meeting and credits those notes over unclear deposition testimony.).

(11) Health & Safety; (12) Seniority; (13) Layoff & Recall; (14) No Strike/Lockout; (15) Emergency Conditions; (16) Union Time; and (17) Union Security.[17] Each proposal contained a signature line containing Roumayah's name for UnWired and Cisneros's name for the Union. (GC. 23) Barfield testified that the proposals were "first contract proposals" that are the "basic makeups of . . . a union contract," and included a mixture of generic first contract proposals along with ones that were tailored specifically for the bargaining with UnWired. (Tr. 101) (Tr. 55, 124–125; GC. 23)

Regarding the first proposal, Union Recognition, the Union's proposal was vague as to the specific classifications covered. During the meeting, Roumayah said that Respondent wanted to "go with the classification titles" used in the certification; (GC. 39) Respondent's bargaining notes designate Roumayah's statement as a "counter." (GC. 39) (GC. 12, 23, 39)

While there were no discussions or questions regarding the next proposal regarding Company-Union Relations, the Union's proposal on Dues Deductions drew comments and questions from both Seitz and Roumayah. Seitz stated that UnWired paid employees on a bi-weekly basis; Roumayah inquired as to the amount of union dues and asked for a copy of a dues deduction form. Barfield responded that union dues consisted of a payment equivalent to 2½ hours per month, but noted that the local bylaws may "say something different." Roumayah asked if union dues would be deducted now, or when a contract is signed, and Cisneros replied that no dues would be deducted until after a signed contract. (GC. 12, 23, 39)

No questions were posed regarding the Union's Non-Discrimination proposal, so the parties moved to the proposal titled Hours of Work. The Union had offered a standard 40-hour workweek, with schedules published no later than Friday, at 12:00 p.m., each week and posted for a minimum period of two weeks, which would be subject to change with a 48-hour notice. If schedules were cancelled without a 12-hour notice, the Union wanted employees to receive 3 hours pay. Regarding this proposal, Roumayah asked Seitz about the company's current practice, and was told that schedules were typically completed and published "the day of," and that modifications are made when cancellations occur or a technician finishes a route early. The parties further discussed this proposal, and Cisneros said that the Union's intent was to build a work schedule so employees knew when they were working and that their hours would not be cancelled at the last minute. After discussing this proposal, the parties caucused for about 20 minutes. (GC. 12, 23, 39)

After returning from their caucus, the next Article the parties discussed was Paid Holidays, as there were no questions about the Union's Paid Time Off or Overtime proposals, and the Union was not prepared to discuss its proposal on Benefits. Regarding the Paid Holidays proposal, the Union wanted eight paid holidays; employees working on a paid holiday would receive eight hours "at straight time" plus time and one-half for each holiday hour worked. If employees had prescheduled vacation during a holiday, they would be paid for the holiday and not charged a vacation day. The parties discussed different scenarios under the Union's proposal, and then moved on to the topic of employee discipline. (GC. 12, 23, 39)

[17] Although Barfield testified that he believed the Union passed 16 bargaining proposals (Tr. 100–101), the actual bargaining proposals that were introduced into evidence contain 17 separate "Articles." (GC. 23) These 17 separate Articles are also listed in the parties' bargaining notes. (GC. 12, 39)

The Union's Discipline proposal reads as follows: "No employee shall be disciplined or discharge without just cause. Any suspension or discharge requires notification of such an act to be given to a higher-level representative of the Union." (GC. 23) Seitz asked for a definition of "just cause," and Barfield explained the Union's definition, which included a proper investigation and fair treatment. Seitz also questioned the meaning of "higher level representative," and Cisneros explained this would be someone higher than a shop steward, like a union officer or the chief steward. Barfield said that he would provide Seitz with a list of union representatives. (GC. 12, 23, 39)

No comments were made about the Union's Health & Safety Article, so the parties moved on to the proposal on Seniority. Roumayah asked if an employee would keep their seniority if they had a break in service, and Cisneros answered "yes." The parties discussed different scenarios related to seniority and then took a short caucus. (GC. 12, 23, 39)

After the meeting resumed, the Union's proposal on Layoff & Recall was reviewed. The proposal called for Respondent to provide the Union with a written 60-day advance notice of a layoff, and employees being laid off by inverse seniority. Also, the Union proposed that laid-off employees receive a severance based upon years of service, along with priority rehire consideration for 24-months. Both Seitz and Roumayah asked questions about the mechanics of the proposal, with Cisneros and Barfield answering the questions posed. (GC. 12, 23, 39)

No comments were made about the No Strike/Lockout proposal and the parties moved to the Union's proposal on Emergency Conditions which, in part, called for employees to receive a hazard pay premium equal to 20% of their regular pay if they worked during an emergency. The proposal also prohibited Respondent from taking any adverse action against an employee who reasonably believed the workplace was unsafe or refused to work during an emergency unless the employee's refusal was deemed unjustified. Both Seitz and Roumayah asked questions about employees refusing to work under the proposal which Cisneros answered. (GC. 12, 23, 39)

Union Time was the next proposal discussed, with the Union proposing paid time off for employees under certain circumstances related to union activity, and unpaid time off under other circumstances. Seitz asked for examples and Cisneros replied with a hypothetical involving a union steward getting paid to attend an investigatory interview. Roumayah asked about caps or maximums for unpaid union time off, and Cisneros responded indicating that a cap/maximum was possible. Cisneros also discussed union related training for shop stewards and an annual conference for union officers. (GC. 12, 23, 39)

Finally, the parties discussed the CWA's Union Security proposal, which would generally require, as a condition of employment, that unit employees pay or tender to the Union amounts equal to the periodic dues applicable to union members. Seitz asked if the proposal would apply to current and future employees, and Cisneros answered saying that it would. After some further discussion about the Union Security proposal, Roumayah suggested taking a break so Respondent could review the proposals and said that Respondent would call if they thought they would be able to "get back together today," or if the company had any additional questions. The parties broke for lunch at 11:42 a.m. Barfield testified that he expected Respondent would

come back from lunch with counterproposals. At 12:20 p.m., Roumayah texted Barfield asking if he could email her the Union's proposal in Microsoft Word format. After checking with his team, the Union emailed the proposals to Roumayah in the format she requested. Roumayah then texted Barfield writing:

> We are not even half way through making our counters. We will not be ready to reconvene today. We will be ready with our counters on Dec. 4.

