

**NO COMPANY IS ABOVE THE LAW:
THE NEED TO END ILLEGAL
UNION BUSTING AT STARBUCKS**

HEARING
OF THE
**COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS**
UNITED STATES SENATE
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING THE NEED TO END ILLEGAL UNION BUSTING AT
STARBUCKS

—————
MARCH 29, 2023
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**NO COMPANY IS ABOVE THE LAW:
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UNION BUSTING AT STARBUCKS**

Wednesday, March 29, 2023

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The Committee met, pursuant to notice, at 10:01 a.m., in room G50, Dirksen Senate Office Building, Hon. Bernard Sanders, Chairman of the Committee, presiding.

Present: Senators Sanders [presiding], Murray, Casey, Baldwin, Murphy, Kaine, Hassan, Smith, Lujàn, Hickenlooper, Markey, Cassidy, Paul, Braun, Marshall, Romney, Tuberville, and Mullin.

OPENING STATEMENT OF SENATOR SANDERS

The CHAIR. The Senate Committee on Health, Education, Labor, and Pensions will come to order. And let me get to the point of this hearing. Today in our Country, over 60 percent of our people are living paycheck to paycheck and millions are working for starvation wages.

Unbelievably, despite an explosion in technology and huge increases in worker productivity, the average American worker is making \$50 a week less than he or she made 50 years ago after adjusting for inflation. Unless we change the nature of the way our economy works, it is all too likely that our younger generation will have a lower standard of living than their parents.

What this means in reality is that workers throughout our Country are struggling to pay for housing, struggling to pay for health care and prescription drugs, struggling to put food on the table, struggling to pay off their student debts, and to deal with other basic necessities of life.

While that is the reality for the working class of this country, here is another reality, and that is that the people on top have never, ever had it so good. Today in America, we have more income and wealth inequality than we have ever had, with the top 1 percent now owning more wealth than the bottom 90 percent, with CEOs now making 400 times what their workers are making, and with three people at the top owning more wealth than the bottom half of American society.

That is the economic reality that exists today. People on top doing extraordinarily well, millions of working families struggling. And as a result of that economic reality, what we are now seeing

is a major increase in trade union organizing. Throughout our Country in blue collar jobs and in white collar jobs.

Workers are standing up and they are fighting back to form unions in order to improve their wages, their benefits, and their working conditions. These workers know, as I do, that union workers earn 20 percent more on average than nonunion workers. These workers also know, as I do, that union workers have better health care benefits, better paid family and medical leave policies, are much more likely to have a pension and are less likely to be victims of health and safety violations compared to nonunion workers. At a time when 71 percent of the American people now approve of unions, the highest level since 1965, there has been a major revitalization of the trade union movement in this country.

Between 2021 and 2022, the number of union elections taking place in America has gone up by 53 percent. And since 2020, workers have voted to form a union in over 70 percent of union elections. Rather extraordinary. And now that is the good news for those of us who understand that strong unions are a vital part of rebuilding the declining middle class in this country.

That is the good news. The bad news is that in order to combat this increase in union organizing, corporations have engaged in an unprecedented level of illegal union busting activities, which takes us to the focus of today's hearing. Over the past 18 months, Starbucks has waged the most aggressive and illegal union busting campaign in the modern history of our Country.

That union busting campaign has been led by Howard Schultz, the multi-billionaire founder and director of Starbucks, who is with us this morning only under the threat of subpoena. Let us be clear about the nature of Starbucks anti-union efforts. The National Labor Relations Board, NLRB, has filed over 80 complaints against Starbucks for violating Federal labor law.

There have been over 500 unfair labor practice charges lodged against the company, and judges have found that Starbucks broke the law 130 times across six states since workers began organizing in the fall of 2021.

These violations include the illegal firing of more than a dozen Starbucks workers for the crime of exercising their right to form a union and to collectively bargain for better wages, benefits, and working conditions.

Since the first Starbucks union was certified more than 450 days ago in Buffalo, workers in more than 360 stores across 40 states have held union elections. 83 percent of these elections have resulted in a union victory. and today, nearly 300 Starbucks coffee shops, employing more than 7,000 workers have a union, despite Starbucks aggressive anti-union efforts.

