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

UNITED STATES POSTAL SERVICE

and 19-CA-291810
19-CA-330900

SUSAN OSTLER, an Individual

Patricia A. Fedewa, Esq.,
for the General Counsel.

Dallas G. Kingsbury, Esq.,
for the Respondent.

Decision

Eleanor Laws, Administrative Law Judge.

STATEMENT OF THE CASE

On March 4, 2022, and subsequently on November 29, 2023, and on February 19, 2026, Susan Ostler (Ostler or Charging Party) filed unfair labor practice charges, including amended charges, against the United States Postal Service (the Respondent or Postal Service) docketed by Region 19 of the National Labor Relations Board (the Board) as cases 19-CA-291810 and 19-CA-330900.

The complaint alleges the Respondent violated Section 8(a)(3) and (1) of the National Labor Relations Act (the Act) by ordering Susan Ostler to return to the Lincoln, Montana post office (Lincoln PO), failing to grant transfer requests to her, and constructively discharging her.

A trial was conducted in this matter on June 12-18, in Helena, Montana.[1] Counsel for the General Counsel, and the Respondent filed post-trial briefs in support of their position by August 22, 2026.[2] As discussed below, I find the General Counsel has met her burden to prove the complaint allegations.

[1] The hearing was opened remotely on June 12 to ensure, given the Juneteenth Holiday, testimony could be completed by June 18.

[2] Counsel for the Respondent filed a motion for a one-day extension after attempting to file his brief on the evening of August 21, 2026, the due date, but receiving a notification that the Board's public website was undergoing maintenance and unavailable. The motion is hereby granted.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the parties, I make the following findings, conclusions of law, and recommendations.

FINDINGS OF FACT

JURISDICTION

At all material times, the Respondent has provided postal services for the United States and operates various facilities throughout the United States in performing that function, including its facilities in Lincoln, Montana (the Lincoln PO) and in Bigfork, Montana (the Bigfork PO). The Postal Service admits, and I find, that the Board has jurisdiction over this matter pursuant to Section 1209 of the Postal Reorganization Act of 1970, 39 U.S.C. 1201 et seq. At all material times, the Montana Postal Workers Union (the Union), affiliated with the American Postal Workers Union has been a labor organization within the meaning of Section 2(5) of the Act. Based on the foregoing, I find that this dispute affects commerce and that the Board has jurisdiction of this case, pursuant to Section 10(a) of the Act.

ALLEGED UNFAIR LABOR PRACTICES

A. Background

The Respondent, the United States Postal Service, is a federal entity that provides postal services nationwide and operates thousands of facilities across the country, among them the rural Lincoln, Montana post office (the Lincoln PO) where the events giving rise to this case unfolded. The Lincoln office is a small one-room installation staffed by a single window clerk working alongside the postmaster. It was there that the Charging Party, Susan Ostler, came to work under longtime Postmaster Zach Muse, the working relationship from which the allegations in the consolidated complaint flow.

Ostler, a resident of Drummond, began working as a clerk at the Lincoln PO on September 7, 2021.[3] Muse, a Lincoln resident, had been the postmaster for over 15 years when Ostler arrived. Ostler previously worked at other postal facilities, starting in 2018, first in Helmville and then in Missoula, first as a clerk and then as a mail handler. She transferred from Missoula to Lincoln because the Missoula job was nights and the Lincoln clerk position was closer to home. (Tr. 44-45.) Ostler was a member of the APWU and the Montana Postal Workers Union. (Tr. 118.) In addition to Ostler and Muse, during the relevant time period the Lincoln PO was supported by a contract rural carrier, Chad Sutje (with Aaron Birkholtz sometimes filling in), and a contract mail driver, Jeannie Brown, who transported mail from Helena to Lincoln in the mornings and from

[3] All cities and towns mentioned in this decision are in Montana unless otherwise indicated.

During Ostler's tenure in Missoula, she complained she was being harassed by Lori Kress and Suzanne Lagrange. She reported feeling threatened and attacked, said she felt like she had to quit or transfer, and reported she had put in for a transfer. (R Exh. 20.) Ostler never filed an official complaint because she and her coworkers worked out their differences and became friends. (Tr. 163.)

Lincoln to Helena in the evenings. (Tr. 46-48.) While working as Postmaster, Muse also served as Fire Chief of the Lincoln Volunteer Fire Department.[4]

B. Ostler's Work at the Lincoln PO

On Ostler's first day, Muse told her they needed to share each other's usernames and passwords for emails and for the till. Muse also told her not to fill out any timecards, because she would get paid 40 hours per week regardless of the hours she worked. Ostler had previously received training from the Postal Service stressing never to share her passwords, and to fill out her own timecard, but she complied with Muse's directives. (Tr. 48-49.) As part of her job, Ostler did volume reports, which included measuring the volume of magazines daily. Muse instructed Ostler to always add volume beyond what she measured because his paycheck depended on the volume of mail received at the Lincoln PO.[5] (Tr. 51.) He also instructed her to sign for FedEx packages, which Ostler learned was against the Respondent's rules, but she followed Muse's direction. (Tr. 53-54.)

Muse instructed Ostler to do work for the fire department, such as issuing burn permits, which involved collecting money and putting it on Muse's desk. Muse asked Ostler to instruct customers to sign petitions for a ballot measure supporting a new subdivision, which if passed would enhance the fire department's budget. (Tr. 51-52.)

On Ostler's fourth day of work, Muse left early and Ostler had to close. She needed help and could not get ahold of Muse, so she called Galene Jensen, who worked in Phillipsburg, to walk her through how to close the till. (Tr. 52-53.)

Over time, Ostler observed that Muse worked in the morning, but after scanning in packages received, he was gone most days. When they were together, Muse would tell Ostler she was stupid when she asked questions and told her she was too deaf and old to know how to do things.[6] Muse was possessive about markers, would hide them, and at one point grabbed a marker out of Ostler's hand and told her she did not deserve markers. Muse also did not let Ostler have or use sticky notes, so she would have to write directly on a package but would then get in trouble for it. (Tr. 53-55.)

Later in September 2021, after talking to her daughter-in-law who worked for the Postal Service in Missoula, as well as Ben Johnson, a union representative, Ostler began keeping a journal, maintaining a list of concerns, and recording a daily log of the hours Muse worked. (Tr. 60-61; GC Exhs. 46-47.)

[4] He was not paid for this work.

[5] When asked about measuring flats, Muse testified that an inch of fliers is a foot of regular flats, so he adjusts accordingly. As an example, he explained "if we have those thin fliers in there for Andersen Renewal, you know, things like that that we get, we add a little bit more to it so we get credit for it" and said if the office shorts itself, it affect how many hours they get for clerks. (Tr. 261.)

[6] Muse testified he did not call Ostler stupid, saying that's not who he is. (Tr. 262.) For the reasons discussed below in the credibility analysis section, I credit Ostler.

Around October 4, 2021, Ostler measured a few stacks of magazines about three feet high. After she recorded the volume, Muse came over to see what Ostler had written. He then measured the mail and told Ostler she had not added volume. Ostler told Muse she was uncomfortable adding more volume than she measured and said he was welcome to change what she recorded. At that point, Muse dropped the tape measure on the floor and kicked the magazines all over the floor.[7] Ostler was frightened, so she went to a different area and started boxing mail. Muse followed her, poked her in the chest, and asked if she had a problem with him.[8] Ostler said she did not want to talk to him at the moment. Muse kicked the magazines around more, left the building, and did not return. (Tr. 57-59.) Ostler learned about how Muse had treated her predecessor, Tracy Youbles (discussed below) and became very scared.[9] (Tr. 65.)

C. Ostler's Initial Complaints and the USPS and Union's Responses

At some point after October 13, 2021, Ostler texted Deedee, a clerk in Helena who worked with the Union, a photo of her log of Muse's hours and list of concerns. Deedee texted Ostler back and told her to call Gary Phillippe from the Union, and that he was waiting for her call.[10] (GC Exh. 6.)

On October 14, 2021, Ostler called Tabitha Stephenson, the Helena Postmaster, to discuss her concerns about Muse.[11] At Stephenson's suggestion, Ostler wrote a letter that same day.[12] She reported that he was very "in your face, intimidating" and said he "belittles and threatens you all the time with either costing him money or it is going to cost you money!" Other concerns Ostler documented were: Muse threatening her job; Muse requiring her to share all her passwords with him to read each other's emails and to log in with Muse's username and password to do the morning reports; Muse's instruction not to lock up the till in the safe; Muse's instruction not to submit a timecard; Muse cussing out a customer and making other customers cry; Muse's practice of maintaining personal money in a drawer and using it as a change drawer along with a threat that Ostler would need to pay him if the math was off; Muse requiring Ostler to ask customers to sign

[7] Muse testified he may have knocked over some flats, but said, "I'm not going to kick them across the floor." He didn't recall if he knocked flats off the table. (Tr. 261.)

[8] Though Muse testified, he did not refute that he poked Ostler in the chest.

[9] This testimony rests on a secondhand account, but it is not hearsay because it is offered for the effect on the listener and not for the truth of Muse's treatment of Youbles. In any event, the underlying facts were corroborated by Youbles' testimony, and can be considered for their truth. See *RC Aluminum Industries, Inc*., 343 NLRB 939, 940 (2004).

[10] Deedee's surname is unknown. Ostler also reached out to Lori Nelson, the head clerk in Drummond, and Darrin Kirby, the plant manager in Missoula about her concerns.

[11] Ostler reached out to Stephenson because she thought she might be sympathetic based on a belief that Stephenson had complained about Muse being abusive to her over the phone. Stephenson denied that Muse verbally abused her on the phone. I need not resolve this conflict, as it is not material to any issue before me. Ostler testified that Muse told her Stephenson had complained about him calling her and being abusive over the phone, and so Stephenson would not answer Muse's calls anymore. Ostler did not know to whom Stephenson complained about Muse. (Tr. 72, 159-160.)

After Longshore's departure in 2024, Stephenson became the MPOO, and has not, in that capacity, received complaints about Muse. (Tr. 232.)

[12] Ostler's written product throughout the record uses exclamation points as punctuation at the end of most sentences.

a political petition so he could get more money as fire chief; Muse's instructions to receive FedEx packages and deliver them to customers' PO boxes; Muse taking her keys; the incident with the magazines described above; Muse telling Ostler she is blind and needs to go to the doctor when she makes mistakes, along with various other complaints, including Muse's absence most afternoons to attend to his fire chief duties and various other personal matters, requiring Ostler to close on her own under Muse's login credentials. Ostler concluded by stating she was working 8.5 to 9.5 hours each weekday and four to five hours on Saturdays (having noted earlier she was not paid for the extra time) and adding that she was glad when he was gone because then she is not yelled at and made to feel stupid. (GC Exh. 5.)

At some point, Postmaster Stephenson called Ostler and told her to take pictures of the petitions, passwords on the tills, and the front desk. (Tr. 74-75.) Ostler took pictures depicting the petitions, which were labeled with a sticky note that said "R.I.D. IN TOWN FOLKS" and separate RID petitions for the north and south sides of town (GC Exhs. 10, 12, 55, 56). She also took pictures of the usernames and passwords on sticky notes for the till. (GC Exh. 11). Ostler sent the pictures to Stephenson. (Tr 76-78, 180.)

Stephenson did not receive Ostler's October 14 letter.[13] (Tr. 230.) At 7:03 p.m. that evening, however, she emailed Manager of Post Office Operations (MPOO) Amy Longshore documenting the conversation she had with Ostler about Muse, and summarizing their discussion as follows:

- She is uncomfortable sharing passwords. She has been instructed she has to give him her password because they only have 1 till.
- She has been told to use his password to log into his reports and do them since he is not there.
- She gets 39 hours paid to her most weeks even if she take a day off however if she works more than 39 she is not paid any extra.
- She is uncomfortable talking to the Customers about RID something that has to do with funding for the fire dept Zach is the Chief of. There are petitions in the office to sign to get this agenda on the ballot.
- I asked where Zach is when he's not working she responded getting his horse shoed, working a COVID clinic, roofing someone's house, hanging a sign on his wife's new business that is right across the street from the office.
- On her 4th day working for the USPS he worked for a few hours and left her alone.
- He normally works 2.5 hours in the AM and then is gone.
- The money she makes change from she has been told is Zacks personal money and she doesn't want to use his personal money she was trained in Helena to get money from the cash reserve.
- She began working for the USPS on 9/7/2021 and doesn't know how much longer she can work in the conditions. She feels like she is in an "abusive relationship."
- Susan is scared to come to work. She is new and has been told she is stupid called a dimwit and told her will make her pay for everything she screws up.

[13] Ostler did not testify about how, if at all, it was sent. It does not appear to be an email and there is no physical address for Stephenson on the document. As such, the letter does not serve as a basis for the Respondent's knowledge.

- She said she feels harassed and intimidated and after he blows up on her he is really nice for a little while.
- She is extremely afraid for this to be investigated as he is volatile.

Stephenson noted that from some of the photos she saw, it looked like Muse was issuing burn permits from the post office.[14] (GC Exh. 48.) Longshore shared Stephenson's email with HR Manager Amy Bennett, who responded that sharing passwords usually earns an emergency placement. (R Exh. 1.)

After Ostler sent the October 14 letter, Gary Phillippe, the president of the Montana Postal Workers Union called her. She tried to tell Phillippe her concerns, but he would not let her and said he and Muse were friends. Ostler realized Phillippe was not going to help her. (Tr. 73-74.)

Muse went to a fire fighters convention in Missoula on October 14 and 15, 2021. Each of those mornings he logged into his computer and left shortly after. The morning of October 15, Muse accused Ostler of leaving her till out the night before and told her the safe was unlocked, called her stupid, and threatened that she would lose her job. Ostler texted Stephenson to tell her she did not leave her till out. (Tr. 80-81.)

1. USPS' initial investigation and Muse's emergency leave placement

MPOO Longshore drove to Lincoln to investigate Ostler's complaint. (Tr. 189.) She and her husband arrived at the Lincoln PO at about 3:00-3:30 p.m. After introductions, Longshore asked to see Muse. Ostler told her Muse had worked from 7-8:30 a.m. and wasn't there, so Longshore called Muse on speakerphone. Longshore asked Muse where he was and he replied he was at work. Longshore responded, "no, you're not Zach, because I'm here in your office." Muse then said he had worked that afternoon, but when Longshore asked if he was sure he didn't work from 7-8:30, Muse agreed he had worked in the morning and said he worked in Missoula in the afternoon. When Longshore asked what he was doing for the Postal Service in Missoula, Muse admitted he was at a firefighter's convention. When Longshore asked if Muse had submitted a leave slip, he said he had not, and he has not filled out leave slips in 12 years.[15] Longshore ended the call by telling Muse to meet her at the Lincoln PO the next morning. After the phone call, Longshore and her husband took pictures, and Longshore logged into the computer on the workroom floor. (Tr. 82-84; R Exh. 11.) Longshore then called Marcia Tate from district labor relations, who told her that she could place Muse off duty over the phone. She called Muse back and told him he was being placed in emergency non-paid status, and to meet her in the Lincoln PO

[14] After sending the email to Longshore on October 14, 2021, Stephenson had no further involvement with Ostler's complaint. (Tr. 234.)