Barfield texted back saying, "Thank you. We will see you on the 4th." (GC. 13–14) With that, the November 14 meeting ended. No strictly economic proposals were presented on November 14, no tentative agreements were reached, and Respondent did not present any written proposals during the meeting. (Tr. 57–61, 100, 106–108, 221; GC. 12–14, 23, 39)

At trial, Barfield testified that the purpose of the November 14 meeting was to bargain a contract. Although Seitz had prior experience working in human resources for unionized employers, he testified that Respondent understood the purpose of the November 14 meeting to be a "meet and greet," where "we can hear from them on some of the things they want to do," and said he was not sure what to expect. (Tr. 221) Seitz also said that there was no "back and forth" negotiating over any contract language during the meeting. (Tr. 222) Seitz did confirm during his testimony that the Union described the contract articles presented at the November 14 meeting as "their proposals." (Tr. 222) (Tr. 104, 106–107, 215, 221–222; GC. 6)

On November 15, Cisneros emailed Seitz, requesting "release time" for Lein on December 3, 4, and 5, for the upcoming bargaining. Seitz replied on November 17, acknowledging that Lein's schedule was changed accordingly. (GC. 15) (Tr. 61–65)

6. November 21, information request

On November 21, Barfield sent an email to Roumayah with the subject "Follow-Up Request for Information." (GC. 16) In the email Barfield wrote that the Union was submitting an information request to support their continued preparation and ensure productive negotiations. Barfield also wrote that the information requested was "essential to the union's economic analysis and proposal development." (GC. 16) The Union's information request read, in pertinent part, as follows:

> **Employee Census:** Provide a database in Excel format including the following items for each employee in the represented unit on the most recent data available. Please specify the date on which the census data was retrieved
>
> a. Work location
> b. Normally scheduled hours
> c. Actual hours worked in prior calendar year
> d. Date of birth
> e. Race
> f. Sex
> g. Health care plan selection (Plan name or "opt-out")

h. Health care plan coverage tier
i. Number of adult dependents covered under health plan
j. Number of child dependents covered under health plan
k. Dental plan selection
l. Dental plan coverage tier
m. Vision plan selection
n. Vision plan coverage tier
o. Total annual elected employee contribution to the Flexible Spending Account
p. Total account balance in the Flexible Spending Account
q. Total annual employer contribution to the Health Reimbursement Account
r. Total account balance in the Health Reimbursement Account
s. Total annual employer contribution to the 401 (k) plan
t. Total annual employee contribution to the 401 (k) plan
u. Total account balance in the 401 (k) plan

Total Compensation: Provide total annual cost, percent of basic payroll, and cost per hour for each category below and for each of the most recent 3 years available. In addition, provide the number of full-time equivalent employees on which the data is based and the CREEP factor (benefit cost as a percentage of basic wages) for wage-related benefits.

a. Basic wages
b. Overtime payments
c. Wage-related differentials (specify and provide separately)
d. Other differentials (specify and provide separately)
e. Other payments–such as incentives, commissions, profit sharing
f. Savings plan contributions
g. Medical benefits
h. Dental benefits
i. "Vision benefits
j. Disability benefits (provide short and long-term plans separately)
k. Life insurance (provide wage-related and non-wage-related separately)
l. Other benefits (specify and provide separately)
m. Company-paid government payments (specify and provide separately)
n. All components of labor costs not listed above (specify and provide separately)
o. Total compensation

Overtime Payments: Provide the following information for each of the most recent 3 years available. Provide separately by pay rate (Base, 1.5x, 2x, etc.)

a. Average monthly and total annual wages paid
b. Average monthly and total annual hours, worked
c. Average monthly and total annual employees paid

Differential Payments: Provide descriptions, including applicable payment rates or formulas, of every available differential program. In addition, provide the following information for each of the most recent 3 years available by title and business unit. Provide separately by differential program.

a. Average monthly and total annual amounts paid
b. Average monthly and total annual hours worked
c. Average monthly and total annual employees paid

Incentive Payments: Provide descriptions, including applicable payment rates or formulas, of every available incentive program. In addition, provide the following information for each of the most recent 3 years available by title and business unit. Provide separately by incentive payment program .

a. Average monthly and total annual incentive payments
b. Average monthly and total number of recipients
c. Average monthly and total number of eligible employees

Commission Payments: Provide descriptions, including applicable payment rates and formulas, for every available commission program. In addition, provide the following information for each of the most recent 3 years available by title and business unit.

a. Average monthly and total commission payments
b. Average monthly and total number of recipients
c. Average monthly and total number of eligible employees

Paid Time Off: Provide total hours taken and paid under each of the following categories and the total annual cost of those hours for each of the most recent 3 years available.

a. Holidays
b. Incidental absence
c. Vacation

Barfield ended his email by asking Roumayah to reach out if she needed clarification. Regarding the information request, Barfield testified that the information requests were relevant because the Union wanted to develop economic proposals for the next bargaining session and therefore needed the information requested. (Tr. 64–65, 101; GC. 16)

Roumayah replied to Barfield's email saying that "upon review of your request, we require some clarification. Please see below in red." (GC. 16) In her response, Roumayah used red font to ask questions or otherwise respond to some of the individualized requests. (GC. 16) Roumayah had questions or responses to the following requests:

1. Employee Census (Request "p"): Roumayah stated that Respondent does not track this information, and asked Barfield to indicate the necessity of the request.

2. Employee Census (Request "q"): Roumayah stated that Respondent "does not offer an HRA [Health Reimbursement Account]."