But with nearly 300 shops voting to form a union, Starbucks has refused to sign a single first contract with the union. Not a single one. Think about that. Think about a multi-billion dollar company with unlimited resources, with all kinds of lawyers, advisers, consultants, and yet they have not yet signed one contract with any of their nearly 300 unionized shops.

Just a few weeks ago, on March 1st, an administrative law judge found Starbucks guilty of, “egregious and widespread misconduct,” which showed, “a general disregard for the employees’ fundamental rights.”

In a 220 page ruling, this judge found that Starbucks illegally retaliated against employees for unionizing, promised improved pay and benefits if workers rejected the union, conducted illegal surveillance of pro-union workers, refused to hire prospective employees who supported the union, relocated union organizers to new stores, and overstaffed stores ahead of union votes.

All clear violations of Federal labor law. The judge also found that Starbucks, “widespread coercive behavior over 6 months had permeated every store in the Buffalo market.” The judge ordered Starbucks to reinstate seven workers who were wrongfully terminated, reopen a pro-union store in Buffalo that was illegally shut down, and pay “reasonable, consequential damages” to more than two dozen Starbucks workers whose rights were violated by the company.

Let us be clear, Starbucks egregious union busting campaign is not limited to Buffalo. It is happening all over America. Federal courts in Tennessee and Michigan have issued emergency injunctions requiring Starbucks to reinstate workers who were illegally fired and to prohibit the coffee chain from firing workers for supporting unionization efforts in the future.

In Scottsdale and Phoenix, Arizona, the NLRB has charged Starbucks with committing eight violations of labor law when it disciplined, fired, and forced out workers because they cooperated with Federal investigations. On November 30th of last year, the NLRB found that Starbucks unlawfully refused to recognize and bargain with the union at its reserved grocery store in Seattle.

NLRB judges have found that Starbucks illegally threatened to withhold benefits, including health insurance, from pro-union workers in Denver, Overland Park, Kansas, Seattle, Washington, and Ann Arbor, Michigan. The pattern in all of these scores is clear.

On one hand, we have workers making \$13, \$14, \$15 an hour with minimal benefits, working 20 hours a week, 30 hours a week, maybe 40 hours a week, depending on a totally unpredictable schedule dictated by their managers, and these workers are out there struggling today to achieve dignity and justice on the job.

That is what they are trying to do, and I applaud their efforts. And on the other hand, we have a corporation, worth some \$113 billion, largely controlled by an individual worth some \$4 billion, who are using their unlimited resources to do everything possible, legal and illegal, to deny these workers their Constitutional right to form a union.

The fundamental issue we are confronting today is whether we have a system of justice that applies to all or whether billionaires and large corporations can break the law with impunity. I have read Mr. Schultz’s comments to the media in which he expresses his strong anti-union views.

As an American, Mr. Schultz is entitled to those views and any other views he holds. But even if he is a multi-billionaire and the head of a giant corporation, he is not entitled to break the law. So today I will be asking Mr. Schultz whether he will do what an administrative law judge has ordered him to do, and that is to record and distribute a 14-page notice, which states that Starbucks has violated Federal labor law to inform Starbucks employees all across this country about their rights under the National Labor Relations Act.

How Starbucks has violated those rights and to assure that Starbucks will not infringe upon those rights in the future. In other words, I will be asking Mr. Schultz whether or not he intends to obey the law.

Further, I will be asking Mr. Schultz another question, and that is whether or not he is prepared to promise this Committee that within 14 days of this hearing, Starbucks will exchange proposals with the union, something that it has refused to do for more than 450 days, so that meaningful progress can be made to bargain a first contract in good faith.

Let me conclude by saying that what is outrageous to me is not only Starbucks anti-union activities and their willingness to break the law. It is their calculated and intentional efforts to stall, to stall, and to stall.

They understand that the turnover rate at Starbucks and many other similar type companies is high. They understand that if workers see—do not see success in gaining a contract, they are going to get discouraged and give up the fight.