[15] Postmasters are salaried employees who do not need to be in their office eight hours per day. (Tr. 219.) If they worked four hours and one minute, they did not need to take leave for the balance of the day. Muse should have taken leave when he went to the firefighter's conventions, but he was not disciplined for this and was instructed about what he needed to do in the future. (Tr. 221-222.)

lobby with his keys and his badge.[16] Longshore also initiated an investigation. (R Exh. 11; Tr. 190.) Ostler was scared. Longshore and Stephenson assured her she was doing the right thing.[17] (Tr. 84.)

Muse did not return to work after October 15, 2021, leaving Ostler to run the Lincoln PO, with Cheryl Harju appointed to help her. Customers asked Ostler when Muse was returning, and she said she did not know. When customers asked about filing complaints about Muse, Harju instructed Ostler to refer them to a survey included at the bottom of every Postal Service receipt. (Tr. 85-86.)

Harju conducted the investigation into Ostler's allegations. (Tr. 190.) She first interviewed Ostler, on October 20, 2021. Ostler shared her concerns again, and added she felt threatened for her safety, could not sleep, and was having headaches, and she believed Muse should be removed.

Harju interviewed Brown, the driver who delivered mail to the Lincoln PO, on October 23, 2021, who reported the following:

- Muse calls customers "worthless," criticizes them about their standing in the community, turns some away, has been rude to some community members, and does not have the time for customers.
- The Dutch door was never locked, and people would come in freely to get their packages.
- Muse told Tracy Youbles, Ostler's predecessor, that she was dumb and said he blames someone else when anything goes wrong.
- When Brown took a scanner she found on the floor to Muse he threw it over her head and said, "son of a bitch" and he has thrown a lot of things.
- Muse yelled at her and called her a liar regarding a Christmas incident.
- She knows people who avoid the Lincoln PO when Muse is working.
- Muse leaves all the time, leaves early almost every Friday, and drives his fire truck to work.
- Muse and Chad Sutje went to school together and have long ties.
- Her personal feeling is the Muse will not take anything from women and treats men differently, he yells (as opposed to just raising his voice). She added, "Male chauvinistic pig bully."

[16] Muse did not turn in his keys and badge to Longshore as instructed, but instead, as discussed below, the inspector general picked them up on November 8.

[17] According to Ostler, Longshore told her on October 15 that she would never have to be alone in the Lincoln PO with Muse again. (Tr. 84.) Longshore denied making any such comment, testifying, "I would never make a comment like that," and explaining that she lacked authority to promise two employees would never work together (Tr. 203.) I credit her explanation that she made no binding promise of permanent separation. I do not credit her categorical denial that she said anything to that effect. On February 4, 2022, when Ostler learned she was being returned to Lincoln, she immediately texted Longshore, "Amy, you promised me that I would never have to be alone in the same room as Zach Muse!" Longshore did not respond (GC Exh. 7.) An unrebutted contemporaneous accusation of this kind, sent to the very person alleged to have made the statement, would ordinarily prompt a correction if it were untrue. Longshore's silence then, together with her evasiveness on related subjects at trial, persuades me that she gave Ostler safety-based assurances on October 15, 2021, that Ostler reasonably understood to mean she would not be returned to work alone with Muse.

(R Exh. 3.)[18]

Harju interviewed Muse on October 25, 2021. He did not agree that he was derogatory, and explained Ostler's problems handling packages. Muse said he never threw anything or yelled at anyone but was stern and frustrated one time. He later said he gets frustrated when he has to repeat himself, but is "nice, but frustrated." He tried to be firm with information and Ostler would come back and ask the same question again. Muse asked (presumably rhetorically) how his office was a top performing office if he wasn't there. He advised Harju to contact Daniel and Shawna to ask them what it was like to work with him. Muse acknowledged sharing passwords because he had problems getting access. Regarding change and cash, Muse said he did it the same way as it had been done when he first got to the Lincoln PO. He tried to arrange a cash reserve but could not get assistance. As to the Dutch door not being locked, Muse was taught to lock the safe and corner mirror balls, and this was OIG approved. Muse acknowledged he probably should not have asked people to sign the RID petition, noting the county had brought it in. When asked if he would do it again, Muse said no, he didn't have the time to bother with it. (R Exh. 3.)

Harju interviewed Shawna Jarrell, a clerk from Seely Lake, on October 26, 2021. She reported no problems with Muse, said he corrected her mistakes without any problems, he left for VA appointments, and she thought he was a good postmaster. (R Exh. 3.)

2. Ostler's interaction with Sarah Muse and Inspector General's investigation

On November 4, 2021, Bob Biederman, a customer, came to pay for his PO box. Ostler looked in the computer and learned Biederman got a free box based on his address and conveyed this to him. Biederman told Ostler he had been paying $60 every six months for his box. Ostler called Harju, who instructed her to report it to Longshore. Ostler tried to call Longshore but her voicemail was full. Later that afternoon Muse's wife Sarah Muse (S. Muse), came in and got some money orders. After conducting business, S. Muse told Ostler she was badmouthing her husband, called her unprofessional, and said she and her friends were going to ruin Ostler. S. Muse said she and her friends had created a petition against Ostler and she was going to post it on Facebook and have everyone in town sign it.[19] Brown was present during this interaction. After S. Muse left, Ostler called Harju, who told her she should have called the police, and she needed to report it to Longshore. Ostler called Longshore but her voicemail was full. (Tr. 87-89.)

After this incident, Walt Tubbs, the Inspector General, called Ostler. She told him what had transpired, and said she felt unsafe because Muse still had his office keys. Tubbs came to the

[18] Brown's statements are admissible because they are rationally probative and corroborated by more than a slight amount of other evidence. The thrown-scanner account is independently corroborated by Youbles' live testimony that she saw the scanner on the floor (Tr. 33) and by Muse's own equivocal non-denial (Tr. 261), and the "worthless"/name-calling and yelling accounts are corroborated by Youbles' testimony about Muse's treatment of her and customers. Brown's statement about Muse leaving early is corroborated by both Youbles and Ostler's testimony.

[19] S. Muse's statements of her intent to circulate a petition and to "ruin" Ostler are admissible under Fed. R. Evid. 803(3) as statements of the declarant's then-existing intent or plan, and independently for their effect on Ostler and are corroborated by the Facebook postings discussing the petition and by Ostler's contemporaneous report at GC Exh. 44.

Lincoln PO on November 5, 2021, and told Ostler he would get Muse's keys and his badge, which he did three days later. (Tr. 92-93.) Tubbs prepared a report of his investigation, dated November 8,[20] noting Ostler's concern for her safety given Muse's retention of his keys to the Lincoln PO. Tubbs' report found that Muse had not come back to the Lincoln PO since his placement on emergency leave. As to Ostler's complaint that S. Muse had threatened her, Tubbs noted Ostler told him she had not reported the incident to management but had reported it to the Union. Tubbs advised Ostler to report it to management, and determined, after speaking with Ostler and Brown, that no credible threat from S. Muse occurred. Tubbs noted that Ostler said she was hoping to get the postmaster job at Lincoln, and said she had the support of customers. Tubbs reported he advised Ostler to keep her counsel and not discuss ongoing internal investigations with people who did not have a need to know. Tubbs summarized a visit to Muse's home, where he collected Muse's keys and informed Muse that Ostler had alleged a verbal threat against S. Muse, and asked Muse to have S. Muse provide a statement.[21] (GC Exh. 44.)

Ostler's November 5 statement, attached to Tubbs' report, recounted her interaction with S. Muse, noting S. Muse called her a liar, told her to stop saying bad things about Muse, told her she was unprofessional said that her friends were going to write statements about how unprofessional she was, and told her she needed to learn to communicate. Ostler noted that at first S. Muse was combative, but when Ostler did not challenge her, she calmed down and left.

Brown wrote a November 6 statement, attached to Tubbs' report, recounting overhearing S. Muse tell Ostler she had lied and that Muse was a good person, and that Ostler needed to talk to Muse if she had a problem with him. S. Muse said she had worked with a lot of men and had to learn how to deal with them. Brown did not hear Ostler say anything in response, and said Ostler helped S. Muse with her transaction and was polite. (GC Exh. 44.)

S. Muse submitted a statement, included in Tubbs' report, on November 8. In it, she first described the stress Muse's emergency leave placed on her family. She then relayed overhearing Ostler tell Brown, on October 25, that every customer who came in had said how glad they were that Muse was gone, and Brown responding, "we're going to run his ass out of this town" and the two chuckling.[22] As to the November 5 interaction, S. Muse said she explained that she ran a business across the street, and friends and community members heard negative things about Muse from Ostler while doing business at the Lincoln PO. She told Ostler she thought it was unprofessional and inappropriate, and asked her to keep things between herself and Muse. (GC Exh. 44.)

3. Community response to Muse's emergency leave placement

On November 5, 2021, a community member, Jane Shelley, posted to Lincoln Live, a public Facebook group, that a petition would be circulating to support Muse because his job was under attack. Shelley's post, in all caps, stated:

[20] The date at the top of the report is listed as November 6, the date and signature line at the end of the document depicts November 8.

[21] S. Muse was not available for Tubbs to interview.

[22] This statement is hearsay reached by no exception, and is not considered for the truth of the matter asserted.

> ONE OF LINCOLNS MOST VALUABLE CITIZENS IS UNDER ATTACK FROM HIS FEDERAL JOB, FOR UNKNOWN OR SPECIFIED REASONS. HE HAS BEEN BROUGHT INTO ARBITRATION AND NOT CHARGED OR GIVEN REASON, YET! IS FORBIDDEN TO RETURN TO HIS JOB. HE IS A VETERAN AND HAS DONE MORE FOR LINCOLN THEN ANY CITIZEN IN THE LAST 15 YEARS... IS THIS A POLITICAL ATTACK, BECAUSE OF HIS CONSERVATIVE LEANINGS AND OUTSPOKENNESS??? UNKNOWN! WE, AS LINCOLNITES NEED THIS MAN IN OUR MIDST..A PETITION WILL BE CIRCULATED ASKING FOR YOUR SUPPORT..PLEASE SPEAK OUT...HIS NAME IS ZACH MUSE, THERE IS NOT A PERSON IN LINCOLN WHO DOES NOT KNOW HIM... GOD BLESS YOU ALL AND GOD BLESS LINCOLN...

(GC Exh. 9.)

Numerous comments and responses followed Shelley's post, mostly expressing support for Muse, with many recounting his efforts as a first responder, and one commenter posting, "Zach is lincoln and lincoln is Zach." Another commenter, referencing the movie "It's a Wonderful Life," referred to Muse as the George Bailey of Lincoln. A couple comments referenced Ostler, though not by name. One commenter said, "she is dealing with the whole town….wrong move!!!" while another immediately replied, "who is 'she'?" One commenter referred to Muse as the "backbone of the Lincoln Community" and opined, "whoever is attacking you is unpatriotic and anti-American." Another pledged, "We will support Zach Muse any way needed." The forum discussed the petition, with an update that Sherry Sidwell was currently writing it up, and another update on November 7 that there would be no petition to sign. Gary Phillippe (the State President of the Union that Ostler had contacted in October), commented that he and Muse shared a cabin in Lincoln for a few years and that they were friends. He described his role in the Union and said he did not know all the facts, nor did anyone else in Lincoln, and he asked people not to start a community war over the matter. He asked the group to keep posts positive, as that is what Muse needed most, and offered that if members wanted to vent, they should do it with him. Another member stated he had called various politicians, urged others to do the same, and posted phone numbers to call. The same member called for a peaceful protest, urging the group to make signs, bring chairs, warm clothes, and lunch, and meet at the Lincoln PO at 9:00 a.m. Other comments speculated about why Muse was suspended, and as happens in online forums, some members took jabs at each other. (GC Exh. 9.)

On November 8, 2021, between about 9:30 a.m. and 3:00 p.m., people came to the Lincoln PO, one at a time, asking Ostler to sign the petition against her. She responded that she did not have the petition. (Tr. 96-97.) On November 10, Ostler texted Harju and Longshore informing them that the protest mentioned in the Facebook group did not occur. Harju responded with encouragement. (GC Exh. 8.)

4. Manager Longshore's follow-up interview with Muse

As discussed above, Harju was appointed to conduct the initial investigation, referred to as an initial management inquiry process (IMIP) investigation, and she interviewed Muse on October

25, 2021.[23] Despite Muse having been already interviewed, MPOO Longshore conducted an interview with Muse on November 9, 2021.[24] (R Exh. 4; Tr. 190-192.)

When asked if he knew why he was placed on off-duty status, Muse responded that it was for sharing passwords and he acknowledged that policy prohibited sharing passwords. When asked if he instructed anyone else to share their login and password with him, Muse responded, "No, it was given to me. Susan Ostler gave to me." Shown a picture of login credentials and passwords taped to equipment on adjacent sticky notes and asked if this was his ACE login and password, Muse responded "yes" and then drew an arrow to Ostler's information and wrote, "Her writing & her notes." When asked if the information and passwords were in a secure location, Muse responded no, then added the question, "Were you aware of these?" to which he responded, "I saw sticky notes, but didn't see them, covered, didn't know." As to whether he ever shared his password with anyone, Muse stated, "Yes, had it out for borrowed employee, don't recall with which one, last summer." In response to the question, "Who authorized you to share your password?" Muse responded, "Nobody" and when asked the reason for sharing his password, Muse said, "Person could check reports." When asked if he ever instructed an employee to share his password, and if so for what reason, Muse responded, "No. Getting reports in more important than access excuse." Asked if he ever told an employee to use his password to do reports in his absence, Muse responded, "If they could not get in, yes, Susan yes [illegible]. Access requested but denied 3 times, kept reapplying, kept denying, gave my access until hers figured out." He acknowledged that nobody authorized sharing passwords and said when he changed passwords, he kept the new password on an index card under the computer. When asked what he should have done differently, Muse responded, "Shouldn't have shared it. Don't get help, gave up asking for help due to current + past experiences. Take shortcuts. Who do I call for help."

The interview then shifted to leave and hours. Asked if he worked his 8am-5pm schedule, Muse responded he generally did, depending on what he was doing. Part of the response is illegible, but he mentioned snow shoveling, skipping lunch, and leaving early. Muse said he was required to complete 3971 forms prior to taking time off and he submitted his leave to the buddy office. When asked about his schedule on October 15, Muse said he was there in the morning from 7:10-8:49, but took annual leave in the afternoon, as he had done the previous day. Asked if he requested leave and/or notified anyone that he would be leaving early on October 15, and if no, to explain why, Muse did not respond to the first part of the question, and stated, "Mail was light [illegible] could make seminar, left early." He acknowledged he was in Missoula that day and was not conducting Postal Service business. The question, "Please explain why you were in Missoula when you were being paid by the USPS to be working at the Lincoln Mt (sic) on that day" was crossed out.

[23] I take administrative notice of USPS Publication 422, Manager's Guide to Understanding, Investigating, and Preventing Harassment, which outlines the process for managers to respond to claims of harassment, including the IMIP.

[24] The questions were written and a scribe took notes. It is readily apparent, based on the answers themselves, including markings underlining and emphasizing certain responses, and markings such as arrows, circles and three dots, that the handwritten notes on R Exh. 4, are Muse's. In any event, I rely on the content of the interview answers, regardless of whose handwriting appears.