3. Employee Census (Request "r"): Roumayah stated that Respondent "does not offer an HRA [Health Reimbursement Account]."

4. Employee Census (Request "u"): Roumayah stated that Respondent does not track this information, and asked Barfield to indicate the necessity of the request.

5. Total Compensation (initial paragraph): Roumayah asked for clarification of the phrase "provide total annual cost, percent of basic payroll" asking if the Union was referring to straight time rate.

6. Total Compensation (initial paragraph): Roumayah asked for clarification of the phrase "CREEP factor."

7. Total Compensation (Request "a"): Roumayah asked for clarification and whether the Union was referring to the straight time rate.

8. Total Compensation (Request "f"): Roumayah asked for clarification and whether the Union was referring to the retirement plan.

9. Total compensation (Request "j"): Roumayah stated, "Long term only."

10. Total Compensation (Request "m"): Roumayah asked for clarification and whether the Union was referring to Social Security and Medicare.

11. Overtime Payments (Request "b"): Roumayah stated "Annual wages paid by month and year will include hours worked.

12. Overtime Payments (Request "c"): Roumayah stated, "This will already be included in (a)."

13. Differential Payments (initial paragraph): Roumayah asked which business unit the Union was referring to and said that Respondent does not currently offer differential pay.

14. Incentive Payments (initial paragraph): Roumayah stated that Respondent does not currently offer incentive payments outside of commissions.

15. Commission Payments (Request "b"): Roumayah stated, "This will already be included in (a)."

16. Paid Time Off (Request "b"): Roumayah asked whether the Union was referring to absences due to illness, bereavement, or jury duty.

On November 25, Barfield responded, using green font to reply directly to Roumayah's questions. (GC. 16) Barfield testified that, as of the date of the hearing, the Union has not received the information it requested on November 21. (Tr. 66–68, 102)

7. Respondent files a request for review and cancels the December bargaining session

On November 21, Respondent filed with the Board a Request for Review of the Regional Director's Decision and Certification of Representative. On December 1, the Union filed its Response arguing, in part, that UnWired waived its right to challenge the certification because it had already started bargaining with the Union. (J. 7,8)

On December 3, the Union's bargaining team met in Fresno to prepare for the bargaining session scheduled for the next day. However, just before 2:00 p.m. on December 3, Roumayah sent Barfield a text message which read: "Hi Mike, in case you missed it, I sent you an email cancelling tomorrow and Friday's meeting." (GC. 17) Barfield replied saying that he was "looking at it now," referring to the email, and asked Roumayah if she had time to chat. Roumayah texted back saying that she was tied up for the rest of the day, and they agreed to speak on December 4. As for the email in question, it is dated December 3, and was sent by Roumayah to Barfield at 1:17 p.m. Cisneros is copied on the email which read, in pertinent part, as follows:

> We are writing to inform you that, consistent with the position the Union has taken in its untimely Response to the Company's Request for Review, the Company will not bargain with the Union until the National Labor Relations Board rules on the pending Request for Review. UnWired has not waived its right to challenge the certification. As such, the meetings scheduled for December 4 and 5 are cancelled.
>
> Should you have any questions or require clarification, please feel free to reach out.

The parties therefore did not meet for bargaining on December 4. (Tr. 68–71; GC. 17, 18)

Barfield and Roumayah spoke by telephone on December 4. Barfield testified that during the call he was trying to convince Roumayah to get back to the table and have at least one useful day of bargaining since the Union had already paid for the cost of the hotel. Roumayah apologized for the late notice but said a meeting occurred with UnWired leadership and that the decision was made to cancel the bargaining sessions.[18] Since the cancellation of the December 4

[18] In response to a leading question by Respondent regarding "the December 3rd conversation that you had with the company," Barfield testified that he remembered Roumayah saying that "there was a gray area" and a decision was made to cancel the meeting, while Barfield was focused on trying to convince Roumayah to "get back to the table," and make good use of the union funds. (Tr. 117–118) Although Respondent's counsel characterized the conversation as occurring on December 3, it appears Barfield was referring to the December 4 phone call.

bargaining session, up through the date of the hearing, the parties have not met to bargain over an initial collective bargaining agreement. Both Barfield and Savaiki acknowledged that Respondent has never told them that it was no longer recognizing the Union or that it believed a majority of unit employees no longer supported the Union. Also, between September 25 and November 20, nobody from UnWired told Barfield that Respondent: (1) was planning to challenge the Regional Director's certification by filing a request for review; (2) would not engage in bargaining with the Union because Respondent was testing the Union's certification; or (3) that any bargaining was conditioned upon a pending test of the Union's certification. (Tr. 72–73, 112, 117, 182)

8. Various discussions and meetings regarding employee workplace issues

From June 2025 through at least April 2026, Respondent and the Union, including both CWA and Local 9333 officials, corresponded multiple times about employee workplace issues. Union officials also attended meetings with Respondent regarding employee discipline; many of these meetings were informational and involved company policies. The Union's main point of contact was Seitz. Savaiki had asked Seitz to inform her whenever Respondent was issuing discipline, in order to maintain a line of communication, and Seitz did so.[19] (Tr. 73–74, 79–80, 178–179)

a. Early and mid-June 2025 meetings regarding employee discipline

i. Meeting in early June

Savaiki testified that on June 5 she received a call from Heape saying that an UnWired employee named Tommy had called asking if anyone could represent him in an upcoming disciplinary meeting. This was the first time that Savaiki became involved with union related matters involving UnWired. (Tr. 137–138, 174, 183–184)

