

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 10**

**AMAZON.COM SERVICES LLC<sup>1</sup>**

**Employer**

**and**

**Case 10-RC-269250**

**RETAIL, WHOLESALE AND DEPARTMENT  
STORE UNION**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION<sup>2</sup>**

Amazon.com Services LLC (the Employer) is an Internet-based business that sells books, music, housewares, electronics, and other goods. On November 20, 2020, Retail, Wholesale and Department Store Union (the Petitioner) filed a petition seeking to represent approximately 1,500 fulfillment center employees at the Employer's facility in Bessemer, Alabama. The Employer took the position that the unit should, instead, include approximately 6,000 employees. The Petitioner has agreed to proceed to an election in the larger unit. The parties stipulate, and I find, that this unit is appropriate:

All hourly full-time and regular part-time fulfillment associates, seasonal fulfillment associates, lead fulfillment associates, process assistants, learning coordinators, learning trainers, amnesty trainers, PIT trainers, AR quarterbacks, interior handlers, hazardous waste coordinators, sortation associates, WHS specialists, onsite medical representatives, data analysts, dock clerks, transportation associates, interim transportation associates, transportation operations management support specialists, field transportation leads, seasonal learning trainers, seasonal safety coordinators, seasonal process assistants, and warehouse associates (temporary) employed by the Employer at its Bessemer, AL facility; excluding all truck drivers, office clerical employees, professional employees, managerial employees, engineering employees, maintenance employees, robotics employees, information technology employees, loss prevention specialists, guards, and supervisors as defined by the Act.

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<sup>1</sup> I have corrected the Employer's name to conform with the parties' stipulation in Board Exhibit 2.

<sup>2</sup> The Petitioner filed this petition under Section 9(c) of the Act. I have the authority to hear and decide this matter on behalf of the Board under Section 3(b) of the Act. I make the following preliminary findings: the hearing officer's rulings are free from prejudicial error and are affirmed; the Employer is an employer engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction; the Petitioner is a labor organization within the meaning of the Act; and a question affecting commerce exists concerning the representation of certain employees of the Employer.

The parties have further stipulated that the appropriate standard for determining eligibility should be the *Davison-Paxon* formula.<sup>3</sup> Therefore, eligible to vote are all employees in the unit who have worked an average of four hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.

A hearing officer of the National Labor Relations Board conducted the hearing in this matter via videoconference on December 18, 21, and 22, 2020.<sup>4</sup> When the hearing closed, the only matter remaining in contention was whether to conduct a manual (in-person) or mail ballot election. The Petitioner takes the position that a mail ballot election is warranted during the present COVID-19 pandemic, while the Employer prefers a manual election.

It is well understood that election arrangements, including election type, are non-litigable matters,<sup>5</sup> and I did not permit the Employer to present evidence in support of its position regarding the election type at the hearing. Rather, I directed the Employer to make an offer of proof in writing by December 28, 2020. I permitted the Petitioner to submit any rebuttal evidence by December 31, 2020. Thereafter, the parties' post-hearing briefs were due on January 7, 2021. The offer of proof, rebuttal, and briefs were all timely filed.

Having considered the parties' positions and the entire record, and as explained below, I have directed a mail ballot election because this is the safest and most appropriate method of conducting an election in view of the extraordinary circumstances presented by the COVID-19 pandemic.

#### *The Employer's Business and Facility*

The Employer sells various goods through its website. The Employer's Bessemer, Alabama, facility, which is the sole facility at issue here, is a "Robotics Sortable Fulfillment Center." Employees at the facility receive, pick, pack, and ship "sortable" packages, which are defined as packages not exceeding 25 pounds. The first floor of the facility alone measures 855,000 square feet.<sup>6</sup>

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<sup>3</sup> *Davison-Paxon Co.*, 185 NLRB 21 (1970).

<sup>4</sup> See *Morrison Healthcare*, 369 NLRB No. 76 (2020). The ongoing global COVID-19 pandemic constitutes extraordinary circumstances necessitating the Region to conduct the hearing by videoconference technology.