The next topic addressed was Muse's duties as volunteer fire chief, which he described as a 24/7, 365-day position for all volunteers. Muse stated the hours he worked as fire chief varied depending on calls, and could be as many as 80, but he was at work every day. When asked if he worked as fire chief while being paid on the clock for the USPS, Muse responded, "Not where I've taken leave." Asked how often this occurred, Muse responded, "A lot" and added, "For 4 months did nothing w/ FO." Muse said he notified the clerk if he left his position as postmaster to go on a fire call or ambulance run. When asked if he ever left his position to assist the Forest Service, Muse responded he only did so if there was a fire in his district, which had not occurred in a while. He denied being paid by the Forest Service and USPS at the same time. Muse said he authorized himself to be on the clock and leaving his position to perform other duties not associated with the USPS.

The interview turned to fire permits, and Muse said he handed out fire permits to Postal Service customers if asked and acknowledged that the fire permits were not a USPS product and handing them out had not been authorized by the MPOO or any other official. Muse then said he drove his fire truck to work on a regular basis so that he could be available if there was a call, and that his guys come and grab it from him. Muse said he had a concealed carry permit and knew weapons were not allowed on USPS property, and he did not carry a concealed weapon while on duty.

The interview next revisited leave, and when asked how he requested leave, Muse responded, "I just take it" and that he kept a record in his emails. He acknowledged that policy regarding retention of time records required keeping copies of form 3971, and said his records were kept on file indefinitely in a gray lock box or gray cabinet. Muse reported that his clerk recorded her time on a timecard, was paid for actual time worked with "actual" underlined, and her hours varied with about 32 hours average. He stated that employees who worked more than 40 hours were paid overtime, and that he recorded all hours his employees worked, and he was not aware of paying an employee for hours they were not at work.

Muse was next asked about his wife's business across from the USPS. He said he did not think he went over to his wife's business while he was on the clock being paid by the USPS.[25] He said he had paid bills while on the clock. Muse admitted he may have gotten a horseshoe while on the clock and acknowledged that was not appropriate. He denied roofing a house and did not respond as to whether it was appropriate to work at a Covid clinic when on the clock. When asked about petitions, Muse responded that the county clerk had dropped off something on the front counter. Revisiting timekeeping, Muse was asked what instruction he had given to employees regarding how to record daily timekeeping, and responded, "I do it." When asked if he instructed employees there was no need to record their time because he would take care of it, Muse responded, "Never instructed, I just do it."

Muse was next informed that it had been reported that he had yelled at and cussed at a customer and asked to explain. Muse said he did not curse or yell and relayed an incident when a customer pulled out in front of him and nearly killed him. Muse acknowledged he had a fund of personal money in the bottom drawer, he used it as a change drawer, and this practice started before

[25] Something about hanging a sign at his wife's business is illegible.

he worked at the Lincoln PO. Asked where money/change in the office was kept, Muse responded, "Have none, asked for help, ran down to bank." Asked about the last time change was counted, Muse replied, "I can't (sic) it once in a while, no accountability."

The next topic covered was FedEx packages. When asked how FedEx parcels were handled at the Lincoln PO, Muse responded, "Don't understand." Asked specifically if he instructed employees to accept them and leave notices for customers to pick them up at the USPS, Muse responded "Yes, use yellow card"; "Internet shopping will not acknowledge PO Box addresses, only physical addresses" and something else illegible about postage. In response to the whether the USPS should handle mail they are not compensated for, Muse said, "100% but [underlined 3 times] rural America . . . still our customers. We shouldn't but until it's fixed . . . what we do."

Toward the end of the interview, Muse said he treated Ostler with dignity and respect 100%, he thought they were becoming friends, and he never talked down or disrespected her. He recounted some of the accusations she had made and said he would not jeopardize losing a clerk. Addressing a statement from Youbles, Muse questioned why she would say what she said.[26] He concluded by saying he joined the fire department because the former MPOO told him to become part of the community.

After the interview, Longshore concluded that Muse had violated the Postal Service's password policy but that none of the other issues rose to the level of corrective action. She believed she issued a report of the investigations' findings in writing to HR, in line with her normal practice, but was unable to locate it.[27] On November 28, 2021, Longshore issued Muse a notice of proposed letter of warning in lieu of a 14-day suspension for sharing his password with subordinates. The notice of proposed discipline stated that Muse would receive a written decision from Scott Manier after the expiration of a 10-day period to reply. Muse signed for receipt of the notice of proposed discipline on December 6, 2021.[28] (R Exh. 5.)

5. Former Lincoln PO clerk's experience

Tracy Youbles was the Lincoln PO clerk from August 2019-June 2021, under Muse's supervision. She was excited when she started, but Muse's behavior, such as calling Youbles dyslexic and blaming her for his mistakes, caused her to cry frequently. Muse left sticky notes on Youbles' desk, one of which concerned an item placed in box 634 instead of 643, and said, "Please pay attention to Box #'s Dislexic" (sic). Other times he said things like "pay attention", "get it right", and "don't be stupid." Youbles also observed that Muse was short with customers he did not like and would call them names after they left.[29] (Tr. 27-29; GC Exh. 3.) During Youbles'

[26] Muse referenced a statement from Cheryl, which it appears he had been shown, but no statement from Youbles was attached to the interview notes, and it was not otherwise submitted into the record. I infer that Youbles' statement would have been consistent with her testimony.

[27] There is no report on Longshore's, or anyone's findings, from the IMIP investigation in the record.

[28] There is no written decision from Manier or anyone else on Muse's discipline in the record, just the notice of proposed discipline. While Longshore testified she issued a letter of warning in lieu of suspension (Tr. 208), the record evidence shows she issued only proposed, rather than final, discipline.

[29] Youbles described a term for a loose woman that starts with a "C". (Tr. 28-29.)

tenure, Muse, on the fire department's behalf, sold letter and number signs for people's houses at the Post Office, and maintained a cash envelope separate from the post office till. (Tr. 30-31.)

One morning, Youbles came to work and saw a scanner on the floor by the back wall. She asked Brown about it, and Brown told her Muse had thrown the scanner the previous night.[30] Youbles reported her concerns to her union representative Gary Phillippe, who told her he was not going to get those boys in trouble. Cheryl Harju called Youbles and asked some questions about Muse, and Youbles reported what he had done. At some point, Youbles observed Muse was rarely at the Lincoln PO, and she enjoyed it when he wasn't there. (Tr. 33-34.)

Youbles' long-term partner's 18-year-old daughter was in a head-on collision in Kalispell over Memorial Day weekend in 2021, requiring an emergency flight to Seattle, Washington. Youbles called Muse, told her he needed to go to Seattle, and she could not come to work on Saturday. Muse told Youbles the daughter was not family, and she needed to report to work. Youbles' quit, testifying, "I was – didn't want to deal with Zach just going at me when I got back, and give me crap about it. So I quit. And I loved that job." (Tr. 36.)

D. Ostler's November pay adjustment, Muse's return to the Lincoln PO, and Ostler's detail to Bigfork

Ostler's pay was adjusted on November 12 and 26, 2021, to compensate her for hours she worked but did not get credit for due to Muse's practice of entering 40 hours per week for her.[31] (GC Exh. 27; Tr. 107.)

Union President Phillippe called Ostler on December 2, 2021, and informed her that Muse was returning as the Lincoln Postmaster the following Monday, December 6. Ostler called Longshore but could not get through to her so she called Harju, who suggested she file an EEO complaint.[32] Longshore called Ostler back and told her she was being forced to bring Muse back but could not tell her why.[33] Ostler asked what was going to happen to her, and Longshore responded that she didn't know yet. (Tr. 110-112.)

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[30] Though hearsay, this statement is corroborated by evidence showing Phillippe and Muse were friends, and by Phillippe's inaction, as Union President, on Ostler's complaints.

Though Brown's statement to Youbles is hearsay, it is corroborated by the fact that Youbles personally saw the scanner on the floor, and by Brown providing the same account in the Respondent's own investigation.

[31] Longshore could not remember if Harju informed her about Ostler's pay adjustment or if she knew about it prior to the hearing. (Tr. 210.)

[32] Ostler's testimony is unrefuted. Harju was not called as a witness. I credit Ostler's testimony and infer that Harju, had she been called as a witness, would have supported it.

[33] Longshore's comment that she was being forced to bring back Muse is an agent admission, and not hearsay. Fed. R. Evid. 801(d)(2)(D). Longshore, who testified, was not asked about this statement and did not deny making it. I therefore credit Ostler's unrefuted testimony, which is buttressed by an inference that the Respondent's failure to question Longshore about this means her testimony would have been favorable to the General Counsel. I would credit Ostler's specific and unrebutted account of this conversation even without an adverse inference. The Respondent's failure to elicit any denial from Longshore, the only other participant, while she was on the stand reinforces that finding.

On December 3, 2021, Ostler emailed Theresa Knight, the officer in charge (OIC) at Bigfork, and informed her she had told Longshore that she wanted to go help out in Bigfork for the month of December. Knight emailed Ostler back on December 4, informing her she had been told of Ostler's assignment to Bigfork that morning. Knight provided tips on where to book her motel, warned Ostler they worked long days, and expressed her happiness about Ostler's impending arrival. (R Exh. 18; Tr. 245.)

On December 6, Ostler went to work at the Lincoln PO around 8:00 a.m. Longshore, who had assured Ostler she would be at the Lincoln PO that day, was also present, as were Brent Kirschenmann,[34] the Helena postmaster, and another employee named Christie from the Stanford PO, who helped close out the books and transfer things back to Muse.[35] Muse came in at around 9:00, and Longshore left shortly after. Ostler described Muse as "shaking with anger" and speaking to her through Christie about markers and sticky notes. Longshore instructed Ostler to go home after everything was transferred back over to Muse. Later that day, Longshore told Ostler she would be assigned to Bigfork for about five or six weeks.[36] (Tr. 112-116.) Longshore considered this assignment to be a temporary detail. (Tr. 211.)

E. Ostler's EEO Activity

On January 4, 2022, Ostler started the process to file an EEO complaint, alleging discrimination based on harassment-sexual, and naming Muse as the responsible management official (RMO). The federal sector EEO process requires an initial internal counseling period.[37] Ostler's assigned EEO counselor was Christine Kapanowski, an EEO ADR specialist with the Postal Service. (GC Exh. 13.) Ostler began the EEO process again on January 21, 2022, alleging retaliation for her previous EEO activity, and naming Longshore as the RMO. She wrote that, since her previous EEO contact, she was not getting any communication from supervisors about where she should go to work and how she should submit her time, including sick time. She requested a job within a reasonable commuting distance with the same wage as a remedy. (GC Exh. 14.) Ostler

[34] Kirshenmann's name is misspelled on the complaint.

[35] Christie's surname is unknown. As of June 2026, Kirschenmann had been the Helena postmaster for about a year. Prior to that, he was the E. Helena Postmaster for 3 years, before which he was a supervisor in Helena. (Tr. 238.)

[36] Despite Knight's December 4 email, Ostler testified she was still uncertain about where she would be working until Longshore told her on December 6 that she was going to Bigfork. (Tr. 115.)

Because Bigfork was too long a drive to commute daily, Ostler was told to use her credit card for meals and lodging and she would be reimbursed. (Tr. 116.)

[37] Ostler also contacted Brian Gill from the Office of Inspector General. Gill talked to her, said he would contact Longshore about it, and told Ostler she should have called him first. (Tr. 122-123.)

I take administrative notice of the EEO process for the federal sector (which includes the Respondent), set forth in the EEOC's regulations at 29 CFR Part 1614. Under these regulations, employees are required to begin the process with a mandatory 30-day counseling period, which is conducted by the employing agency, and which can be extended by mutual agreement for another 60 days. At the conclusion of the counseling period, the employee can file a complaint with the employing agency, who then investigates the complaint, after which point the complainant can request either a final decision from the employing agency or a hearing with an administrative judge from the Equal Employment Opportunity Commission. Under 29 CFR § 1614.107, the employing agency may dismiss a complaint prior to a complainant's request for a hearing for specified reasons.

agreed to participate in mediation on around January 28, 2022, which extended the time period for her to file a formal EEO complaint. (GC Exh. 15.)

Following the counseling period, Ostler filed her EEO complaint on April 15, 2022, alleging discrimination based on sex and age, as well as retaliation, and requested to work somewhere as close to home as Lincoln and not to be supervised by the "abusive postmaster." (GC Exh. 16.) Her complaint was ultimately dismissed.[38] (Tr. 166, 223.)

F. Ostler's Leave and Instruction to Return to the Lincoln PO

On January 15, 2022, a Saturday, Ostler became sick with pinkeye and very high blood pressure. She had been working extra hours for the holiday season. (Tr. 123-124; GC Exh. 7.) Theresa Knight, the Bigfork officer in charge (OIC), emailed MPOO Longshore that afternoon stating that Ostler had texted her at 5:39 a.m. to say she was sick and couldn't work. At 6:00 a.m. a clerk texted Knight that Ostler had left work following a verbal altercation with another clerk about missed scans. Knight texted Ostler back and said she needed someone who could handle the volume, hours, and personalities at the Bigfork PO, adding that she (Knight) had worked sick herself and had not gotten out of the office before 10 p.m. all week, and that due to Ostler's distraction from her EEO complaint, Knight has had to fix her errors. Knight's email continued, informing Longshore of Ostler's continuing talk about the situation with Muse, and outlining concerns about Ostler's performance and conduct. Knight told Longshore Bigfork still needed the help, but if Ostler's focus was going to be on going after the Postal Service, or if the work in Bigfork was too hard, maybe another office would better suit her. Knight said if Ostler did return to Bigfork she expected her to arrive on time, stay off her phone and be more careful, and to not leave until the work was done, noting the days were long and hard. Knight concluded by asking Longshore to let her know if Ostler was coming back to Bigfork. (R Exh. 7.) Ostler was not disciplined during her time at the Bigfork PO.

On January 31, 2022, Ostler reached out to her EEO counselor, Kapanowski, requesting that she ask Longshore about transferring to a position in Ovando, at a lower pay rate with fewer hours, in an attempt to resolve the matter. (GC Exh. 19; Tr. 125.)

Longshore emailed Mishele Grigorioff, manager of labor, on February 4, 2022, for advice regarding Ostler.[39] She gave a brief history, including Ostler's complaints about Muse, the investigation (which she reported as inconclusive), Ostler's detail to Bigfork based on Longshore's determination that Ostler and Muse needed to be separated at the time, and Ostler's illness resulting

[38] The date of the dismissal is not in the record. Ostler's attorney, who was working for free, decided not to pursue the complaint beyond the Postal Service's dismissal of it. (Tr. 166, 223.) The record is devoid of the written dismissal decision or any other evidence regarding the reason for the dismissal, which under the applicable regulations can be for nine different reasons, including timeliness (29 CFR filing § 1614.107(a)(1)), and/or and a grievance filed on the same issue, (29 CFR § 1614.107 (a)(4)). The Respondent's brief states that a judge issued a decision on summary judgment, but the record does not contain any decision, on summary judgment or otherwise, regarding an EEOC decision and the decisions of EEOC administrative judges are not publicly reported. The only evidence in this record is testimony that the complaint was dismissed.