On June 6, Savaiki went to Respondent's Fresno facility where she met with Tommy, who told her that a meeting with company management was forthcoming to discuss his possible demotion. He had previously received a final written warning and said that if he did not accept the demotion he was going to be fired. Savaiki had Tommy escort her into the building and she spoke with an UnWired manager named Pheng, who asked if Savaiki wanted to speak with his boss. Savaiki said, "okay, I will wait outside." (Tr. 184) Later, Pheng came outside and told Savaiki that John Majors (Majors), who at the time was Respondent's vice president of operations, wanted to speak with her; Pheng asked Savaiki to call Majors. According to Savaiki, she eventually set up a meeting with Majors where they discussed Tommy's discipline. Present at this meeting was Majors, a company manager named Robert Zamarripa, and Seitz.[20] Savaiki testified that the meeting resulted in Tommy staying in his existing position and receiving additional training. On June 19, Seitz emailed Tommy writing that, "[a]fter discussions with

[19] At some point Savaiki emailed Seitz saying that she still wanted to know about disciplinary conversations, but that Dutey would be the primary contact person. According to Savaiki, Dutey was assisting her with this task because she was inundated with other work. (Tr. 180)

[20] Savaiki testified that during this meeting they also reviewed company policy and reviewed the attendance of other employees. (Tr. 139)

you, the team at CWA and internally, we have agreed to keep you in your current role with no rate change or demotion," with the expectation that he drives safely and noting that the final written warning remained in effect. (Tr. 25, 138–141, 184–186, 215; GC. 24)

ii. Meeting involving employees in mid-June

On June 13, an UnWired human resources official named Jayme Banuelos (Banuelos) emailed Savaiki about two employees. Banuelos began the email saying that, as a "[q]uick reintroduction," he had met with Savaiki "and the team a week ago" to discuss "pending write ups and situations," and that the company had "a couple of additional write ups that we would like to move forward with and get scheduled." (GC. 25) Both employees had received initial warnings. In the email, Banuelos asked Savaiki to forward the email to "Steve" or whoever Savaiki wanted present for the meetings. One meeting occurred over the telephone, and one occurred in person. During the telephone meeting the parties reviewed the employee's attendance records and ensured that he understood what had occurred. At the in-person meeting, they reviewed Respondent's policies about reporting accidents. (Tr. 142–143; GC. 25)

b. Meetings involving employees in late June and early July

On June 24, Banuelos emailed Savaiki saying the company was having a "follow up warning meeting regarding meal premiums" on July 2, involving an employee named Dennis. (GC. 26) Banuelos told Savaiki to contact him with any questions and asked whether she wanted to propose a different day to meet. Savaiki responded asking whether a grace period existed for employees to "correct their lunch period" if they forgot to take a lunch. Seitz replied to the email chain on June 26, describing Respondent's procedures, explaining Dennis's conduct, and saying that the company follows California law.[21] Seitz further wrote that in addition to "the fall protection policy," ensuring that "employees take their required lunches . . . is something we could use your help with." (GC. 26) Ultimately Dutey attended the July 2 meeting with Respondent about Dennis's conduct. On July 7, Seitz emailed Savaiki about an upcoming disciplinary meeting involving another employee; Savaiki attended that meeting by telephone. (Tr. 145–146; GC. 26)

On July 9, Seitz emailed Savaiki about a disciplinary meeting occurring the next day involving an employee named Chris who the company said was insubordinate. In the email, Seitz asked Savaiki to let him know if she, or a colleague wanted "to join, call in, or discuss prior." It is unclear from the record whether Savaiki or any Union representative attended this meeting. (GC. 26)

On July 22, Seitz sent a text message to Savaiki and Dutey regarding Chris saying that Respondent was planning to meet with him in two days to give him a rate increase and also have him sign a document summarizing their previous meeting where Chris had agreed to not be insubordinate. In the text, Seitz wrote "let me know if you'd like to join in person or if I should call." Seitz also wrote that they were working on the "write up document" for an employee

[21] It is unclear whether Seitz was copied on the original email thread, or whether Savaiki's email was forwarded to him.

named Steve which Respondent "should be able to schedule shortly." Dutey responded "sounds good," and Savaiki replied, "Thank you Patrick." (GC. 27)

This text thread between Seitz, Savaiki, and Dutey continued through September. In their text exchanges, they discussed upcoming disciplinary meetings and other workplace matters involving various UnWired employees. (Tr. 149–151; GC. 27)

c. Emails about Respondent's EAP program

On July 24, Seitz emailed Savaiki saying that he "had a quick chat with Steve" Dutey about employees who may be experiencing personal or mental health issues. The company's 2025 EAP program was attached to the email, and Seitz asked Savaiki to forward the document to Dutey and also send it "to employees who might find it useful." Savaiki replied thanking Seitz for the information. (GC. 28)

d. September 3 emails

On September 3, Seitz forwarded to Savaiki and Dutey an internal company email chain about two employees who the company said were "caught" being on a rooftop without fall protection, thereby violating the company's safety policy. Seitz wrote that "unfortunately we are going to have to discharge them over this rule." (GC. 29) In the same email, Seitz told Savaiki and Dutey that he wanted to apologize for not telling them about an employee who received a "DUI" resulting in him losing "his ability to drive for the company and be insured." Seitz wrote that this employee was discharged "last Friday without incident, but I should have let you know ahead of time," and that the company has "added checking in with you to our internal 'departure checklist' to avoid this issue in the future." Savaiki responded asking whether Respondent had meeting dates set up for the two employees accused of violating the company's safety policy, and inquiring as to how long the employee who was discharged had been with the company. Seitz replied with the requested information. (GC. 29; Tr. 153)

e. September 12 email

On September 10, an UnWired employee named Ryan sent an email to the "HR team" announcing that he was resigning in two days. Seitz forwarded this email to Savaiki and Dutey on September 12, telling them that he wanted to "update you on some changes to the team." Seitz informed them that, along with Ryan, another employee named Alberto was quitting and another employee named Michael was promoted and would receive "a pay bump for the extra duties." (GC. 30) Savaiki forwarded the email thread to Heape, who replied "Wow! Ok Thanks for sharing." (GC. 30) (Tr. 154–155)

f. October 7 email

On October 7, Seitz sent Savaiki and Dutey an email saying the company was struggling to get a certain employee to comply with policies and procedures. Savaiki responded asking whether they could set up a date to discuss the situation before any discipline was administered,