<sup>5</sup> See Board's Rules and Regulations Sec. 102.66(g)(1). Likewise, it has been well-settled and established that a party in a representation case may not litigate the sufficiency, validity, or authenticity of the showing of interest at a hearing. *River City Elevator Co.*, 339 NLRB 616 (2003); *General Dynamics Corp.*, 175 NLRB 1035 (1969); *Allied Chemical Corp.*, 165 NLRB 235, fn. 2 (1967); *O.D. Jennings & Co.*, 68 NLRB 516 (1946). The determination of the sufficiency of the showing of interest is purely an administrative matter and not dispositive as to whether a question concerning representation exists. *Sheffield Corp.*, 108 NLRB 349, 350 (1954).

<sup>6</sup> Travis Maynard, the Director of Operations at the Employer's Bessemer facility, testified that that the first floor is the same size as 14 football fields. He further testified that the building is over 1000 feet long, and thus longer than the battleship USS ALABAMA, which measures only 680 feet.

As of January 7, 2021, the Employer employed nearly 6,200 hourly associates at the Bessemer facility. As an essential business, the Employer has continued to operate throughout the pandemic. Accordingly, the Employer has enhanced cleaning and sanitization; implemented daily temperature checks of all employees; provided personal protective equipment, including gloves and masks, to its employees; installed hand-sanitizing stations; erected protective barriers; implemented staggered shifts; and engaged in quarantining and contact tracing procedures. Additionally, the Employer has designated eleven employees per shift along with dedicated leadership, known as the social-distancing team, to promote social distancing and act as coaches throughout the facility. The Employer has also developed a tool known as the “Distance Assistant” which uses a television screen with a mounted camera to show and alert associates when they are not meeting social-distancing requirements.

As of December 28, 2020, the Employer certified that only forty (40) individuals fell into the category of “present in the facility within the preceding 14 days [who] have tested positive for Covid-19 (or are awaiting test results, are exhibiting characteristic symptoms, or have had contact with anyone who has tested positive in the previous 14 days).”

When an employee is diagnosed with COVID-19, the Employer determines whether additional deep cleaning is necessary by evaluating where the diagnosed employee was in the building, for how long, how much time has passed since the employee was on-site, and with whom the employee interacted, among other factors. If an employ informs the Employer of the diagnosis while on-site, the site shuts down the associate’s workstation and any adjacent work areas for a deep cleaning.

#### *The Employer’s Proposal*

The Employer proposes the parking lot adjacent to the facility as the voting location. The Employer asserts that it can erect a tent equipped with heating and lighting to cover approximately 3,600 square feet. The size of the tent may be adjusted as needed or desired, and the sides may be raised and lowered to control the flow of fresh air. Voting would take place between 6:00 a.m. and 11:00 a.m. and between 1:00 p.m. and 6:00 p.m. for up to four days.

In addition to providing all requested health certification and personal protective equipment, the Employer is willing to make free COVID testing available to election participants; conduct temperature screening utilizing thermoscan technology; make its digital “Distance Assistant” or human social distancing team available to monitor the line leading to the voting tent; provide pass-through boxes or vending machines to ensure that ballot distribution is contactless; provide restroom trailers so that Board agents need not enter the Employer’s facility; arrange for food delivery services to be received at a separate tent near the voting area so that Board agents need not seek meals elsewhere; arrange for Board agent transportation to the voting location using drivers who have received negative COVID tests; arrange for an private, independently sanitized floor or wing of a local hotel for Board agents staying in the area overnight; and/or arrange for Board agents who wish to stay on-site in recreational vehicles during the course of the election.

Analysis

Although it has not directly addressed Board elections, the Centers for Disease Control (CDC) has issued guidance on elections in general. Its *Considerations for Election Polling Locations and Voters* states officials should “consider offering alternatives to in-person voting if allowed” and that “[v]oting alternatives that limit the number of people you come in contact with or the amount of time you are in contact with others can help reduce the spread of COVID-19.”<sup>7</sup> The CDC further states the virus can survive for a short period on some surfaces, and it is possible to contract COVID-19 by touching a surface or object that has the virus on it and then touching one’s mouth, nose, or eyes,” but “it is unlikely to be spread from domestic or international mail, products or packaging.”<sup>8</sup> To avoid the unlikely possibility of contracting COVID-19 through the mail, the CDC simply advises: “After collecting mail from a post office or home mailbox, wash your hands with soap and water for at least 20 seconds or use a hand sanitizer with at least 60% alcohol.”<sup>9</sup>

In response to the evolving realities of the ongoing pandemic, the Office of the General Counsel issued Memorandum GC 20-10 on July 6, 2020. The suggested protocols include: polling times sufficient to accommodate social distancing without unnecessarily elongating exposure among Board Agents and observers; the employer’s certification in writing that polling area is consistently cleaned in conformity with CDC standards; a spacious polling area, sufficient to accommodate six-foot distancing; separate entrances and exits for voters; separate tables spaced six feet apart; sufficient disposable pencils without erasers for each voter to mark their ballot; glue sticks or tape to seal challenge ballot envelopes; plexiglass barriers of sufficient size to protect the observers and Board Agent; and provision of masks, hand sanitizer, gloves and disinfecting wipes.