[39] At the time of the hearing, Grigorioff no longer worked for the Postal Service. (Tr. 197.)

in her walking off the job.[40] Ostler had texted Longshore stating that she was medically cleared to return to work and asked where to report. Longshore expressed her view that the Lincoln PO, Ostler's home office, was the correct placement given that her investigation was inconclusive, but wanted advice, noting that Ostler had filed an EEO complaint. Grigorioff responded that Ostler should report back to the Lincoln PO, stating, "We should never (well, hardly ever) move the complainant without someone else telling us to (like the Law Department, grievance settlement etc)."[41] (R Exh. 8.)

Longshore considered Ostler's concerns for her safety, but determined there was no credible threat, and that Ostler should return to the Lincoln PO. (Tr. 203.) Taking into account Brown's and Youbles' statements about Muse, Longshore did not find a pattern of poor or hostile conduct by Muse, and concluded he was rude, but it did not rise to the level of hostility. As to Muse not letting Ostler fill out and sign her timecard, Longshore was satisfied with Muse's responses in the investigative interview even though she did not recall whether she saw Ostler's signature on her timecards. She was aware Ostler was scared to work with Muse, but she accepted Muse's statement that he treated his employees with dignity and respect and did not probe beyond that.[42] Longshore was aware of allegations that Muse called clerks dyslexic and stupid, but did not directly question Muse about them. (Tr. 204-211.)

Ostler received a text from Longshore at 4:36 p.m. on February 4 that she was to return to work at the Lincoln PO and report to Muse. Ostler responded at 6:56 p.m., stating "Amy, you promised me that I would never have to be alone in the same room as Zach Muse! If my personal safety was at risk before! (sic) How come it is is ok now?" Longshore did not respond. (Tr. 127-128; GC Exh. 7.) Muse also had misgivings about working alone in the Lincoln PO with Ostler given her accusations and was concerned it would not go well for him. (Tr. 266.)

On February 6, Ostler's doctor filled out a certification of serious health condition in support of Ostler's request for leave under the Family & Medical Leave Act (FMLA). She listed her conditions as Covid-19, with extreme fatigue, shortness of breath, chest tightness, and high blood pressure, as well as anxiety and fear related to workplace harassment and retaliation. The doctor limited Ostler's work week to 40 hours and certified the duration of leave as "until she can work at a nonviolent workplace without harassment." (GC Exh. 26.) Ostler did not return to work because she was scared to work in the one-room office with Muse and was concerned about her blood pressure, which had required her to be seen in the emergency room on January 17. (Tr. 135-136; GC Exh. 7.)

Ostler wrote Phillippe on February 6, 2022, stating that she wanted to file a grievance that the working conditions under Muse amounted to constructive discharge, and that she also wanted

[40] Longshore later testified that the reason for the transfer was a need for employees in Bigfork because they were short-staffed and Ostler had asked if there was somewhere else she could work. (Tr. 212.)

[41] In the federal sector EEO context, "complainant" is the term used for someone who has filed an EEO complaint. See 29 CFR § 1614.106. As discussed below, EEOC law and guidance disfavors transferring the complainant as an interim measure pending resolution of a harassment complaint.

[42] Longshore could not recall whether she issued anything in writing or sent anything to HR about her determination. (Tr. 216.)

to pursue a grievance against Longshore for creating unreasonable working conditions. She recounted her concerns of physical harassment, employer retaliation for filing a complaint with EEO, verbal abuse, unwarranted demotion and humiliation, and continued mistreatment. (GC Exh. 58.) On February 7, 2022, Ostler emailed IMO Labor Relations asking if Phillippe negotiated her return to the Lincoln PO without her knowledge. (GC Exh. 21.) Ostler sent a text to a variety of people, including Longshore and Gill, on February 7, 2022,[43] stating she was scared for her personal safety to be placed back into the Lincoln PO. (GC Exh. 17; Tr. 130.)

Ostler filed a grievance with the Union, listing Joe Miller as the union steward, on February 7, stating that she feared retaliation as a whistleblower, and asking to be placed in another job location.[44] Ostler's grievance alleged that Longshore was placing her personal safety at risk by returning her to work at the Lincoln PO with Muse. Muse approved the grievance on February 9, stating Ostler was scheduled to work "as attached" for the next week, and she could work for two hours each day the remainder of the current week, February 10 and 11.[45] (GC Exh. 20).

G. Ostler's Reassignment Attempts

A memorandum of understanding (MOU) between the Respondent and the Union addresses reassignment, and states in relevant part:

> Installation heads will afford full consideration to all reassignment requests from employees in other geographical areas within the Postal Service. The requests will be considered in the order received consistent with the vacancies being filled and type of positions requested. Such requests from qualified employees, consistent with the provisions of this Memorandum, will not be unreasonably denied. Local economic and unemployment conditions, as well as EEO factors, are valid concerns.
> . . .
>
> For reassignments within the geographical area covered by a District or to the geographical area covered by adjacent Districts, the following applies:
> An employee must have at least eighteen (18) months of service in their present installation prior to requesting reassignment to another installation. Employees reassigned to installations under the provisions of this Memorandum must remain in the new installation for a period of eighteen (18) months unless released by the installation head earlier, before being eligible to be considered for reassignment again, with the following exceptions: 1.) in the case of an employee who requests to return to the installation where he/she previously worked; 2.) where an employee can substantially increase the number of hours (eight (8) or more hours per week) by transferring to another installation and the employee meets the other criteria, in which case the lock-in period will be twelve months.

(R Exh. 9.)

[43] Ostler testified it was February 7, 2021, but that was clearly a mistake.

[44] Ostler had previously tried unsuccessfully to get Phillippe to help her with a grievance, so she asked Joe Miller, the union representative in Lewistown, to help her. (Tr. 128.)

[45] There is no attachment to Muse's response in the record.

Ostler applied for open jobs anywhere within an hour of her home. (Tr. 136.) On May 2, 2022, Ostler visited the Milltown PO because she heard they had an opening. She introduced herself to Postmaster Jeramy Westhoff, who said it had been a year since he'd had a clerk and expressed interest in having her work in Milltown. He asked for Muse's phone number, which Ostler provided. Westhoff texted Ostler the afternoon of May 3, stating he'd had no luck clarifying her ability to work in Milltown, but he would let her know once he received word. (Tr. 145-146; GC Exh. 45.) Westhoff understood the vacancy would be coming later in the year when a current employee would be transferring out of Milltown.[46] (Tr. 276.) After receiving Westhoff's text, Ostler called him, and he told her he had been told to back off, which she understood to mean she had been blackballed.[47] (Tr. 148.)

In May 2022, Ostler visited the Missoula facility and spoke to some people she knew there, including Anthony Miller, the plant manager, Darrin Kirby, and Trisha Armstrong, the Phillipsburg Postmaster who was helping out in Missoula because they did not have a postmaster. Ostler perceived that Armstrong was eager to help. (Tr. 148-149, 152, 296.) Armstrong had an employee who was talking to Ostler about the situation, and at one point she gave this employee a phone number for someone in the Billings plant to see what kind of positions they had open. (Tr. 294.) At some later point, Armstrong called Ostler and said she was told not to talk to her, and she did not want Ostler calling or texting her anymore.[48] Kirby, during a phone conversation, said Ostler had been railroaded, Muse was part of an old boy's club, and Ostler wasn't going to get a job.[49] (Tr. 151-152.)

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[46] The vacancy occurred in October with the posting closing on October 21, 2022. (R Exh. 25.)

[47] Westhoff testified that he did not recall telling Ostler he had been told to back off. He described his May 3, 2022 text, "No luck clarifying your ability to work in Milltown," as "fairly indicative of my conversation with her." (Tr. 276-281; GC Exh. 45.) The text does not contradict Ostler. She testified that Westhoff made the statement in a phone call she placed after receiving the text, and the text says nothing about that later conversation. The sequence the text reflects in fact supports her account. Westhoff, who had expressed interest in hiring Ostler and said he had been without a clerk for a year, asked her for Muse's phone number and then, a day later, reported only that he'd had "no luck." An abrupt reversal immediately after contact with the supervisor she had reported is consistent with being told to back off. It is not readily explained by the routine eligibility issue Westhoff described, which the Respondent did not identify until the eReassign notices seven months later.

Westhoff's testimony that he had no control over placements does not make the statement implausible. As discussed in footnote ??, local managers did exercise influence over assignments, and Westhoff's own outreach to Ostler, and his request for Muse's contact information, shows he believed he had something to clarify. Ostler's recollection was specific as to the words used, the medium, and the timing. Westhoff did not deny the statement, he only failed to recall it, and he was a current postmaster testifying about a conversation adverse to his employer. I credit Ostler that Westhoff told her he had been told to back off. I treat her statement that she had been "blackballed" as her own understanding of what Westhoff conveyed, not as words he used.

[48] Armstrong denied telling Ostler she had been told not to speak with her. For the reasons set forth in the credibility analysis section below, I credit Ostler.

[49] The Respondent did not call Kirby, the Missoula plant manager, and offered no explanation for his absence. Whether Kirby told Ostler she had been "railroaded," that Muse was part of an "old boy's club," and that she "wasn't going to get a job" was within his personal knowledge, and Kirby, as a current manager, may reasonably be assumed to be favorably disposed to the Respondent. I therefore infer that, had he testified, he would not have denied making those statements. *Int'l Automated Machines*, 285

Ostler believed that she was on FMLA until August 7, 2022. (Tr. 150.) Ostler's doctor wrote a note on August 8, 2022, stating that Ostler was unable to work at her current job due to fear of violence and retaliation, and would be able to perform her essential job functions in a non-hostile environment. (GC Exh. 53.) These restrictions were not lifted. (Tr. 183.)

On August 11, 2022, Ostler was informed she was being considered for a position in Lolo. (GC Exh. 36.) She did not receive the position. Beginning in December 2022, Ostler applied for transfers through the Postal Service's eReassign system to: Milltown (December 6, 2022), Deer Lodge (December 9, 2022, for 3 positions), and Phillipsburg (December 28, 2022), (GC Exhs. 28-32; Tr. 138-141.) She received two notices, on December 7 and 9, 2022, respectively, that she was ineligible for clerk positions in Milltown, Clinton, Phillipsburg, Deer Lodge and a carrier position in Deer Lodge because she did not have 18 months of service in her current installation, as required by the MOU. The notices stated that the "18 month 'lock-in' commenced on the effective date of your eReassign transfer, 08/28/2021. Any subsequent requests dated on or after 02/28/2023 will be considered per the steps in the transfer." (GC Exhs. 37-38.) Ostler applied for jobs in Missoula (March 1, 2023 and April 22, 2023, and separately on May 18 2023, for 5 positions), and Clinton (September 22, 2023[50]). On July 19, 2023, Ostler was sent a notice from Stephanie Wood, workforce planning specialist, that she was being considered for a clerk position at the Missoula PO. (GC Exh. 35.) She did not receive the position, or any of the positions she applied for in 2023, and the record is silent as to why she did not receive the one Missoula job, whether she was considered for the other jobs, or any reasons as to whether she was not considered for and/or did not receive the other jobs.

H. Ostler's Resignation

Muse signed a letter, dated September 7, 2023, to Ostler, with the subject line "duty status."[51] The letter said Ostler had been off duty since January 4, 2022, and instructed her to call Brent Kirschenmann immediately to inform the Postal Service of her intentions regarding returning to duty, and to provide required documentation if her absence was covered by the FMLA. Muse also instructed Ostler to report to the Helena Main Post Office on September 19 at 11:00a.m. for an investigative interview, and, if she was unable to attend, to contact Brent[52] and explain why. Ostler was warned that failure to comply with the letter could result in discipline up to and including removal. (GC Exh. 41.) Ostler did not initially read the instructions, in the letter's penultimate paragraph, about the September 19 meeting, and was unaware of it until Kirschenmann called her on September 18. (Tr. 153-154.) Ostler asked if a union representative

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NLRB 1122, 1123 (1987), enfd. mem. 861 F.2d 720 (6th Cir. 1988); *Martin Luther King, Sr., Nursing Center*, 231 NLRB 15, 15 fn. 1 (1977). The inference goes only to whether the statements were made; my finding that the Respondent acted to block Ostler's transfers rests on the evidence discussed below.

[50] Ostler submitted the Clinton application shortly after she resigned because she thought the Respondent may see that the job was open and she could go there. (Tr. 158.)

[51] He consulted with Stephenson before sending the letter. (R Exh. 13.) The evidence, discussed below, shows that it was Stephenson who drafted the September 7 letter, and that the letter in the record as GC Exh. 41 was drafted no earlier than September 11.

[52] Though no last name was written, presumably Muse was referring to Kirschenmann who in 2023 was the E. Helena postmaster.

would be at the meeting, and Kirschenmann responded it would be just him and Muse. When she asked what the meeting was about, Kirschenmann said, it was "about that you either have to go back to Lincoln or you're fired." (Tr. 155.)

Before Muse's letter was sent to Ostler, he shared a draft with a few different people, including Kirschenmann. He emailed Kirschenmann on September 8 to tell him that, at Stephenson's direction, he (Kirschenmann) would conduct the interview to avoid more legal issues with Ostler. In response, Kirschenmann raised the concern that he would need to be the concurring official "if anything is to come of it," and said he would discuss the matter with Stephenson. Muse emailed Kirschenman back on September 11, stating that after re-reading September 7 letter (which attached at the beginning of the email string), he realized Stephenson had not included a date for the meeting with Ostler, and proposed September 19 or 20. [53](R Exh. 13.)

Kirschenmann's understanding of the purpose of the September 19 investigative interview was to follow up with Ostler so they could get her back to work or start the process of removal. (Tr. 240.)

After speaking with her attorney, Ostler sent an email at 12:24 p.m. on September 18, 2023, stating:

> I, Susan Ostler, hereby resign from the U.S. Postal Service. My resignation is forced by constructive discharge. I have stated my reasons why I cannot work under the direct supervision of Zach Muse in both my EEO complaint and in my Union grievance and complaint. I stand on those assertions. It is with great regret that I have been forced to leave the U.S. Postal Service, but I don't believe there is any other reasonable choice.

(GC Exh. 42.) Ostler felt like she was being forced to resign or work in the Lincoln PO with just Muse, and she was concerned that he would really retaliate given all that had transpired. She did not want to stop working for the Postal Service. (Tr. 157-158.)

I. Relevant Collective-Bargaining Agreement Provisions

The collective-bargaining agreement (CBA) between the Union and the Respondent, at Article 2.1, contains the following non-discrimination provision:

> Section 1. Statement of Principle
>
> The Employer and the Union agree that there shall be no discrimination by the Employer or the Union against employees because of race, color, creed, religion, national origin, sex (including pregnancy), age, or marital status. In addition, consistent with the other provisions of this Agreement, there shall be no unlawful discrimination against individuals with disabilities, as prohibited by the Rehabilitation Act.

The CBA also provides, at Article 14.1, that Respondent will provide a safe work environment:

[53] This shows that the letter Ostler received, dated September 7 and scheduling the meeting at the Helena PO for September 19, was not sent until September 11 at the earliest.