and the two agreed on a date and time to meet. Ultimately, Savaiki testified that Dutey attended the meeting in person. (Tr. 160–161; GC. 31)

g. Mid/Late October email exchange

On October 21, Savaiki sent Seitz an email asking for "all documentation that supports the pending suspension" of an employee and asking how many trucks the employee had been assigned, as she questioned whether the employee was the driver of a certain truck that had been subject to an inspection (GC. 32) Savaiki copied Dutey and Cisneros on the email. Seitz responded with the information requested, copying Dutey and Cisneros; Seitz asked whether he should set up a call to walk through the material, as there was "a lot" of information. (Tr. 161–162; GC. 32)

h. Early December email exchange

On December 3, Seitz and Savaiki exchanged emails about UnWired's insurance open enrollment period. Seitz forwarded an email about open enrollment to Savaiki saying, "we thought you want to be in the loop." The email contained information on insurance plan updates along with a copy of the 2026 open enrollment guide. In his email, Seitz wrote that open enrollment would start "in a couple days," that a cheaper HMO plan had been added, and that otherwise there were no major plan changes. Seitz asked Savaiki to let him know if she would "like to discuss or if someone else should be receiving this notification." Savaiki responded the same day, copying Cisneros, thanking Seitz for the notifications and saying that she would review the information and let him know if she had any questions. (Tr. 162–163; GC. 33)

i. January 7, 2026, information requests

In response to an email saying that an employee was going to be fired for being on a roof without safety equipment, on January 7, 2026, Savaiki emailed Seitz an information request seeking "all information and supporting documentation related to the events leading up to the proposed termination" so that "the union may review the matter and determine appropriate representation." (GC. 34) Seitz replied on January 29 with the requested documents and wrote that he also forwarded a copy of the information to Cisneros. Ultimately, the parties agreed to discuss the matter on February 17, 2026. (Tr. 163–165; GC. 34)

On January 7, 2026, Savaiki also sent Seitz an information request about an employee who was fired "for alleged job abandonment," asking for the information "so the union may properly review the circumstances surrounding . . . [the] separation and determine whether the policy was applied appropriately." (GC. 35) Seitz replied on January 14, emailing Savaiki a variety of documents and writing that the employee in question was not discharged, but was a "no call/no show" for three days, which the company considered a voluntary resignation. In the email Seitz further explained the incident and Respondent's belief as to why the employee had no intention of returning to work. (Tr. 165–167; GC. 35)

j. January 21, 2026, information request

On January 21, 2026, Seitz emailed Savaiki, Dutey, and Cisneros about an employee who had received a three-day suspension in October 2025, and wrote "we did not discharge him at that time by your request." (GC. 36) According to Seitz, since the suspension the employee continued engaging in conduct "of which we take issue." Seitz ended the email saying, "let me know if you would like to discuss." (GC. 36)

Savaiki responded the same day saying the "Union formally objects to any unilateral discharge or final disciplinary action during the current period of union recognition and ongoing labor relations processes." (GC. 36) Furthermore, Savaiki asserted the Union's right to represent the employee in question in all disciplinary matters, and maintained that any termination must "meet a just cause standard and be consistent with established past practice, due process, and the employer's status quo obligations." In the email Savaiki requested a variety of information from Respondent regarding the employee, along with comparator disciplines and relevant policies. Savaiki ended the email saying that no final action "should be taken until the Union has had an opportunity to review the requested information and engage in good faith discussions." On January 27, Seitz provided the information Savaiki requested electronically. (Tr. 167–169; GC. 36)

k. February 2026 discussion with Barfield and Seitz

In February 2026, Barfield met with Seitz at UnWired's Fresno offices to discuss an employee's work performance and disciplinary record. They discussed matters resulting in Barfield needing further clarification; accordingly, Barfield submitted a request for information. (Tr. 73–74, 79–80)

l. March 2026 text message exchange

On March 4, 2026, Seitz sent Savaiki and Dutey text messages regarding a disciplinary meeting the company was planning to have with an employee the next day in Sacramento, saying Respondent was having a hard time getting the employee "to follow basic rules, specifically not working off the clock." (GC. 37) Dutey asked if they could talk about the situation, and Seitz replied that they could speak "this afternoon" after 3:30 p.m. Later that evening, Seitz texted that the disciplinary meeting would be "pushed back" an hour and a half, and that he forgot to mention the company would also be giving a raise to another employee who was now working on his own. (Tr. 170–171; GC. 37)

m. March 2026 emails

On March 10, 2026, Seitz emailed Barfield and Savaiki asking if the parties could get their follow-up meeting on the calendar regarding an employee named Aaron. On March 25, Seitz emailed Savaiki and Dutey telling them that Respondent had decided to discharge an employee the next day at 10:00 a.m. in the Sacramento warehouse as the company continued to have issues with him following policies and instructions. In the email, Seitz further wrote "[p]lease feel free to join (same address and location). FYI." (GC. 38) Dutey responded asking for a "zoom call" so he could attend because he was "down a vehicle" and Seitz replied that "Zoom will work." (GC. 38) On March 26, Seitz emailed Barfield and Savaiki saying that the

discharge was being scheduled for April 1, and writing "let me know if you'd like to discuss prior and/or attend the meeting." (GC. 19) (Tr. 80–82, 171–172; GC. 19, 38)

n. March 2026 email and information request

On March 31, 2026, Barfield emailed Seitz an information request asking primarily for materials related to training. Seitz responded to the information request by email to Barfield and Savaiki on April 9. Seitz followed-up on April 13, with an email to Barfield and Savaiki asking for their "availability for a meeting this week" and saying that they are "welcome to come on site but a Teams meeting works if [it] is more convenient." (GC. 20; Tr. 83–84)

o. April 2026 email exchange

On April 13, 2026, Savaiki emailed Seitz saying that, after a recent discussion with employees, she was asking for clarification on several items to "ensure consistent understanding and compliance with company policy and California labor law." (GC. 21) The issues Savaiki asked about were: (1) a second meal period; (2) personal time off usage; and (3) school activity leave. Barfield was copied on the email. Seitz responded by email on April 14, with a copy to Barfield. Savaiki and Seitz exchanged further follow-up emails regarding the issue of a second meal period on April 15 and April 16. And, on April 22, an email exchange occurred about a meeting involving a specific employee that Dutey was going to attend because Barfield and Savaiki had scheduling conflicts. (Tr. 88–91; GC. 21, 22)