Memorandum GC 20-10 also requests an employer’s written certification of how many individuals have been present in the facility within the preceding 14 days who have tested positive for COVID-19; who have been directed by a medical professional to proceed as if they have tested positive for COVID-19; who are awaiting results of a COVID-19 test; who are exhibiting symptoms of COVID-19; or who have had direct contact with anyone in the previous 14 days who has tested positive for COVID-19.

The Board offered further guidance regarding the direction of manual elections during the COVID-19 pandemic in *Aspirus Keweenaw*, 370 NLRB No. 45 (November 9, 2020). In *Aspirus*

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<sup>7</sup> CDC, *Considerations for Election Polling Locations*, (as updated October 29, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (“Elections with only in-person voting on a single day are higher risk for COVID-19 spread ...”).

<sup>8</sup> CDC, *Frequently Asked Questions, Am I at risk for COVID-19 from mail, packages, or products?* (as updated October 9, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/faq.html>.

<sup>9</sup> CDC, *Running Errands* (as updated September 11, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/essential-goods-services.html>.

*Keweenaw*, the Board set forth six situations under which a Regional Director should consider directing a mail-ballot election. As additional guidance the Office of the General Counsel issued Memorandum GC 21-01 on November 10, 2020. While *Aspirus Keweenaw* does not require a Regional Director to direct a mail ballot election where one or more of the six factors are present, the Board stated that Regional Directors who direct mail-ballot elections under those circumstances will not be found to have abused their discretion.

The six situations are:

- 1) The Agency office tasked with conducting the election is operating under “mandatory telework” status;
- 2) Either the 14-day trend in the number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher;
- 3) The proposed manual election site cannot be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size;
- 4) The employer fails or refuses to commit to abide by the GC Memo 20-10 protocols;
- 5) There is a current COVID-19 outbreak at the facility or the employer refuses to disclose and certify its current status; and
- 6) Other similarly compelling considerations.

As the Board acknowledged, no Regional Office, including Subregional and Resident Offices, has been in a mandatory telework status since mid-June. The Employer’s proposed polling place does not appear to violate any mandatory state or local health orders, and the Employer’s proposed precautions exceed those contemplated by GC Memo 20-10.

The Board has not defined an in-facility outbreak, nor is there a standard medical definition of “outbreak.” The Employer posits that 5% of a facility’s total population of individuals must test positive over the course of the prior 14-day period before a Regional Director may determine that the presence of COVID-19 inside an Employer’s facility constitutes an outbreak. The Petitioner suggests that the Harvard Global Health Institute’s recommendation of less than 25 daily cases per 100,000 in order to consider in person activities safe should be the controlling metric. However, I note that any presence of COVID-19 in an employer’s facility has been cited as a factor in favor of conducting a mail ballot election in multiple Directions of Election, and I shall do so here.

Finally, the Board instructed Regional Directors to focus their evaluations on recent statistics that reflect the severity of the outbreak in the specific locality where the election will be

conducted and stated that “a mail-ballot election will normally be appropriate if either (a) the 14-day trend in the number of new confirmed Covid-19 cases in the county where the facility is located is increasing, or (b) the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher.”

The Employer’s facility is located in Bessemer, Alabama, which is in Jefferson County. According to the Centers for Disease Control, the testing positivity rate for Jefferson County was over 17 percent as of January 11, 2021.<sup>10</sup> That is to say, the testing positivity rate in Jefferson County is *more than three times higher* than the threshold set forth by the Board. Also, the 14-day trend in the number of new confirmed COVID-10 cases in Jefferson County is also rising according to the Johns Hopkins COVID-19 status report.<sup>11</sup>

As of January 11, Johns Hopkins University’s website showed the following number of new cases in Jefferson County for each day for the preceding fourteen days:

<b>Date</b>	<b>Number of New Cases</b>
January 10	502
January 9	785
January 8	786
January 7	792
January 6	687
January 5	995
January 4	337
January 3	391
January 2	563
January 1	719
December 31	663
December 30	990
December 29	705
December 28	336

In averaging the change in the number of new daily cases, the number of new daily cases rose at an average rate of 12.77 additional cases per day in Jefferson County.