> Section 1. Responsibilities
>
> It is the responsibility of management to provide safe working conditions in all present and future installations and to develop a safe working force.

(GC Exh. 2, p 5, 77).

LEGAL STANDARDS AND ANALYSIS

A. Witness Credibility

Many of the disputes at issue can be resolved only by assessing witness credibility. A credibility determination may rest on various factors, including the context of the witness' testimony, the witness' demeanor, the weight of the respective evidence, established or admitted facts, inherent probabilities and reasonable inferences that may be drawn from the record as a whole. See *Double D Construction Group*, 339 NLRB 303, 305 (2003); *Daikichi Sushi*, 335 NLRB 622-623 (2001), enfd. 56 Fed.Appx. 516 (D.C. Cir. 2003). In making credibility resolutions, it is well established that the trier of fact may believe some, but not all, of a witness's testimony. *NLRB v. Universal Camera Corp*., 179 F.2d 749, 754 (2d Cir. 1950), rev'd on other grounds, 340 U.S. 474.

The Board has held that "when a party fails to call a witness who may reasonably be assumed to be favorably disposed to the party, an adverse inference may be drawn regarding any factual question on which the witness is likely to have knowledge." *Int'l Automated Machines*, supra at 1123. This is particularly true where the witness is the Respondent's agent. *Roosevelt Memorial Medical Center*, 348 NLRB 1016, 1022 (2006). Moreover, an adverse inference is warranted by the unexpected failure of a witness to testify regarding a factual issue upon which the witness would likely have knowledge. See *Martin Luther King, Sr., Nursing Center,* supra at 15 fn. 1 (1977) (adverse inference appropriate where no explanation as to why supervisors did not testify); *Flexsteel Industries*, 316 NLRB 745, 758 (1995) (failure to examine a favorable witness regarding factual issue upon which that witness would likely have knowledge gives rise to the "strongest possible adverse inference" regarding such fact).

While I do not discredit the whole of her testimony, MPOO Longshore was repeatedly evasive, both in her observable demeanor and spoken responses, which significantly reduces her overall credibility. Longshore's demeanor shifted markedly depending on the subject. On the mechanics of the Bigfork detail and the leave rules applicable to postmasters, she answered promptly and in detail.[54] When asked if she considered the scanner Muse reportedly threw in her determination that Muse did not pose credible threat, she gave the following an evasive response, repeatedly answering a question that was not asked before responding to the simple question:

> Q Did you consider a thrown scanner in that analysis?
> A I considered the notes that I was given.

[54] Tr. 212, 219-222.

Q Okay. And you didn't take those notes?
A This is the IMIP that I was given. I did not personally take these notes.
JUDGE LAWS: Was the -- was the thrown scanner in the notes?
THE WITNESS: Yes.
MS. FEDEWA: I believe it was.
JUDGE LAWS: Okay. So her question was, did you consider that?
THE WITNESS: I considered the notes, yes. I
considered −−
JUDGE LAWS: Did you consider the thrown scanner?
THE WITNESS: Yes.[55]

This testimony concerned the substance and adequacy of her own investigation.

Longshore was similarly evasive when asked about Ostler's fear of returning to work with Muse:

Q Were you aware that Ms. Ostler as well as Ms. Youbles was −− were scared to go to work?
A Ms. Ostler −− I can't −− I can't speak to their frame of mind. I can't speak to how they felt.
Q Did you call them up for follow-up?
A Call who?
Q Ms. Ostler.
A I spoke to Ms. Ostler about her concerns several times.
Q And she was scared to go to work with Mr. Muse?
A I can't speak to her frame of mind.
JUDGE LAWS: Did she ever say that to you?
THE WITNESS: She −− she texted that in an email, yes −−
or in a text. Yes.[56]

. . .

Q She asked, though, didn't she, to work somewhere other than with Mr. Muse?
A I don't recall.
Q She indicated that she was scared to work with Mr. Muse, correct?
A She texted that.
Q Yes? And that, does that indicate that she would like to work somewhere else?
A If you interpret it that way. I mean, she also indicated that she would like to be the postmaster in Lincoln, so that could indicate that she still wants to work in Lincoln.
Q But she did not want to work with Mr. Muse; you knew that.
A She texted that she did not want to work with −− she was scared.[57]

[55] Tr. 205
[56] Tr. 208
[57] Tr. 212-213.

Asked whether she was familiar with "the time card issue," a specific, previously discussed allegation, Longshore professed confusion, replying "you're going to have to be more specific," rather than answering.[58] She invoked a serious of "I don't recall" responses, including being unable to recall whether she issued anything in writing after her investigation into Ostler's allegations. Specifically, when asked if she sent anything to HR recommending what course to take, Longshore responded, "I don't recall what – I don't have it, so I don't recall – and I don't recall."[59] In an immediate follow-up question, Longshore was asked who made the decision to implement the results of the investigation into Ostler's October 14 complaint. Longshore, who oversaw the investigation, responded, "There was an IMIP, There was the investigative interview. There was the investigation from the inspection service. I don't know which one you're talking about."[60] When pointed to her own investigation, Longshore said she "would have" consulted with the Respondent's HR and labor managers, but could not recall if she specifically did, and said she could not find any documentation.[61] That her evasiveness was confined to the very subjects on which her decisions are challenged is probative. A witness who recalls operational details clearly but cannot recall whether she documented her own findings, or whom she consulted, gives me reason to doubt her account of those findings.

In addition to being evasive, Longshore was inconsistent on certain material points. She testified that the detail rested on Bigfork's staffing needs and Ostler's request to work elsewhere.[62] Yet in her February 4, 2022, email to Grigorioff, the labor manager, Longshore said the detail was based on her determination that Ostler and Muse needed to be separated at the time. In addition, Longshore amplified the discipline she issued to Muse. She testified she issued him a letter of warning in lieu of 14-day suspension.[63] The record shows, however, that Longshore issued only a notice of proposed letter of warning, and that Muse would receive a written decision on the discipline itself from Scott Manier after expiration of a 10-day reply period. There is no record evidence of Muse replying to Longshore's notice or of any written decision implementing the proposed discipline. Where Longshore's testimony conflicts with her own contemporaneous writings, I credit the writings, which were prepared before this litigation and without any motive to shape the account. Where her testimony is uncorroborated and concerns the reasons for her own challenged decisions, I give it little weight.

Muse was at times evasive. When asked if he called Ostler stupid, he responded, "That's not who I am. I'm not – no, I did not do that."[64] I do not credit the denial. It was an assertion about his character rather than a specific response to the specific statements Ostler attributed to him. It is contradicted by documentary evidence of the same conduct toward his previous clerk: his handwritten note telling Youbles to "pay attention to Box #'s Dislexic", and Youbles' testimony that he told her, "Don't be stupid"[65] Brown independently reported the same pattern of name-calling to the Respondent's own investigator.

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[58] Tr. 207.
[59] Tr. 216.
[60] Tr. 216-217.
[61] Tr. 217-218.
[62] Tr. 212.
[63] Tr. 208
[64] Tr. 262.
[65] GC Exh. 3; Tr. 29, 38.

Muse's testimony on related points also undermined his reliability. He shifted blame for the passwords, writing "Her writing & her notes" next to Ostler's login credentials, while admitting he gave her his own access. Asked about the magazine incident, he first conceded he "may have knocked over some flats," and then, asked directly whether he had, said "That's five years ago. I don't recall."[66] He did not deny poking Ostler in the chest. In his November 9, 2021 interview, he asserted that his clerk recorded her own time and was paid only for actual hours worked, but the Respondent's adjustment of Ostler's pay for uncredited hours shows otherwise. At trial, Muse answered questions about his own conduct tersely and in generalities, while volunteering detail about his community service and the office's performance. Ostler's account, by contrast, was specific as to words, setting, and sequence, and it matches what two other women who worked with Muse described. Where Muse and Ostler's testimony is at odds, I credit Ostler. Where he was not asked to testify about a material allegation that other witnesses addressed, I find an adverse inference is warranted under *Flexsteel*.

Armstrong 's testimony was undermined as to her blanket denial that she never told Ostler that she had been told to back off from helping her and that she never spoke directly with Ostler.[67] I credit Ostler's testimony over Armstrong's, as Ostler's account of their interaction was far more specific and detailed. She placed her initial contact with Armstrong in a concrete setting, a visit to the Missoula facility, and named the three people filling in there. The interaction with Armstrong was part of a coherent, detailed job-search narrative that also included Miller and Plant Manager Kirby. Ostler's specificity and the naming of verifiable third parties point to reliability.

As to the specific point of whether Armstrong told Ostler she had been instructed to "back off", I credit Ostler, as her account was more concrete than Armstrong's blanket negation, and is consistent with her testimony about what she heard from Westhoff and Kirby. Moreover, I found Armstrong to be evasive as to her knowledge. Having volunteered that her clerk was involved with Ostler's situation, and that "they were talking," she then answered, "I don't know the exact of what they were talking about" when asked generally whether they were discussing problems with Muse, a yes/no question.[68] By answering a narrower question than what she was asked, Armstrong evaded responding to the question.

I find Ostler was generally a credible witness, based on her open and earnest demeanor while testifying. She engaged with the questions in a straightforward manner that struck me as honest. She testified in a steady, even tone, faced the questioner, and did not hesitate or look to others before answering. She identified the limits of her own memory, offering to consult her journal rather than guess at dates, and she corrected herself unprompted when she misstated one.[69] Her accounts of the events at issue are also corroborated at nearly every point where documents exist. Stephenson's email to Longshore on the evening of October 14, 2021, records the same complaints Ostler described at trial. Her complaint that she was not paid for hours worked was confirmed when the Respondent adjusted her pay in November 2021. Muse himself admitted

[66] Tr. 261.
[67] Tr. 294, 301.
[68] Tr. 300.
[69] Tr. 62, 180.

the password sharing she reported. Brown and Youbles independently described the same pattern of name-calling, yelling, and thrown objects

I have considered that Ostler was at times non-responsive on cross-examination. She did not directly answer why she had not texted Longshore when she couldn't reach her on the phone.[70] She answered questions about the outcomes of her Board charge, the inspection report, and her EEO complaint with questions of her own before conceding the point.[71] These lapses were confined to the formal outcomes of proceedings she had initiated, mostly without counsel. In each instance, once the question was clarified, she gave the answer adverse to her. I find this reflects confusion about procedural posture, and a lay witness's tendency to over-answer, rather than an effort to mislead. They do not undermine her otherwise detailed and corroborated testimony about what she experienced and was told.

I grant the General Counsel's request to draw an adverse inference based on the Respondent's failure to call Cheryl Harju as a witness. Harju was an admitted supervisor and the Respondent's agent who personally conducted the IMIP investigation into Ostler's complaints and interviewed Ostler, Brown, Muse, and Jarrell. As the only manager to interview anyone other than Muse, her knowledge of what the investigation uncovered, of management's assessment of Ostler's safety concerns, and of the basis for the Respondent's actions is unique and central. The Respondent offered no explanation for not calling her. An adverse inference is therefore warranted that Harju's testimony would not have supported the Respondent. Specifically, I infer that her investigation substantiated Ostler's allegations and that the Respondent's stated reasons for returning Ostler to Muse and denying her transfers were not the real ones. See *Int'l Automated Machines* and *Martin Luther King, Sr., Nursing Center*., above. The inference is reinforced because the Respondent instead relied on Longshore, who, as found above, was evasive and inconsistent. The Board has treated substitution of a conclusory or unreliable witness for the more knowledgeable agent as strengthening the inference. See *Flexsteel,* supra, at 758.[72]

I have made other specific credibility determinations in the statement of facts. In sum, where Ostler's testimony conflicts with that of Longshore, Westhoff, or Armstrong, I credit Ostler. Her accounts were specific and internally consistent, and the documentary record corroborates them, while the Respondent's managers answered evasively, recalled selectively, and in material respects gave testimony the record contradicts. These credibility resolutions, together with the adverse inferences drawn from the Respondent's failure to call Harju and to question Longshore about her "forced" reinstatement of Muse, inform the analysis of each allegation below.

B. Ostler's Protected Activity

As a threshold issue, I must determine whether Ostler engaged in union activity and/or protected concerted activity.

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[70] Tr. 160.

[71] Tr. 164, 166.

[72] Harju's first-hand investigative knowledge was not cumulative of Longshore's (indeed, Longshore professed not to recall key investigative details, Tr. 216-218). The inference I have granted reinforces the credited evidence, and does not serve as the sole affirmative proof of any element.

Section 7 of the Act provides that employees have the right to engage in union activities and "the right to … engage in … concerted activities for the purpose of collective bargaining or other mutual aid or protection …." "Other mutual aid or protection" extends to employee efforts to improve terms and conditions of employment or otherwise improve their lot as employees. Section 8(a)(1) states, "It shall be an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7."

Under the longstanding Board precedent, *Interboro Contractors, Inc*., 157 NLRB 1295 (1966), enfd. 388 F.2d 495 (2d Cir. 1967), approved in *NLRB v. City Disposal Sys. Inc*., 465 U.S. 822 (1984), an employee's honest and reasonable assertion of a right grounded in a collective-bargaining agreement is considered "concerted activity" and therefore accorded the protection of Section 7. This theory of concerted activity is referred to as the *Interboro* doctrine.

Here, Ostler, a bargaining-unit member, repeatedly invoked rights grounded in the parties' collective-bargaining agreement's provisions obligating the Respondent to provide safe working conditions (Article 14.1) and to refrain from discrimination (Article 2.1).[73] She complained to management on October 14, which prompted the IMIP investigation. She contacted union representatives, and attempted to complain to Union President Phillippe on October 14, to no avail. She sought EEO counseling on January 4 and again on January 21, for her complaints about Muse, all of which invoked contractual provisions (Articles 2.1 and 14.1). She filed a grievance on February 7, reiterating her EEO complaints and expressing fear for her safety. That she did not ultimately prevail on her complaints does not undermine their concertedness: "an honest and reasonable invocation of a collectively bargained right constitutes concerted activity, regardless of whether the employee turns out to have been correct in his belief that his right was violated." *City Disposal*, 465 U.S. at 840.

I find Ostler's concerns about her safety were honest and reasonable. Ostler's complaints repeatedly and consistently mentioned her fear of retaliation and expressed that she felt unsafe returning to work with Muse. Youbles' testimony that Muse's yelling and calling her names caused her to cry frequently and Brown's statements that Muse yelled and has thrown a lot of things (including the scanner) confirm that others also took issue with the work environment. The community's online reaction, which Ostler saw, reinforces the reasonableness of her fears. The community response would reasonably have had a powerful intimidating effect on Ostler, magnified by her status as a community outsider. Ostler had worked at the Lincoln office only since September 7, 2021, in a one-room installation in a small town where, as the post itself boasts, "there is not a person in Lincoln who does not know" Muse, the 15-year postmaster. The original poster framed Muse's emergency leave placement as an "attack" and drew a strong response from his supporters. Though unnamed, Ostler is plainly the "she" who made a "wrong move" "dealing with the whole town," and one commenter was openly trying to identify her. The Facebook comments also called for a protest, which, for a lone clerk who would need to face community

[73] Ostler's grievance was not filed until February 7, 2022, but her complaint to management about Muse on October 14, 2021, and her attempt to complain to Phillippe, the Union President, that same day, were concerted activity under the *Interboro* doctrine, as they were attempts to enforce the collective-bargaining agreement. See *Wheeling-Pittsburgh Steel Corp.*, 277 NLRB 1388 (1985), enfd. 821 F.2d 342 (6th Cir. 1987) (Employee's refusal to operate a crane with missing bolts and frayed cables was concerted activity because collective bargaining agreement contained a safety clause).

members across the counter, is reasonably perceived as a threat to personal safety, consistent with her statement that she was "scared for my personal safety, if placed back into the Lincoln Post Office."[74] Crucially, the one possible ally Ostler might have expected to protect her, the president of her own union Phillippe, publicly professed friendship with Muse. For an outsider without local ties or social capital, Ostler could well have concluded that she stood alone. The reasonable effect was to deepen Ostler's fear and sense of ostracism, and her perception that returning to work alone with Muse in Lincoln was untenable.