III. ANALYSIS

A. Bargaining over an initial contract

The certification of a bargaining unit is not directly reviewable as a final order of the Board. *Technicolor Government Services, Inc. v. NLRB*, 739 F.2d 323, 326 (8th Cir. 1984), enfg. 268 NLRB 258 (1983). See also, *Terrace Gardens Plaza, Inc. v. NLRB*, 91 F.3d 222, 225 (D.C. Cir. 1996), enfg. 315 NLRB 749 (1994). In order to challenge a bargaining-unit certification, an employer must refuse to recognize a union immediately after its certification. *Technicolor Government Services, Inc.*, 739 F.2d at 326–326. Then, if a charge is filed and the Board issues a final order that an 8(a)(5) refusal to bargain violation has occurred, the employer may petition a court of appeals for review arguing, as an affirmative defense to the unfair labor practice finding, that the certification was invalid. Id.; *Terrace Gardens Plaza, Inc.*, 91 F.3d at 225.

Therefore, after a bargaining unit is certified, an employer has a choice. It may agree to unconditionally bargain with the union, or it may challenge the certification. *Terrace Gardens Plaza, Inc.*, 91 F.3d at 225. "[I]t may not do both at once." Id. Because, once an employer starts bargaining with a certified union, it waives the ability to subsequently object to the certification's validity. *Technicolor Government Services*, 739 F.2d at 326–327. See also *Queen of the Valley Medical Center*, 368 NLRB No. 116, slip op. at 32–33 (2019); *Coffman v. Queen of Valley Med. Ctr.*, 895 F.3d 717, 725–727 (9th Cir. 2018).

Here, after the Union was certified on September 25, UnWired did not immediately challenge the bargaining unit certification. Instead, it recognized and started bargaining with the Union by responding to the Union's October 2, information request and holding a bargaining session with the Union for an initial collective-bargaining agreement on November 14, where the Union presented and discussed with Respondent proposals for an initial contract. As such, by November 21, when UnWired filed its request for review, the Respondent had already recognized and bargained with the Union, thereby waiving its right to challenge the Union's certification. *Technicolor Government Services*, 739 F.2d at 326–327 ("Once an employer honors a certification and recognizes a union by entering into negotiations with it, the employer has waived the objection that the certification is invalid.").

Respondent's claim that no bargaining occurred at the November 14 meeting, and Seitz's testimony that he understood the purpose of the meeting to be a "meet and greet," is belied by the record evidence.[22] The communications between the parties leading up to November 14 make it clear that both Respondent and the Union understood the meeting would be a contract bargaining session. And, at the meeting the Union presented its first set of bargaining proposals which the parties discussed. Indeed, Respondent's bargaining notes about the discussions surrounding the CWA's proposal on "Union Recognition" describe one of Roumayah's comments as a "counter." (GC. 39)

Respondent further asserts that it never recognized and bargained with the CWA, that the government's "entire case rests on communications with Local 9333," and the Union was improperly trying to transfer the CWA's representation to Local 9333, which was not the certified bargaining representative. *Resp't Br.*, at 2, 4–6, 9–13. However, the evidence shows that it was CWA District 9 staff representative Barfield who made the initial July 28 bargaining demand and information request, and who reiterated the bargaining demand and information request on October 2. CWA districts are simply "administrative units of the International Union and not separate local organizations." *Finerty*, 113 F.3d at 1290. As such, the Union's bargaining demand and information request was properly made by Barfield, who was a representative of the certified bargaining representative—the CWA.

Also, the evidence shows that Roumayah dealt extensively with Barfield in responding to the Union's information request and arranging the initial November 14 bargaining session. Roumayah emailed Barfield on October 7, saying that Respondent was working on the information request, and that "as for bargaining, the Company" was unavailable from October 29 through November 5, asking Barfield to provide alternate dates. (GC. 7) When Barfield replied with the Union's availability, Roumayah answered saying that she was reviewing the responsive documents while working out logistics with her client and would circle back. (GC. 7) She then emailed Barfield on October 16, saying that Respondent was "available to bargain" on November 14, and that Respondent would be "represented at the bargaining table" by Roumayah

[22] I do not credit Seitz's testimony that he understood the meeting would be a meet and greet. On October 16, when Roumayah emailed Barfield saying that Respondent would be available to bargain on November 14, she specifically identified Seitz and herself as the individuals who will be representing the company "at the bargaining table." (GC. 6) And, Savaiki emailed Seitz on November 10 about scheduling Lein's release from work because he was elected to be on the bargaining team. (GC. 8) Seitz clearly knew that the November 14 meeting was going to be a contract bargaining session and that he would be representing the company at the bargaining table.

and Seitz. (GC. 6) Roumayah then confirmed November 14 as the first day of bargaining on a phone call with Barfield on October 22, and Barfield, who was overseeing bargaining for the Union, was present at the bargaining table on November 14. Barfield also emailed the Union's November 21, information request to Roumayah, and responded to her when she had questions about the request. (GC. 16) Finally, when Roumayah cancelled the December bargaining session, and informed the Union that Respondent would not bargain for a contract until the Board ruled on its request for review of the certification, she texted and emailed Barfield. In short, it was Barfield and not Local 9333 officials who was primarily communicating with Respondent regarding the issues involving contract bargaining and the Union's information requests.