Infection rates for the State of Alabama as a whole are equally troubling. In December 2020, Governor Kay Ivey issued a twentieth supplemental emergency proclamation extending the Safer at Home Order which recommends, inter alia, that individuals minimize travel outside the home. The Mayo Clinic’s COVID-19 map, which shows a rolling average of daily cases for the past week, deemed every county in Alabama a “hot spot” as of January 11, 2021.<sup>12</sup>

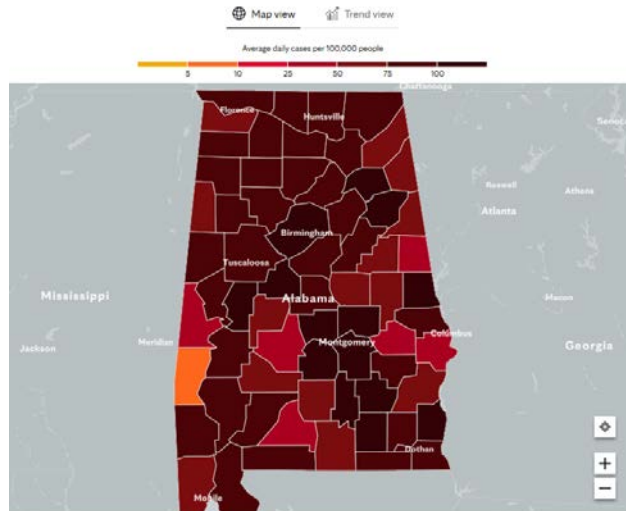
<sup>10</sup> See <https://covid.cdc.gov/covid-data-tracker/#county-view> (last visited January 11, 2021).

<sup>11</sup> See <https://bao.arcgis.com/covid-19/jhu/county/01073.html> (last visited January 11, 2021).

<sup>12</sup> See <https://www.mayoclinic.org/coronavirus-covid-19/map/alabama> (last visited January 11, 2021).

### Hot spots in Alabama

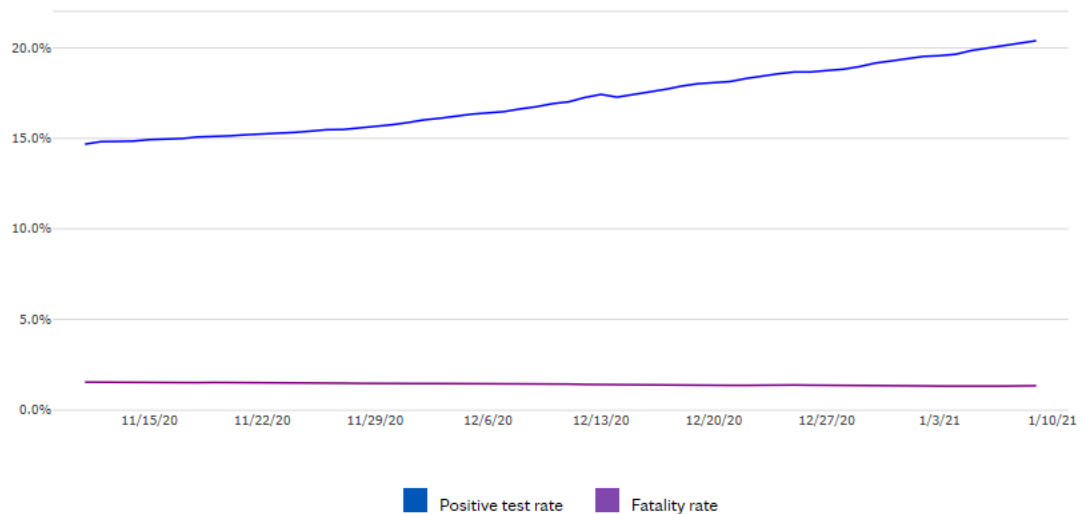
This map shows a rolling average of daily cases for the past week. This is the best sign of hot spots.