Ostler's EEO concerns were also honestly and reasonably held. Both Youbles' testimony, detailed above, and Brown's statement point to gender-based concerns beyond Ostler's individual complaint. Brown specifically recounted her perception that Muse "will not take anything from women and treats men differently" adding her view of him as a "male chauvinistic pig bully."[75] There can be no doubt that Ostler's claims invoked Articles 2.1 and 14.1 of the applicable collective-bargaining agreement, and I therefore find her complaints were protected concerted activity under the *Interboro* doctrine.[76]

Moreover, Ostler's complaints, though individual in nature, satisfy the criteria for concerted activity under the Board's longstanding *Meyers* precedent, holding that activity is concerted if it is "engaged in with or on the authority of other employees, and not solely by and on behalf of the employee himself." *Meyers Industries (Meyers I)*, 268 NLRB 493 (1984), remanded sub nom *Prill v. NLRB*, 755 F. 2d 941 (D.C. Cir. 1985), cert. denied 474 U.S. 948 (1985), on remand *Meyers Industries (Meyers II)*, 281 NLRB 882 (1986), affd. sub nom *Prill v. NLRB*, 835 F. 2d 1481 (D.C. Cir. 1987), cert. denied 487 U.S. 1205 (1988). Concerted activity also includes "circumstances where individual employees seek to initiate or to induce or to prepare for group action" and where an individual employee brings "truly group complaints to management's attention." *Meyers II*, 281 NLRB at 887. An individual employee's complaint is concerted if it is a "logical outgrowth of the concerns of the group." *Every Woman's Place*, 282 NLRB 413 (1986); *Mike Yurosek & Son, Inc.*, 306 NLRB 1037, 1038 (1992), after remand, 310 NLRB 831 (1993), enfd. 53 F.3d 261 (9th Cir. 1995). In addition, it is well established that "the activity of a single employee in enlisting the support of his fellow employees for their mutual aid and protection is as much 'concerted activity' as is ordinary group activity." *Whittaker Corp*., 289 NLRB 933, 933 (1988), quoting *Owens-Corning Fiberglas Corp. v. NLRB*, 407 F.2d 1357, 1365 (4th Cir. 1969). The Board in both *Meyers* cases emphasized that "the question of whether an employee has engaged in concerted activity is a factual one based on the totality of the record evidence." 281 NLRB at 886; 268 NLRB at 497.

Ostler's complaints concerned the same conduct that Youbles and Brown independently described, and her concerns about the clerk position were matters of shared concern rather than a purely personal gripe. As discussed above, the three women shared similar concerns about how Muse treated them at the Lincoln PO, and in Youbles' case, contributed to her decision to quit instead of continuing to work with him. Ostler acted in concert with the Union and raised conditions affecting the clerk position and the installation generally. Ostler's retaliation complaint

[74] GC Exh. 17. That the protest did not occur does not diminish the reasonable fear Ostler had about the community's response.

[75] R Exh. 3.

[76] There is no record evidence, and no argument, suggesting Ostler lost the Act's protection.

against Longshore, though individual in nature, was a logical outgrowth of her earlier protected concerted complaints and was therefore itself concerted.

Accordingly, I find that Ostler engaged in protected concerted activity when she complained to management on October 14, 2021, sought the Union's assistance, initiated EEO counseling on January 4 and January 21, 2022, and filed her grievance. Each step invoked rights grounded in Articles 2.1 and 14.1 of the collective-bargaining agreement, and each was also a logical outgrowth of the shared concerns of the Lincoln PO's female clerks. With the first element of the General Counsel's case established, I turn to whether the Respondent took adverse action against Ostler because of that activity.

C. Adverse Employment Actions—*Wright Line*

In mixed-motives cases, where an employer defends against an allegation that it has taken adverse action against an employee because of their union activity and/or protected concerted activity by asserting that the adverse action was for legitimate reasons, the Board applies the analysis set forth in *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982). Under this framework, the General Counsel has the initial burden to provide evidence supporting the inference that union activity was a motivating factor in the employer's decision. See, e.g., *Intertape Polymer Corp*., 372 NLRB No. 133, slip op. at 6 (2023), enfd. 2024 WL 2764160 (6th Cir. 2024). The elements required to sustain the General Counsel's initial burden are: (1) union or other protected activity by the employee, (2) employer knowledge of that activity, and (3) employer animus against union or other protected activity. Id.

Evidence of the employer's hostility toward union activity may be circumstantial, and may include, among other things: (1) the timing of the employer's adverse action in relationship to the employee's protected activity; (2) the presence of other unfair labor practices; (3) statements and actions showing the employer's general and specific animus; (4) disparate treatment of the discriminatees; (5) departure from past practice; and (6) evidence that an employer's proffered explanation for the adverse action is a pretext. See *Golden Day Schools v. NLRB*, 644 F.2d 834, 838 (9th Cir. 1981); *NLRB v. Rain-Ware, Inc*., 732 F.2d 1349, 1354 (7th Cir. 1984) (timing); *Mid-Mountain Foods, Inc*., 332 NLRB 251, 260 (2000), enfd. mem. 169 LRRM 2448 (4th Cir. 2001); *Richardson Bros. South*, 312 NLRB 534, 540 (1993) (other unfair labor practices); *NLRB v. Vemco, Inc*., 989 F.2d 1468, 1473-1474 (6th Cir. 1993); *Affiliated Foods, Inc*., 328 NLRB 1107, 1110 (1999) (statements showing animus); *Wright Line*, supra at 1089; *Naomi Knitting Plant*, 328 NLRB 1279, 1283 (1999) (disparate treatment); *JAMCO*, 294 NLRB 896, 905 (1989), affd. mem. 927 F.2d 614 (11th Cir. 1991), cert. denied 502 U.S. 814 (1991) (departure from past practice). Another indicator of unlawful motivation is shifting explanations for a personnel action. See *City Stationery, Inc*., 340 NLRB 523, 524 (2003) (nondiscriminatory reasons for discharge offered at the hearing were found to be pretextual where different from those set forth in the discharge letters); *GATX Logistics, Inc*., 323 NLRB 328, 335 (1997).

The Board will infer an unlawful motive or animus where the employer's action is "'baseless, unreasonable, or so contrived as to raise a presumption of unlawful motive.'" *J. S. Troup Electric*, 344 NLRB 1009, 1016 (2005) (citing *Montgomery Ward & Co.*, 316 NLRB 1248, 1253 (1995)); See also *ADS Electric Co*., 339 NLRB 1020, 1023 (2003); *Shattuck Denn Mining*

Corp. v. NLRB, 362 F.2d 466, 470 (9th Cir. 1966). The lack of meaningful investigation into an incident is further evidence of unlawful motivation. See *New Orleans Cold Storage & Warehouse Co., Ltd*., 326 NLRB 1471, 1477 (1998), enfd. 201 F.3d 592 (5th Cir.2000). Delay can be evidence of unlawful motivation. *Doctors' Hospital of Staten Island, Inc*. 325 NLRB 730, 738 (1998); *New Haven Register*, 346 NLRB 1131, 1143 (2006) (suspension on January 7, 2005 for events that occurred on December 23-24, 2004).

If the General Counsel has established the employee's protected conduct was a motivating factor in the employer's decision, the burden of persuasion shifts to the employer to demonstrate, by preponderant evidence, that it would have taken the same action even in the absence of the protected conduct. The employer cannot meet its burden merely by showing that it had a legitimate reason for the action; rather, it must demonstrate that it would have taken the same action even in the absence of protected conduct. *Wright Line*, above; *Intertape Polymer*, above.

I apply this framework to each of the three adverse actions alleged in the complaint: the February 4, 2022 order returning Ostler to the Lincoln PO, the failure to grant her transfer requests, and her constructive discharge. Because the protected activity, the Respondent's knowledge of it, and much of the evidence of animus are common to all three, the findings made in the first analysis apply equally to the others.

1. Order to return to Lincoln PO

Complaint allegations 6(e) and 7 allege that on about February 4, 2022, the Respondent ordered Ostler to return to the Lincoln PO, in violation of Section 8(a)(1) of the Act.

I have found that Ostler engaged in protected concerted activity, as detailed above.[77] There is no dispute that the Respondent was aware of this activity. Ostler complained directly to Stephenson in October 2021, who reported the complaint to Longshore the same day. Longshore then initiated the investigation. Ostler later named both Muse and Longshore in her January 2022 requests for EEO counseling.

I further find the order to return to work at the Lincoln PO was coercive under Section 8(a)(1), and therefore adverse to Ostler. In *NLRB v. Air Contact Transp. Inc*., 403 F.3d 206, 212-213 (4th Cir. 2005), the Fourth Circuit explained that the requirement for a concrete personnel action under Section 8(a)(3) does not apply in the 8(a)(1) context, stating:

> The reasoning underlying the distinction between counseling and disciplinary measures in cases interpreting [Title VII] and and 8(a)(3), however, does not apply under § 8(a)(1), which does not address employer interference with the terms or conditions of employment, but rather provides redress for any employment action that tends to coerce an employee not to engage in § 7 activities. See 29 U.S.C.A § 158(a)(1) (making it unlawful "to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in [§ 7]"). Under our legal standard interpreting § 8(a)(1), a so-called "counseling" measure, while not affecting the terms or conditions of an employee's job, could nevertheless coerce an

[77] The only protected activity that does not precede the order to return back to the Lincoln PO is the grievance, which was initiated just after it.

> employee from exercising his § 7 rights. Whether an employment action is labeled as "counseling" or "disciplinary" is therefore not dispositive. Rather, in analyzing claims under § 8(a)(1), the issue is not the label placed on the employer's action, but whether the action tends to coerce vel non.

I find, given all that had transpired since Ostler filed her protected concerted October 14 internal complaint, including the one-sided investigatory conclusions discussed below, and the community turning against her online, returning Ostler to work at the Lincoln PO under Muse was coercive.

Even under the more demanding standard, I find the order returning Ostler to work at the Lincoln PO under Muse was an adverse action. Although Lincoln was still Ostler's official duty station on paper as of February 4, 2022, her most recent workplace prior to becoming sick had been Bigfork, an assignment MPOO Longshore facilitated based on her view that Muse and Ostler needed to be separated. Knight, the OIC in Bigfork, was willing to have Ostler return there. The move back to Lincoln was a change in working conditions for Ostler, altering where and under whom she would work, returning her to a one-room installation to work alone under the very postmaster she reported for harassment, abuse, and violations of the Respondent's rules. This is a tangible change in working conditions. In *Don Chavas, LLC d/b/a Tortillas Don Chavas*, 361 NLRB 101, 101-102 (2014), the Board found the employer violated Section 8(a)(1) when it transferred an employee who had complained about her supervisor's harassment, with the knowledge that the transfer would be untenable. Here, placing Ostler back to work under Muse was untenable, as both Ostler and Muse understood. The adverse-action element is met.

The General Counsel has shown that animus toward Ostler's protected activity was a motivating factor in the February 4 order. The evidence begins with Longshore's own statement about Muse's return, which, as explained, undercuts the Respondent's explanation.

On December 2, 2021, Ostler learned that Muse would resume his duties as Lincoln Postmaster the following Monday. When Longshore returned her call later that day, she told Ostler that she was being forced to bring Muse back. Asked why, Longshore said she could not tell her. When Ostler asked what would happen to her, Longshore said she did not know yet. Longshore was the Manager of Post Office Operations who had placed Muse on emergency leave and directed the investigation. Her statement is an admission by the Respondent's agent on a matter within the scope of her responsibilities, and it is not hearsay. Fed. R. Evid. 801(d)(2)(D). Longshore testified at length but was never asked about the statement, and she did not deny making it. I credit Ostler's unrebutted account.

The statement is significant for what it shows about the decision making that led to the February 4 order. The Respondent's defense rests on the premise that Longshore's investigation drove the outcome: it was "inconclusive," it found "no credible threat," and Ostler therefore belonged back at her home office in Lincoln. Longshore's contemporaneous words tell a different story. When Muse was returned to Lincoln, Longshore did not describe the result as her own conclusion that Muse posed no threat. She described it as something she was being made to do, for reasons she could not disclose. That account cannot be reconciled with the Respondent's claim that Muse's return, and Ostler's placement back under him, flowed from a neutral assessment of the evidence. Harju's failure to testify, with the accompanying adverse inference, underscores this.

The record supplies no other explanation. The Respondent did not identify who required Muse's return or why. Longshore said she could not recall whether she put her findings in writing or sent them to HR, though she agreed that doing so was her usual practice, and no report of her conclusions, or Harju's, is in the record. The Respondent did not call Harju, who conducted the witness interviews.[78] Whether Longshore made the statement, and who required Muse's return and why, were matters within Longshore's personal knowledge. Had the statement been untrue, or had the return been required for an innocent operational reason, she was the witness who could have said so. Her silence warrants an inference that her testimony on that point would not have aided the Respondent. *Flexsteel*, supra at 758; *Int'l Automated Machines*, supra 1123. I draw that inference only as to the specific question of why Muse was returned. I would credit Ostler's account of the conversation even without it.

Longshore's statement also frames what followed. She told Ostler on December 2 that she did not yet know what would become of her. Four days later, she detailed Ostler to Bigfork. In her February 4, 2022, email to the labor manager, she explained the detail as resting on her determination that Ostler and Muse "needed to be separated at the time." In other words, when Muse came back, Longshore did not treat the investigation's outcome as establishing that Ostler could safely work alone with him. She separated them. Nothing about Muse or the Lincoln PO changed between December 6, 2021, and February 4, 2022.

What did change was Ostler engaged in protected activity. Ostler initiated EEO counseling naming Muse on January 4, 2022, and sought EEO counseling on January 21, 2022, alleging retaliation by Longshore, both of which were active and ongoing in February.[79] Within two weeks of Ostler's complaint naming Longshore as the RMO, she reversed her own separation determination and ordered Ostler back to work alone under Muse. This is strong evidence of animus. See *Trader Horn of New Jersey, Inc*., 316 NLRB 194 (1995); see also *Intertape Polymer Corp*., supra; *Miller Plastic Prods. Inc v. NLRB*, 141 F.4th 492, 514–515 (3d Cir. 2025) (close timing "highly indicative of a causal connection").