While members of Local 9333 did also participate in bargaining and representational activities with UnWired, the record shows that they did so upon delegation by the CWA, because Dutey was the closest individual geographically to UnWired's workforce, which comports with the Union's general practice. And, at no point during the process, did Respondent ever object to the involvement of the Local 9333 officials in bargaining/representational activities.[23] That no formal delegation document, such as a resolution, was introduced into evidence is of no import. "In general, a union may select whomever it wants, including officers and members of other unions, as representatives in dealings with an employer." *Whisper Soft Mills, Inc. v. NLRB*, 754 F.2d 1381, 1386 (9th Cir. 1984). "Members of a local are not barred from serving a certified international as designated representatives." Id.

Although Barfield and the Union's counsel gave muddled responses at trial regarding the status of the bargaining representative,[24] at no point after the April 2025 filing of the petition did officials from the CWA or Local 9333 tell or otherwise indicate to Respondent that the CWA would no longer be the certified representative or that the Union was transferring representation from the CWA to Local 9333. Therefore, this is not a situation where, during bargaining, an international union was trying to rid itself of a certification. Compare *Whisper Soft Mills, Inc. v. NLRB*, 754 F.2d 1381, 1386 (9th Cir. 1984) (Local council's statement that the international, which was the certified representative, did not want to be a party to any agreement due to a desire to avoid liability in the event of a later breach was effectively a claim by the local that it was not the agent of the international and therefore the employer had no duty to bargain with the local council) with *General Electric Co. v. NLRB*, 412 F.2d 512, 516–517 (2d Cir. 1969) (presence of other unions on the international's bargaining committee did not justify the employer's refusal to bargain with the committee) and *Prudential Ins. Co. of America v. NLRB*, 278 F.2d 181, 183 (3d Cir. 1960) (international had the right to designate local representative for purposes of grievance handling).[25] And, the parties' conduct during this time period showed

[23] In fact, Respondent did not raise the issue of Local 9333's participation in bargaining/representation in its Answer. (GC. 1(r))

[24] The Union's counsel said that the local would be the certified bargaining representative, but the international and the local collaborate when it comes to bargaining and representing the local and their members. (Tr. 113–114). Barfield said that, before the certification, he was asked by his supervisor to "oversee bargaining for Local 9333," and that when contracts are bargained, "the district owns the contract, but locals bargain their own contract." (Tr. 28, 128)

[25] See also *Sears, Roebuck & Co.*, 139 NLRB 471, 475 (1962) (violation where employer refused to bargain with international official participating in local negotiations as member of the local bargaining team).

there was consent to have Local 9333 officials join the bargaining team and also represent individual Unit employees when needed.

As for Respondent's pointing to the fact that it did not completely sever the relationship with the Union, noting that the government introduced evidence that Respondent answered the Union's information requests in January 2026 and continued meeting/discussing employee disciplinary matters with the Union, *Respondent's Br.,* at 13–15, it is UnWired's cancellation of bargaining for an initial collective-bargaining agreement that is the basis for finding a violation of the Act. An employer does not get to unilaterally pick and choose which parts of the bargaining relationship it may honor. *T-Mobile USA*, 365 NLRB 175, 175–176 (2017), enfd. 717 Fed.Appx. 1 (DC. Cir. 2018) (violation where employer refused to bargain over a successor contract while decertification petition was being processed, even though it continued to abide by the terms of the expired contract and bargain with the union over issues including stock grants and changes to company policies.). Selective bargaining destabilizes the collective-bargaining process by allowing an employer to gain an unfair advantage by excluding certain bargaining subjects, thereby reducing the likelihood the parties will find common ground, and it also undermines the union by denying it a fair opportunity to demonstrate its effectiveness. Id. at 176. "[S]o long as the Respondent continued to recognize the Union, it was obligated to fulfill all aspects of its bargaining obligations." Id.

Accordingly, by recognizing and bargaining with the Union directly after the September 2025 certification issued, Respondent waived its right to challenge the validity of the Certification. And, when it cancelled bargaining for an initial collective-bargaining agreement in December 2025 until the Board ruled upon its request for review, Respondent violated Section 8(a)(1) and (5) of the Act.

B. Information request

The duty to bargain collectively includes a responsibility to furnish a union with requested information that will enable it to negotiate effectively and to perform its duties as bargaining representative. *Teachers College, Columbia University*, 365 NLRB 824, 827 (2017). The duty to provide information imposed by Section 8(a)(5) of the Act is subject to the minimum standard of relevance. *New York & Presbyterian Hosp. v. NLRB*, 649 F.3d 723, 729 (D.C. Cir. 2011). Where the information requested concerns employees in the bargaining unit, that information is presumptively relevant, as it goes to the core of the employer-employee relationship. *Teachers College, Columbia University*, 365 NLRB at 827.

Here, it is not disputed that the information requested is presumptively relevant, as it involves the members of the Installation and Construction Unit. And, Respondent's defenses for not providing the information, that it was Local 9333 who made the information request, and the company was challenging the validity of the certification at the time the request was made, suffer from the same defects as outlined above involving the cancellation of first-contract bargaining. The November 21, information request was made by Barfield, who is a representative of the CWA and not Local 9333. And, at the time the November 21, information request was made, Respondent had recognized and started bargaining with the Union, waiving its right to challenge the Union's certification. *Technicolor Government Services*, 739 F.2d at 326; *Terrace Gardens*

Plaza, Inc., 91 F.3d at 225. Accordingly, by failing to provide the Union with the information it requested on November 21, Respondent violated Section 8(a)(1) and (5) of the Act. See *Queen of the Valley Medical Center*, 368 NLRB No. 116, slip op. at 25–26 (2019) (where a union is the certified 9(a) representative, improper certification is not a defense to a presumptively relevant information request).

CONCLUSIONS OF LAW

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

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

3. Since September 25, 2025, the Union has been the exclusive collective-bargaining representative for the following unit of Respondent's employees (referred to herein as the Installation and Construction Unit):

> Included: All full-time and regular part-time Installation Technicians, Bucket Truck Technicians, Lead Bucket Truck Technicians, Aerial Construction Technicians, and Service Technicians.
>
> Excluded: All other employees, guards, and supervisors as defined by the Act.