At a time when we want in this difficult time in our Country for people to stand up and fight for their rights, to try to destroy the spirit of thousands and thousands of people who are fighting for justice, that to my mind, is unforgivable. Senator Cassidy.

OPENING STATEMENT OF SENATOR CASSIDY

Senator CASSIDY. Thank you, Chairman Sanders. Workers have a right to organize. Now, some may disagree as to whether the protections for workers who choose to organize should also apply to workers who choose not to organize. That is my position, but examining this nuance is not an issue here.

The title of today's hearing is, No Company Is Above the Law, The Need to End Illegal Union Busting at Starbucks. Now, that clearly presumes that Mr. Schultz and his former employee are guilty before the allegations are fully investigated.

The title suggests that this hearing is not a good faith effort to get at the facts. It is a smear campaign against an individual and a company based upon allegations that everyone knows are still under litigation.

I am not here to defend Starbucks. I have my own questions about the alleged misconduct, and the law should be followed and upheld. I agree with the Chair, no one is above the law. But let's not kid ourselves, this is not a fair and impartial hearing. Now, it is not surprising that Mr. Schultz was reluctant to testify.

When the majority is using the title of the hearing to slander the witness we are asking to testify, it sends a signal. The Majority points to claims of Starbucks misconduct filed at the National Labor Relations Board to justify today's hearing.

These allegations should be addressed and they should be investigated, period. But it would be malpractice for this Committee to not also acknowledge that NLRB is currently facing its own credibility crisis.

The NLRB confirmed there are four separate allegations of NLRB employee interference, three in which the employer was Starbucks, pending before the board. It begs the question, are NLRB employees weaponizing the agency against American employers to benefit politically connected labor unions?

The National Labor Relations Act was passed to provide an unbiased framework to review disputes between employers and employees. The NLRB carries out the law and is required to protect the rights of all parties in a labor dispute, not put their thumb on the scale in favor of unions. But that is not what we appear to see in practice.

An NLRB hearing officer recently substantiated reports of voting irregularities in a union election at a Starbucks in Kansas that could potentially elevate to the level of misconduct by NLRB employees. This includes NLRB staff providing duplicate ballots, supplying union organizers with confidential voter information, providing voter accommodations to employees selected by the union without offering them to all employees.

Regardless of the outcome, these actions are in direct violation of Federal law and NLRB written guidelines. Now, today, we will hear from former Congressman Bradley Byrne. He is representing the brave whistleblower who brought this misconduct and weaponization of the agency to light.

He will be able to provide more insight into how the NLRB is operating in violation of its own practices and procedure in a way that favors labor unions. Let's be clear, and one more time, workers have a legal right to unionize. Companies cannot break the law to prevent unionization.

Similarly, unions should not be allowed to intimidate workers into unionizing through coercion or by banning secret ballot elections, which the Supreme Court has stated, "indeed, the preferred" method to gauge workers' support of unionization. This is a conversation this Committee can have and will continue to have.

But the bottom line is that a Federal agency has no right to break the law to advance a political agenda. And this should be something that our Committee investigates on a bipartisan basis. If the Committee is going to properly investigate concerns over labor relations at Starbucks, we should also investigate alleged misconduct of the agency that sought to influence the union representation process.

At last week's hearing, I said we should thoughtfully examine legitimate policy issues, not hold show trials for public shaming. Today looks like more of what we saw last week. There are important bipartisan things the Committee needs to accomplish.

We need to work together on real solutions to issues facing American families like the high cost of prescription drugs, getting Americans back to work, driving down inflation that is choking economic growth. Instead, we put CEOs on the dock.

But instead of a cage in which the prisoner was formally kept, it is a desk in front of the Committee where a judgment has already been made. Thank you, and I look forward to today's testimony.

The CHAIR. Thank you, Senator Cassidy. We will now turn to our witness. Mr. Howard Schultz is the former longtime Chief Executive Officer of Starbucks and a member of the Starbucks Board of Directors. Mr. Schultz, you may proceed with your testimony.