The Mayo Clinic’s website also demonstrates that in the past two months, the cumulative positive test rate throughout Alabama has risen from below 15 percent to above 20 percent.

### More trends for Alabama

See how the number of coronavirus tests, cumulative positive test rate and cumulative fatality rate have changed over time.



As of January 6, 2021, Alabama had the nation’s third highest number of people per capita hospitalized with COVID-19. Alabama hospitals lacking capacity to treat COVID patients are presently seeking to transfer patients to out-of-state hospitals; in the past month, the number

of people hospitalized for COVID-19 statewide has nearly doubled. Only five percent of the state's ICU beds are available.<sup>13</sup> Neighboring states may be unable to provide aid to Alabama as their own COVID-19 infections, like those of the nation as a whole, continue to rise.

As of January 11, over 22.5 million people in the United States have been infected with COVID-19 and over 374,000 people have died.<sup>14</sup> These deaths have occurred despite unprecedented measures taken to stem transmission. Current evidence suggests that asymptomatic and pre-symptomatic transmission may account for more than fifty percent of new infections.<sup>15</sup> The Centers for Disease Control has published reports regarding pre-symptomatic and asymptomatic transmission of COVID-19, including in the *Emerging Infectious Disease Journal* (Online Report) for July, "Evidence Supporting Transmission of Severe Acute Respiratory Syndrome Coronavirus 2 While Pre-symptomatic or Asymptomatic."<sup>16</sup> The Online Report emphasizes, "transmission in the absence of symptoms reinforces the value of measures that prevent the spread of [COVID-19] by infected persons who may not exhibit illness despite being infectious."

The Employer argues that the virus spread in Jefferson County is irrelevant where the positivity rate within the Employer's facility is only 2.88 percent. This argument is not persuasive. Neither employees nor party representatives nor Board agents exist entirely within the Employer's facility. Employees venture into Jefferson County, and other parts of Alabama, each day. Board agents would be required to travel to the election site from other states. Given the prevalence of asymptomatic transmission and the presence of COVID-19 both inside and outside the Employer's facility, the overall state of crisis in Jefferson County cannot be ignored.

Additionally, the Employer argues that a manual election would be appropriate despite the presence of multiple *Aspirus Keweenaw* factors in Jefferson County because mail services may be delayed; because the mechanics of running such a large election via mail are prohibitively complex; because a mail ballot election would restrict the Employer's right to communicate with its employees; and because a mail ballot election is not otherwise justified by *San Diego Gas and Electric*, 325 NLRB 1143, 1144 (1998).

The Board affirmed in *Aspirus Keweenaw* that, while it has a general preference for manual elections, "the Covid-19 pandemic indisputably warrants mail-ballot elections in appropriate circumstances." Where, as here, multiple *Aspirus Keweenaw* factors are present, I need not perform an independent analysis under *San Diego Gas and Electric*.

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<sup>13</sup> See <https://wbhm.org/feature/2021/overwhelmed-with-covid-patients-alabama-hospitals-near-crisis-level/> (last visited January 11, 2021), as cited in Petitioner's brief.

<sup>14</sup> See <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (last visited January 11, 2021).

<sup>15</sup> See <https://abcnews.go.com/Health/asymptomatic-presymptomatic-people-transmit-covid-19-infections-study/story?id=71647268> (last visited January 11, 2021).

<sup>16</sup> See [https://wwwnc.cdc.gov/eid/article/26/7/20-1595\\_article](https://wwwnc.cdc.gov/eid/article/26/7/20-1595_article) (last visited January 11, 2021).



Regarding any delay in mail services, the articles regarding potential delays cited by the Employer pertain to the holiday season, which results in an increase in demand for mail services. The holiday season has now ended and will not affect the mailing of ballots in this matter. The Board noted in *Daylight Transport*, 31-RC-262633 (August 19, 2020) that while concerns about potential disenfranchisement of voters could be relevant to whether a mail-ballot election is appropriate, such concerns do not automatically require a manual election. Any party is, of course, free to present evidence of any actual disenfranchisement of voters in post-election objections.

Next, the Employer expresses a concern that the Region is not equipped to handle the administrative burdens which would necessarily accompany the largest mail ballot election run by the NLRB during the present pandemic. It is true that this will be an unusually large election, and that large elections, whether held manually or by mail, come with additional administrative burdens. However, the Board has never placed a limit on the size of a voting unit due to administrative burdens. Each “largest election” remains the largest only until, inevitably, a petition is filed covering a still greater group of employees.