I have considered whether anything else in that interval explains the reversal. On January 15, 2022, Bigfork's officer in charge, Knight, emailed Longshore. She reported that Ostler had left

[78] Harju is the only management official who interviewed anyone other than Muse, including the witnesses who corroborated Ostler's concerns.

[79] In fact, Grigorioff's statement that they should not move the "complainant" shows Ostler was not considered for transfer in part because of her status as a participant in the EEO complaint process. This is consistent with the EEOC's historical guidance, in effect at the time, "Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors" (1999 WL 33305874), which states, the complainant "should not be involuntarily transferred or otherwise burdened," as that "could constitute unlawful retaliation." The Enforcement Guidance further states, however, that intermediate measures may be necessary before the investigation concludes "to ensure that further harassment does not occur," and its examples all point to changes centered around the alleged harasser: "making scheduling changes so as to avoid contact between the parties; transferring the alleged harasser; or placing the alleged harasser on non-disciplinary leave with pay pending the conclusion of the investigation." Grigorioff's advice adheres to part of the EEOC's guidance, but ignores other parts. Because Ostler's EEO complaints were themselves protected concerted activity, reliance on her complainant status is reliance on protected activity

work after a dispute with a coworker and raised concerns about her focus and performance. That email does not account for the February 4 order. Knight told Longshore that Bigfork "still needed the help," and Ostler was not disciplined for anything during her time in Bigfork. Longshore's February 4 email seeking advice does not cite Knight's concerns as a reason to return Ostler to Lincoln. Even if the email were a reason to end the Bigfork detail, it would not explain why the only alternative was to return Ostler to work alone under the supervisor she had reported, rather than another placement.

The IMIP investigation itself provides further evidence of unlawful motivation, not because it failed to gather evidence, but because of what the Respondent did with the evidence it gathered. Harju interviewed Ostler, Brown, Muse, and Jarrell, and contacted Youbles. Those interviews produced corroboration of Ostler's core complaints and admissions by Muse to several policy violations. Yet Muse himself was never asked directly whether he called clerks dyslexic or stupid, yelled, or threw objects, and Longshore's follow-up interview addressed only passwords, leave, and hours. Instead, Longshore accepted Muse's general assurance that he treated employees with dignity and respect and probed no further. Moreover, the process leading to the decisional outcomes of the investigation is undocumented and the decisional path untraceable. Tellingly, no record of Longshore's report on the conclusions of the investigation is in the record, and no cogent explanation was provided for its absence, despite Longshore's admitted usual practice of transmitting her written findings to HR.[80] This departure from past practice is evidence of discriminatory intent.

An employer is not required to investigate in any particular manner, "especially when the Board can point to no evidence that would have been uncovered after a deeper investigation." *Sutter East Bay Hospitals v. NLRB*, 687 F.3d 424, 435 (D.C. Cir. 2012). That is not the case here. The corroborating evidence was uncovered and then set aside. Brown's interview described Muse throwing a scanner over her head, calling customers "worthless," and being a "[m]ale chauvinistic pig bully." Youbles corroborated the scanner and the demeaning treatment. Muse's own answers admitted fire-chief work on the clock, unauthorized fire permits, a personal change drawer with "no accountability," and the receipt of FedEx packages, among other infractions. Moreover, Ostler's unpaid hours complaint was objectively confirmed when her pay was adjusted to credit hours Muse's flat-hours practice had omitted. The Respondent's failure to call Harju, the postmaster whom Longshore charged with conducting the investigation and the individual who conducted the interviews, including Muse's first interview, and who suggested Ostler file an EEO complaint, supports an adverse inference that her interpretation of the investigation would have aided the General Counsel.[81]

In short, the investigation's conclusions, the written version of which could not be located, selectively credited Muse's cursory denials and set aside both his own admissions and the corroborating accounts the investigation had collected, while treating Ostler's corroborated complaints as inconsequential. An investigation that gathers corroborating evidence and then

[80] At the hearing, Longshore repeatedly deflected on the substance and adequacy of her investigation, as detailed in the credibility section above.

[81] Specifically, the inference I make is that Harju's impression of what the witnesses told her, the opinions and conclusions she formed after conducting the interviews, and what she conveyed to Longshore would have favored the General Counsel's case.

disregards it without explanation is not a meaningful investigation of the allegations, and its conclusions cannot supply a good-faith basis for the employer's action. See *Charter Communications, Inc. v. NLRB*, 939 F.3d 798 (6th Cir. 2019).

Finally, Longshore gave inconsistent and shifting explanations for Ostler's detail to Bigfork. She testified at the hearing that it rested solely on a staffing shortage, but her contemporaneous February 4 email attributed it to the need to separate Ostler and Muse. In addition, Longshore exaggerated the discipline imposed on Muse, testifying she issued a letter of warning in lieu of suspension when the record shows only a proposed letter of warning with no record it was ever implemented, a next step explicitly set forth in the proposal letter. Shifting, false, or exaggerated reasons are classic badges of pretext from which motive may be inferred. See *Intertape Polymer*, supra.

I find the General Counsel has sustained her initial *Wright Line* burden.

The burden shifts to the Respondent to prove it would have ordered Ostler back to Lincoln even absent her protected activity. I find this burden has not been met.

The Respondent asserts that Lincoln was Ostler's home office, the investigation was "inconclusive" and there was "no credible threat." I find this is pretext to mask unlawful retaliation. These rationales rest on the premise that the investigation's results drove the decision. Longshore's own statement that she was being forced to return Muse, for reasons she would not disclose, undercuts that premise. The "no credible threat" and "inconclusive" rationales are the conclusions of that same investigation. On the evidence the Respondent itself had gathered, including Brown's and Youbles' corroboration and Muse's admissions, it could not reasonably have believed that Ostler's complaints were unsubstantiated. Those conclusions therefore cannot carry the Respondent's burden.

Ostler's official status as the Lincoln PO clerk of record does not help the Respondent, as that status was the same in December 2021, when Longshore chose to keep Ostler and Muse apart, as it was on February 4, 2022.

The Respondent cannot simultaneously maintain that separating Ostler and Muse justified the Bigfork detail and that returning her to work alongside Muse was operationally required, with the only intervening development consisting of her protected EEO activity.[82] Because the Respondent's stated reasons were not the reasons actually relied on, "the inference of unlawful motivation remains intact, and is in fact reinforced by the pretextual reason proffered by the employer." *Intertape Polymer*, supra, slip op. at 7.

In sum, Ostler engaged in protected concerted activity known to the Respondent, and animus toward that activity motivated the February 4, 2022, order returning her to the Lincoln PO. Longshore's unrebutted statement that she was forced to return Muse, for reasons she could not

[82] In closing brief, the Respondent contends that Ostler's claims about Muse's misuse of leave or his non-Postal activities are a "red herring" as they have nothing to do with her allegation of hostile work environment. This misconstrues the allegations before me. Whether Muse's conduct rose to legally actionable harassment is beside the point; it was the act of reporting that was protected.

disclose, refutes the claim that a neutral investigation drove the decision. Longshore then reversed her own separation of Ostler and Muse within two weeks of Ostler's EEO complaint naming her, on advice that treated Ostler's complainant status as a reason not to move her. That sequence, the investigation's selective, undocumented conclusions, the departure from documentation practice, and Longshore's shifting explanations establish pretext, and the Respondent has not shown it would have issued the order absent Ostler's protected activity. By ordering her back to work alone under the supervisor she had reported, the Respondent interfered with, restrained, and coerced her in the exercise of her Section 7 rights, in violation of Section 8(a)(1). I find the General Counsel has established this complaint allegation.

2. Failure to grant transfer requests

Complaint allegations 6(h), 7, and 8 allege that, on various dates between approximately December 2022 and July 2023, the Respondent failed to grant Ostler's transfer requests to nearby facilities that were not the Lincoln facility, in violation of Section 8(a)(3) and (1) of the Act.[83]

Protected activity, knowledge, and animus have been established. The record establishes that Ostler sought, both through direct application and informal inquiry, numerous transfer positions. The General Counsel must show that the Respondent's failure to grant Ostler's transfer requests was an adverse action.

Adverse actions are those that reduce a worker's prospects for employment or continued employment, or worsen some legally cognizable term or condition of employment. *Bellagio, LLC v. NLRB*, 854 F.3d 703, 709–10 (D.C. Cir. 2017); see also *Compania Cervecera de Puerto Rico, Inc. v. NLRB*, 150 F.4th 601 (D.C. Cir. 2025) (holding that what defines an adverse action is whether it causes a negative impact on an employee's conditions of employment). In *Joseph Magnin Co., Inc*., 257 NLRB 656 (1981), enfd. *NLRB v. Joseph Magnin Co*., 704 F.2d 1457 (9th Cir. 1982), the Board found that an employer's discriminatory refusal to transfer employees to a new store in an effort to avoid unionization violated Section 8(a)(3). See also *Starbucks*, 373 NLRB No. 85 (2024) (rejecting finding that discriminatory refusal to transfer is not an adverse action). As of August 2022, Ostler's documented medical restrictions prevented her from working at the Lincoln PO due to fear of violence and retaliation but cleared her to perform her essential job functions in a non-hostile environment.[84] Under the facts of this case, I find the failure to grant Ostler's transfer requests constituted an adverse action. See *NLRB v. U.S. Postal Service*, 906 F.2d 482, (10th Cir. 1990) (failure to reassign based on grievances violated the Act).

I have credited Ostler that when she pursued the Milltown vacancy, Westhoff told her "he had been told to back off"; that Missoula plant manager Kirby told her she "had been railroaded," that Muse was "part of an old boy's club" and that she "wasn't going to get a job" when she asked about working in there; and that Armstrong, after helping her, "said she was told not to talk to her."

[83] The dates pled in the complaint are approximate, and record evidence shows Ostler applied for and, as of August 11, 2022, was being considered for a position at the Lolo PO. (GC Exh. 36.) The letter Ostler received informing her she was being considered for a position in Lolo on August 11, 2022, is evidence that Ostler could have been released from the MOU's 18-month requirement and that the requirement was flexible.

[84] I do not attribute any legal definition of "hostile environment" to Ostler's physician.

These statements are direct evidence that management acted to block Ostler's transfers because she had complained, the archetype of unlawful motive.[85] That inference is reinforced by Longshore's shifting explanations for the Bigfork detail, a safety-based separation in her contemporaneous email versus staffing needs at hearing, a recognized badge of pretext. I find the General Counsel has met the initial *Wright Line* burden.

The Respondent contends that Ostler was not eligible for the transfers she applied for because she did not meet the 18-month criterion under the MOU. I find this explanation is pretext. First, as someone who was originally transferred from Missoula to Lincoln, Ostler fell under the following provision:

> Employees reassigned to installations under the provisions of this Memorandum must remain in the new installation for a period of eighteen (18) months, unless released by the installation head earlier, before being eligible to be considered for reassignment again, with the following exceptions: 1) in the case of an employee who requests to return to the installation where he/she previously worked. . ..

Accordingly, Ostler could have been reassigned to any of the positions she sought if her installation head released her, a factor completely within the Respondent's control.[86] Given that Muse himself had misgivings about working alone with Ostler, the failure to release her defies any legitimate explanation, pointing toward retaliation. Moreover, Ostler applied for multiple jobs in Missoula, her installation of record prior to Lincoln. Under the MOU's explicit terms, she could have been returned there without any time requirements. She received notice she was being considered for a clerk position in Missoula but was provided no explanation for her non-selection.[87]

Two form letters from Michael Kroger, a workforce planning specialist, state that Ostler was ineligible for the positions she applied to in Milltown, Clinton, Phillipsburg, and Deer Lodge

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[85] The statements are also evidence of animus.

[86] Through Westhoff's testimony, the Respondent attempted to show that local management had no say over reassignments and it was entirely and blindly within HR's control. This is unavailing. When Ostler texted Longshore about potentially working in Deer Lodge, Longshore responded that she would tell the manager in charge of that facility about Ostler and send Ostler his number, indicating some local influence over assignments. (GC Exh. 7.) In addition, Longshore worked with MPOO Alan Serfoss to obtain Ostler's detail to Bigfork. (Tr. 212.) Westhoff's own text asking Ostler to call him and provide Muse's contact information also underscores this. (GC Exh. 45.)

[87] The MOU allows for consideration of EEO factors, but the record is not clear as to the status of Ostler's EEO complaint as of December 2022. After conclusion of the mandated agency counseling, Ostler's complaint was filed on April 15, 2022, triggering the Postal Service's 180-day period to investigate it and provide Ostler a copy of her investigative file and a notice of her right to request a hearing or a final agency decision within 180 days, which would have been October 12, 2022. 29 CFR § 1614.108. There is no record evidence as to what occurred after Ostler filed her EEO complaint other than testimony it was dismissed. On August 11, 2022, when Ostler was informed she was being considered for a position in Lolo, however, her EEO complaint was still in an active phase, so the MOU could have allowed for reassignment based on this criterion in addition to the allowance for release by the installation head.

By the time Ostler received the notice she was being considered for a clerk position in Missoula, she had met the 18-month MOU criteria.

because she did not have the requisite 18 months of service in her current installation. As explained above, Ostler could have been released and permitted to transfer but was not. Importantly, Kroger's letters, dated December 7 and 9, 2022, state: "This 18 month 'lock-in' commenced on the effective date of your eReassign transfer, 08/28/2021. Any subsequent requests dated on or after 02/28/2023 will be considered per the steps in the transfer MOU."[88] Yet, Ostler applied for reassignments after February 28, 2023, with no explanation as to why she was not considered and/or not chosen. See *Wright Line*, supra at fn.12, citing *Shattuck Denn Mining Company v. NLRB*, supra ("[t]he absence of any legitimate basis for an action . . . may form part of the proof of the General Counsel's case").

The Respondent has therefore failed to prove that it would have denied Ostler's transfer requests even absent her protected activity. Its sole proffered reason, the MOU's 18-month lock-in, did not bar a release by the installation head or Ostler's return to Missoula, her prior installation. By its own terms it no longer applied after February 28, 2023, yet Ostler's later applications were denied without explanation. I find that the Respondent, by failing to grant Ostler's transfer requests, violated Section 8(a)(3) and (1) of the Act. Having closed every path out of Lincoln, the Respondent then confronted Ostler with the choice that forms the basis of the final allegation.

3. Constructive Discharge

Complaint paragraphs 6(i), 7, and 8 allege that on September 18, 2023, the Respondent constructively discharged Ostler, in violation of Section 8(a)(3) and (1) of the Act.

Under the Board's traditional test, two elements must be proven to establish a constructive discharge: (1) the employer causes, with intent, a change in the employee's working conditions so difficult or unpleasant as to force her to resign; and (2) the burdens on the employee were imposed because of the employee's union or protected concerted activities. *Crystal Princeton Ref. Co.,* 222 NLRB 1068 (1976). Under the first prong, the "test for intent is not limited to whether the employer specifically intended to cause the employee to quit, but includes whether, under the circumstances, the employer reasonably should have foreseen that its actions would have that result." *American Licorice Co*., 299 NLRB 145, 148 (1990). The second prong recognizes that a constructive discharge violates the Act only if it is implemented because of an employee's protected activity. The Board applies *Wright Line* to determine whether the second element has been met. See *M.J. Melo Painting Ltd*., 374 NLRB No. 131 (2026), citing also *Mercy Hospital*, 366 NLRB No. 165 (2018), and *Davis Electric Wallingford Corp*., 318 NLRB 375, 376 (1995).