4. By refusing, on and after December 3, 2025, to bargain with the Union as the exclusive collective-bargaining representative of employees in the Installation and Construction Unit, for an initial collective-bargaining agreement Respondent has violated Section 8(a)(1) and (5) of the Act.

5. By failing and refusing to provide the Union with the information it requested on November 21, 2025, Respondent has violated Section 8(a)(1) and (5) of the Act.

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

REMEDY

Having found that Respondent has violated Section 8(a)(1) and (5) of the Act, I shall order it to cease and desist therefrom, and bargain on request with the Union and if an understanding is reached, to embody that understanding in a signed agreement. Respondent is also ordered to provide the Union with the information it requested on November 21, 2025, to the extent it has not already done so.

Because Unit employees have been denied the ability to bargain an initial collective-bargaining agreement from December 3, 2025, through at least September 17, 2026, when the

Board denied Respondent's request for review, and to "ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, [I] shall construe the initial period of the certification as beginning [on] the date the Respondent [resumes] to bargain in good faith with the Union," regarding all bargaining subjects, including for an initial collective-bargaining agreement. *Terrace Gardens Plaza, Inc.*, 315 NLRB 749, 750 (1994), enfd. 91 F.3d 222 (D.C. Cir. 1996) (citing *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962)).

An affirmative bargaining order is the traditional and appropriate remedy for an unlawful failure and refusal to bargain in good faith. *Caterair International*, 322 NLRB 64, 68 (1996). Here, the Section 7 rights of unit employees will be vindicated by an affirmative bargaining order, as they were denied the benefits of first-contract bargaining for approximately 9 months; I believe a cease-and-desist order alone is inappropriate to restore erosion of the newly-certified union's contract-bargaining strength that occurred over this period. The policies of the Act are also served by an affirmative bargaining order, as it fosters meaningful collective-bargaining and industrial peace, restores the status quo, and removes any incentive to delay bargaining in the hope that union support will be discouraged. And, an affirmative bargaining order, with its attendant bar to raising a question concerning the Union's continuing majority status for a reasonable period of time, does not unduly prejudice the Section 7 rights of employees who may oppose continued union representation, as the duration of the order is no longer than what is reasonably necessary to remedy the approximately 9 month delay in meaningful first-contract bargaining. As such, I find that the necessity of an affirmative bargaining order outweighs the temporary impact that such an order would have on the rights of employees who may oppose continued representation. See *Grill Concept Services, Inc., d/b/a The Daily Grill*, 372 NLRB No. 30, slip op. at 3 (2022), enfd. 2024 WL 726641 (9th Cir. 2024) (collecting cases and noting that, the following three considerations must be balanced for an affirmative bargaining order: (1) the employees' Section 7 rights; (2) whether other purposes of the Act override the rights of employees to choose their bargaining representative; and (3) whether alternate remedies are adequate to remedy the violations of the Act.).

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended[26]

ORDER

Respondent UnWired Broadband, LLC, its officers, agents, successors, and assigns, shall:

1. Cease and desist from
   (a) Refusing to bargain with the Union as the exclusive representative of employees in the bargaining unit for an initial collective-bargaining agreement.
   (b) Refusing to provide the Union with requested information that is relevant and necessary to the Union's performance of its duties as collective-bargaining representative of Respondent's employees.

[26] 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.

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

(a) On request, bargain with the Union in good faith 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, with the initial period of the certification beginning on the date the Respondent resumes to bargain in good faith with the Union regarding all bargaining subjects, including for an initial collective-bargaining agreement:

> Included: All full-time and regular part-time Installation Technicians, Bucket Truck Technicians, Lead Bucket Truck Technicians, Aerial Construction Technicians, and Service Technicians.
>
> Excluded: All other employees, guards, and supervisors as defined by the Act.

(b) To the extent it has not already done so, furnish the Union in a timely manner the information it requested on November 21, 2025.

(c) Within 14 days after service by the Region, post at Fresno, California facility, and other facilities where Unit employees are employed, copies of the attached notice marked "Appendix."[27] Copies of the notice, on forms provided by the Regional Director for Region 32, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically (such as by email, text message, posting on an intranet or an internet site, and/or other electronic means) if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility/facilities involved in these proceedings, it shall duplicate and mail, at its own expense, a copy of the notice to all current and former employees employed by the Respondent at the relevant location(s) at any time since June 3, 2025.

(d) Within 21 days after service by the Region, file with the Regional Director for Region 32 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.

[27] 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."

Dated, Washington, D.C. November 16, 2026

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John T. Giannopoulos
Administrative Law Judge

APPENDIX

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

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

FEDERAL LAW GIVES YOU THE RIGHT TO

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

Our employees have the right to join the **Communication Workers of America** ("Union"), or any other labor organization, or to refrain from doing so.

WE WILL NOT refuse to bargain with the Union as the exclusive representative of employees in the bargaining unit for an initial collective-bargaining agreement.

WE WILL NOT refuse to provide the Union with requested information that is relevant and necessary to the Union's performance of its duties as collective-bargaining representative.

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 the terms and conditions of employment for our employees in the bargaining unit:

> All full-time and regular part-time Installation Technicians, Bucket Truck Technicians, Lead Bucket Truck Technicians, Aerial Construction Technicians, and Service Technicians, but excluding all other employees, guards, and supervisors as defined by the Act.

WE WILL furnish the Union in a timely manner with the information requested by the Union on November 21, 2025, to the extent we have not already done so.

UnWired Broadband, LLC
(Employer)

Dated _____ By _____
(Representative) (Title)

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

1300 Clay Street Suite 1510N; Oakland, CA 94612-5224
(510) 637-3300, Hours: 8:30 a.m. to 5:00 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/32-CA-376939 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 (510) 637-3300.