The Employer objects to a mail ballot election on the ground that it will not be able to hold certain employee meetings at any time within 24 hours of when the ballots are mailed until the ballots are counted. The Employer argues that this unfairly gives the Petitioner a greater opportunity to communicate with employees where the Employer has ceased holding large in-person meetings due to the pandemic. I note that the Employer has ceased holding large in-person meetings for the same reasons that a manual election is inappropriate. I further note that many methods of digital communication are available in equal measure to the employees, the Petitioner, and the Employer.

Meanwhile, the Petitioner objects to the Employer’s proposal, in part, because the Region would appear to cede an inordinate amount of control over election proceedings to the Employer. While the Employer’s creativity in seeking new ways to protect the health of election participants is laudable, I agree that, in practice, utilization of the Employer’s extensive resources would tend to give the appearance to voters that the Region is accepting benefits from the Employer and is no longer a neutral party. Certainly, the use of the Employer’s digital “Distance Assistant” or human social distancing team to monitor the line leading to the voting tent would give the impression of surveillance or tracking. The use of equipment clearly belonging to the Employer, such as pass-through boxes or vending machines, likewise implies a problematic amount of Employer involvement in election proceedings.

The most important factors in my decision are the safety of all election participants and the enfranchisement of all voters. Both of these factors weigh in favor of a mail ballot election. A mail ballot election will enfranchise employees who cannot enter the voting location for health reasons or due to positive COVID tests. In addition, a mail ballot election will protect the health and safety of voters, Agency personnel, the parties’ representatives, and the public during the current health crisis.

Based on the high and still-rising positivity rate in Jefferson County, and the undeniable presence of COVID-19 both inside and outside the Employer's facility, I find that a mail-ballot election is warranted in keeping with the Board's decision in *Aspirus Keweenaw*.

### Conclusion

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Also eligible to vote are all employees in the unit who have worked an average of four hours or more per week during the 13 weeks immediately preceding the eligibility date for the election. The record evidence indicates that the payroll period ends every Saturday.

Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Retail, Wholesale and Department Store Union.

### **A. Election Details**

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. On **Monday, February 8, 2021**, at 2:00pm, ballots will be mailed to voters by the National Labor Relations Board, Region 10. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 10 office by close of business on **Monday, March 29, 2021**.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by February 22, 2021, should communicate immediately with the National Labor Relations Board by either calling the Region 10 Office at 404-331-2896 or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

A Board agent from the Region will count the ballots beginning at **10:00am (Central Time), on Tuesday, March 30, 2021**. Due to the extraordinary circumstances of the COVID-19 pandemic and the directions of state or local authorities including Shelter in Place orders, travel restrictions, social distancing and limits on the size of gatherings of individuals, I further direct that the ballot count will take place virtually, on a platform (such as Skype, WebEx, Zoom, etc.) to be determined by the Acting Regional Director. The ballot count will continue on consecutive business days until completed. Each party will be allowed to have four observers attend the virtual ballot count.

### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by January 20, 2021. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**D. Posting of Notices of Election**

Notices of Election will be electronically transmitted to the parties, if feasible, or by overnight mail if not feasible. Section 102.67(k) of the Board's Rules and Regulations requires the Employer to timely post copies of the Board's official Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted. The Employer must also distribute the Notice of Election electronically to any employees in the unit with whom it customarily communicates electronically. In this case, the notices must be posted and distributed no later than 12:01 a.m. on February 3, 2021. If the Employer does not receive copies of the notice by January 29, 2021, it should notify the Regional Office immediately. Pursuant to Section 102.67(k), a failure to post or distribute the notice precludes an employer from filing objections based on nonposting of the election notice.

To make it administratively possible to have election notices and ballots in a language other than English, please notify the Board agent immediately if that is necessary for this election. Also, if special accommodations are required for any voters, potential voters, or election participants to vote or reach the voting area, please tell the Board agent as soon as possible.

Please be advised that in a mail ballot election, the election begins when the mail ballots are deposited by the Region in the mail.

**RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after

issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: January 15, 2021

A handwritten signature in black ink, appearing to read 'L. Henderson', with a long horizontal line extending to the right.

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LISA Y. HENDERSON  
ACTING REGIONAL DIRECTOR  
Region 10  
National Labor Relations Board  
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