The Board also recognizes the Hobson's choice doctrine, which the Board has described as follows:

> A constructive discharge is not a discharge at all but a quit which the Board treats as a discharge because of the circumstances which surround it. Such situations may arise when an employer confronts an employee with the Hobson's Choice of either continuing to work or foregoing rights protected by the Act.

[88] GC Exhs. 37-38.

Intercon I (Zercom), 333 NLRB 223 (2001), quoting *Multimatic Products*, 288 NLRB 1279, 1348 (1988). Under this theory, an employee's voluntary resignation will be considered a constructive discharge when an employer conditions the employee's continued employment on the employee's abandonment of his or her Section 7 rights and the employee quits rather than comply with the condition. Id. citing *Hoerner Waldorf Corp*., 227 NLRB 612 (1976).

I find the General Counsel has satisfied her burden under the *Crystal Princeton* framework. Starting with the first element, I find that the Respondent knew or should have known that its insistence that Ostler return to work one-on-one at the Lincoln PO supervised by Muse would result in an untenable situation for Ostler. The Respondent did so despite Ostler's repeated statements that she was frightened to work under Muse. Ostler's reports of Muse poking her in the chest, throwing mail, and sustained belittling (which the Respondent characterized as "rude"), were corroborated and credited. The conduct Ostler reported brought to light several violations of policy, which earned Muse an emergency off-duty placement that stoked outrage in the community. Her fear of going back after having reported Muse was reasonable.

Critically, despite Ostler's medical restrictions prohibiting her from working at the Lincoln PO, the Respondent insisted she work there or nowhere. Ostler's medical restrictions have not been challenged, and the Respondent was aware requiring her to return to work under Muse at the Lincoln PO created an irreconcilable conflict with them.[89] See *Yellow Ambulance Service*, 342 NLRB 804, 807 (2004) (employee constructively discharged after employer moved him from day shift to evening shift, which he could not work because of childcare responsibilities).

By the time of Muse's September 7, 2023, "duty status" letter, the Respondent had denied every transfer Ostler sought and, after February 4, 2022, never offered her any position other than Lincoln. This is consistent with Ostler's understanding from Westhoff's comments that she'd been blackballed, and Kirby's statements that she'd been railroaded, and she wasn't going to get a job. When Ostler asked Kirschenmann what the meeting was about, Kirschenmann told her it was about Ostler either going back to Lincoln or being fired, and she would not have union representation at the mandatory September 19 meeting. I find a reasonable person in this position would be forced to resign.

Turning to the second element, the Respondent's motivation, as I have found above, there is both direct and circumstantial evidence of animus. The record establishes not merely that the Respondent harbored animus toward Ostler's protected activity, but that each of the burdens leading to her resignation was imposed because of it.

First, the directive to return to work alone under Muse was imposed because of Ostler's protected complaints. Longshore detailed Ostler to Bigfork in December 2021 because she

[89] In closing brief, the Respondent points to Ostler's continuation in AWOL status, as opposed to termination, showed leniency and lack of retaliatory intent. I do not find this persuasive given the only option the Respondent provided to Ostler was to work outside her medical restrictions. Carrying her in AWOL status was not benevolent given the circumstances. There was no explanation as to why the Respondent carried Ostler on AWOL after her FMLA leave expired in August 2022, but decided in September 2023 that it was time to fish or cut bait. Without the EEO dismissal in the record, I am unable to tell if there is any temporal relationship.

believed Ostler and Muse needed to be separated. As discussed above, nothing about Muse or the Lincoln PO changed before Longshore reversed course on February 4, 2022, but meanwhile Ostler initiated the EEO process on January 4, naming Longshore as a responsible management official in her EEO retaliation case on January 21. The labor manager's advice that the Respondent should "never (well, hardly ever) move the complainant" shows that Ostler's status as a complainant factored into keeping her at Lincoln. The decision also rested on conclusions that disregarded the evidence the investigation itself had gathered, negating a good-faith basis for the action.

In addition, the denial of every alternative to Lincoln was imposed because of Ostler's complaints about Muse. I have credited Ostler's testimony that Westhoff told her he had been told to back off. I have also credited her testimony that Plant Manager Kirby told her she had been "railroaded," that Muse was part of an "old boy's club," and that she "wasn't going to get a job." These statements are not general expressions of hostility. They explain why particular managers stopped pursuing specific openings for Ostler, and they tie the closure of those opportunities directly to her complaints. See *NLRB v. U.S. Postal Service*, above at 486–487. The Respondent's only explanation, the MOU's 18-month lock-in, was pretextual for the reasons stated above. It ignored the installation head's power to release Ostler and the exception for a return to her prior installation, and it could not account for the unexplained denials after February 28, 2023.

Moreover, the final ultimatum came from the very supervisor Ostler had reported. Muse signed the September 7, 2023, duty-status letter, which the record shows was drafted under Stephenson's direction and sent no earlier than September 11. Muse's own email explained that Kirschenmann would conduct the interview with Ostler "to avoid more legal issues with Ostler." Kirschenmann then informed Ostler that the meeting would be attended only by himself and Muse, with no union representative, and that it was "about that either you have to go back to Lincoln or you're fired." Accordingly, the officials who imposed the final burden acted with express awareness of Ostler's protected complaints, placed subject of the complaints at the center of the process, and offered no option other than the one her complaints had sought to escape.

Finally, the burdens imposed on Ostler followed directly from the unlawful February 4, 2022 order and the unlawful denials of Ostler's transfer requests found above. Contemporaneous unfair labor practices directed at the same employee are strong evidence that a later burden was imposed for the same unlawful reason. See W*.C. McQuaide, Inc. v. NLRB*, 133 F.3d 47, 52-53 (D.C. Cir. 1998). The Respondent's contention that carrying Ostler in AWOL status reflects leniency is unavailing and does not alter the chain of events. As discussed below, the Respondent offered no explanation for why, after more than a year, it chose September 2023 to give her a return-or-removal ultimatum, and the only return it offered was the one her medical restrictions foreclosed. I therefore find that the burdens that forced Ostler's resignation were imposed because of her protected concerted activity, and that the second *Crystal Princeton* element is satisfied.

In sum, both elements of *Crystal Princeton* are satisfied. The Respondent knew, or reasonably should have foreseen, that requiring Ostler to work alone under Muse, contrary to her unchallenged medical restrictions and after it had closed off every other position, would force her to resign. It imposed that burden because she complained about Muse and pursued her contractual and EEO remedies. Accordingly, I find that on about September 18, 2023, the Respondent

constructively discharged Ostler, in violation of Section 8(a)(3) and (1) of the Act, as alleged in the complaint.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the Respondent, United States Postal Service, and this matter by virtue of Section 1209 of the Postal Reorganization Act, 39 U.S.C. § 1201 et seq.

2. The Montana Postal Workers Union, affiliated with the American Postal Workers Union, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By ordering Susan Ostler, on about February 4, 2022, to return to work at the Lincoln, Montana post office under the supervision of Postmaster Zach Muse because she engaged in protected concerted activity, the Respondent interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

4. By failing to grant Susan Ostler's requests for transfer to facilities other than the Lincoln, Montana post office, on various dates between approximately December 2022 and July 2023, because she engaged in protected concerted activity and assisted the Union, the Respondent discriminated in regard to the hire or tenure or terms or conditions of employment of its employees, in violation of Section 8(a)(3) and (1) of the Act.

5. By constructively discharging Susan Ostler on September 18, 2023, because she engaged in protected concerted activity and assisted the Union, the Respondent discriminated in regard to the hire or tenure or terms or conditions of employment of its employees, in violation of Section 8(a)(3) and (1) of the Act.

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

REMEDY

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

Having found that the Respondent unlawfully order Susan Ostler to return to the Lincoln PO, failed to grant her transfer requests and constructively discharged her, I shall order the Respondent to offer her full reinstatement to a position of the kind she unlawfully was denied. Ordinarily, a constructively discharged employee is offered reinstatement to her former job. Here, however, the record establishes that Ostler's former position at the Lincoln PO required her to work alone under the supervisor whose conduct she reported. It also establishes that her unrebutted medical restrictions precluded that assignment, and that the Respondent's refusal to place her anywhere else was itself unlawful. An offer of reinstatement to the Lincoln PO would

therefore perpetuate, rather than remedy, the violations found. Accordingly, the Respondent shall offer Ostler reinstatement to a clerk position at one of the installations to which she unlawfully was denied transfer. If no such position exists, it shall offer her a substantially equivalent position within a reasonable commuting distance of her residence that does not require her to work under Muse's supervision. The offer shall be without prejudice to her seniority or any other rights or privileges previously enjoyed. See *United States Postal Service*, 345 NLRB 1203 (2005) (ordering "reinstatement to, or award of," the position unlawfully denied); *Sara Lee Bakery Group, Inc. v. NLRB*, 296 F.3d 292, 300-301(4th Cir. 2002).

The Respondent shall make Ostler whole for any loss of earnings and other benefits suffered as a result of the discrimination against her. The backpay period shall begin on the date she first would have been transferred but for the unlawful denials and continue through the date of a valid offer of reinstatement, with the precise period and amounts left to compliance.[90] See *Sure-Tan, Inc. v. NLRB*, 467 U.S. 883, 902 (1984) Backpay shall be computed in accordance with *F. W. Woolworth Co*., 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010). The Respondent shall also compensate Ostler for her search-for-work and interim employment expenses regardless of whether those expenses exceed her interim earnings, *King Soopers, Inc*., 364 NLRB 1153 (2016), and for any other direct or foreseeable pecuniary harms incurred as a result of the unlawful conduct, *Thryv, Inc*., 372 NLRB No. 22 (2022), vacated in part on other grounds *Thryv, Inc. v. NLRB*, 102 F.4th 727 (5th Cir. 2024). These amounts shall be computed separately from taxable net backpay, with interest as above.

The Respondent shall compensate Ostler for the adverse tax consequences, if any, of receiving a lump-sum backpay award, *Don Chavas*, *LLC d/b/a Tortillas Don Chavas*, 361 NLRB 101 (2014). In accordance with *AdvoServ of New Jersey, Inc*., 363 NLRB 1324 (2016), it shall file with the Regional Director for Region 19, within 21 days of the date the amount of backpay is fixed by agreement or Board order, a report allocating the backpay award to the appropriate calendar years. In accordance with *Cascades Containerboard Packaging–Niagara*, 370 NLRB No. 76 (2021), as modified in 371 NLRB No. 25 (2021), it shall also file a copy of Ostler's corresponding W-2 form(s) reflecting the backpay award.

The Respondent shall remove from its files any reference to Ostler's constructive discharge, to her AWOL status following the unlawful denial of her transfer requests, and to the September 2023 duty-status letter and scheduled investigative interview. It shall notify her in writing that this has been done and that these matters will not be used against her in any way.

The Respondent shall post an appropriate informational notice, as described in the attached appendix. This notice, on a form provided by the Regional Director for Region [Insert Region Number], 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

[90] The "transfer date" should not be construed as the first date Ostler requested reassignment through the Respondent's eReassign process, but the first date she was denied the opportunity to work anywhere other than the Lincoln PO.

posting of paper notices, the Respondent shall distribute the notice electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by Respondent to ensure that the notice is not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed its facility, 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 the facility at any time since [date of first unfair labor practice].

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[91]

ORDER

The Respondent, United States Postal Service, Lincoln, Montana, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Ordering employees to return to work under the supervision of a manager about whom they have complained, or otherwise altering their work assignments, because they engage in protected concerted activities.

(b) Failing or refusing to grant employees' transfer requests because they engage in protected concerted activities or assist the Union.

(c) Constructively discharging employees because they engage in protected concerted activities or assist the Union.

(d) 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) Within 14 days from the date of the Board's Order, offer Susan Ostler full reinstatement to a clerk position at one of the installations to which she unlawfully was denied transfer or, if no such position exists, to a substantially equivalent position within a reasonable commuting distance of her residence that does not require her to work under the supervision of Postmaster Zach Muse. The offer shall be without prejudice to her seniority or any other rights or privileges previously enjoyed.

[91]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 due under the terms of this Order.

(b) Make Susan Ostler whole for any loss of earnings and other benefits, and for any other direct or foreseeable pecuniary harms, suffered as a result of the discrimination against her, in the manner set forth in the remedy section of this decision.

(c) Compensate Susan Ostler for the adverse tax consequences, if any, of receiving a lump-sum backpay award. Within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, file with the Regional Director for Region 19 a report allocating the backpay award to the appropriate calendar years.

(d) File with the Regional Director for Region 19, within 21 days of the date the amount of backpay is fixed by agreement or Board order or such additional time as the Regional Director may allow for good cause shown, a copy of Susan Ostler's corresponding W-2 form(s) reflecting the backpay award.

(e) Within 14 days from the date of the Board's Order, remove from its files any reference to the unlawful constructive discharge of Susan Ostler, to her AWOL status following the unlawful denial of her transfer requests, and to the September 7, 2023 duty-status letter and associated investigative interview. Within 3 days thereafter, notify her in writing that this has been done and that these matters will not be used against her in any way.

(f) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

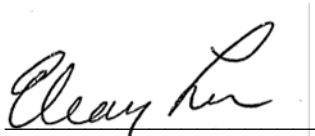
(g) Within 14 days after service by the Region, post at its Lincoln, Montana post office copies of the attached notice marked "Appendix."[92] Copies of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. The Respondent shall take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. If, during the pendency of these proceedings, the Respondent has closed any facility involved in these proceedings, it shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed at that facility at any time since February 4, 2022. The Respondent shall also mail a copy of the notice to Susan Ostler at her last known address.

[92] 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."

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

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

Dated, Washington, D.C. November 18, 2026



Eleanor Laws
U.S. 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.

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

WE WILL NOT retaliate against you for engaging in protected, concerted activity and Union activity by denying transfer requests and by directing you to return to work under a supervisor against whom you have made protected, concerted complaints.

WE WILL NOT discharge, or constructively discharge, you in retaliation for your protected, concerted activities.

WE WILL offer Susan Ostler immediate and full reinstatement to a position at a post office to which she was unlawfully denied a transfer or another post office where she is not supervised by Zach Muse and within a comparable commuting distance, or if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights and/or privileges previously enjoyed.

WE WILL pay Susan Ostler for the lost wages and benefits and other expenses she incurred, including for all direct and foreseeable harm, because we refused to transfer her and constructively discharged her.

WE WILL remove from our files all references to the refusal to transfer her and the constructive discharge of Susan Ostler and her AWOL status, and **WE WILL** notify her in writing that this has been done and that the constructive discharge and refusal to transfer her will not be used against her in any way.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

UNITED STATES POSTAL SERVICE
(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.

Region 19
National Labor Relations Board
915 2nd Avenue
Room 2948
Seattle, WA 98174-1078
Hours of Operation: 8:15am - 4:45pm PT
Telephone: (206) 220-6300, **Hours of Operation:** 8:15am - 4:45pm PT

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/19-CA-291810 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER (206) 220-6340.