STATEMENT OF HOWARD SCHULTZ, MEMBER OF THE BOARD OF DIRECTORS, FORMER CEO, STARBUCKS CORPORATION, SEATTLE, WA

Mr. SCHULTZ. Thank you very much, Mr. Chairman. Good morning, Chairman Sanders, Ranking Member Cassidy, and Senators of the Committee. I am pleased to be here this morning and tell the entrepreneurial story of Starbucks and how we have carried the American flag to 84 countries around the world.

My vision for Starbucks Coffee Company has always been steeped in humanity, respect, and shared success. It is a vision that was inspired by the struggles of my father, a World War II veteran who slipped on a sheet of ice in 1960 and was promptly fired from his job as a delivery driver.

It fractured our family and it deeply scarred me. I decided at an early age that if I was ever in a position to run a business, it would be based on respect and shared success. With my 1-year term as Starbucks interim CEO having come to a close, I appear before you today with love and gratitude for what we have built at Starbucks over these last 40 years.

The essential operating approach at Starbucks since 1987, when we had just 11 stores, has focused on values-based decisions. We have always believed that if we exceed the expectations of our people, they in turn will exceed the expectations of our customers.

We call our employees partners is a very important point to share with the Committee, because since 1991 we established shared ownership for every single person at Starbucks full and part time—unprecedented. More than 30 years ago, before the company's IPO, Starbucks created two unprecedented benefits for our partners.

It was the first of its kind in all of American business, never done before. Starbucks Bean Stock Program, a stock equity program, and access to health care, almost 25 years before the Affordable Care Act for full and part-time workers who work 20 hours a week. My written testimony has details on the benefits and opportunities we have created for our people over the past 40 years.

This represents decades of work, striving to build a different kind of company that lifts our customers and gives our partners a chance at a better life. According to AON, one of the most respected benefits and H.R. consultancies in the country, this is their voice,

not ours, there is literally no company, no company in our competitive set of retail that offers higher value benefits than Starbucks in the United States.

Senators, we did this by building a direct relationship with our partners, built on trust and shared success based on a 40-year track record of benefits and actions to create opportunity.

Today, baristas in our stores earn, on average, \$17.50. Respectfully, that is more than the minimum wage of every Senator that has represented a state on this Committee, including, respectfully, Chairman Sanders, where the minimum wage in Vermont is \$13.18. We are at \$17.50.

With benefits and other income included, such as 100 percent paid college tuition, the first of its kind in American business, comprehensive health insurance, and Bean Stock equity, the average value approaches \$27 an hour.

What I am most proud of is today, 63 percent of our retail managers started out as hourly baristas, underscoring the opportunity we provide for shared growth and success, and our employee retention is twice the industry average.

Let me repeat, employee retention at Starbucks is twice the industry average, and throughout our history we have addressed the issues most critical and most important to our people, including pay equity, paid sick leave, fully paid parental leave, support of our partner networks, financial literacy, sustainability, hiring military veterans and their spouses, over 30,000 to date, partnering on food security and offering industry leading mental health support.

The vision and track record and ongoing pathway for employees has led our industry. A small number of our partners, about 1 percent, have chosen a different approach, as is their right under law. And while we care deeply about each and every one of our partners, we are limited by law in what we can unilaterally do in union environments.

We are 100 percent committed to fulfilling our obligations as an employer under the National Labor Relations Act and are committed to good faith negotiations on first contracts for each unionized store.

A year ago, I came back to Starbucks as interim CEO and concluded that assignment last week. While not a 1-year fix, we are back on the right path and have demonstrated that by \$1.4 billion of employee facing investments that we made this year.

Every day we wake up thinking about how we can put our people first, put them in a position to win, and do everything we can to demonstrate the conscience, the heart, and the values of Starbucks Coffee Company.

That has been the Starbucks way for the last 40 years, since 1987, when we had 11 stores and 100 employees. With that, I welcome your questions.

[The prepared statement of Mr. Schultz follows:]

PREPARED STATEMENT OF HOWARD SCHULTZ

Good morning, Chairman Sanders, Ranking Member Cassidy, and Members of the Committee. I am pleased to have the opportunity to speak with you today.

Starbucks Vision as a Different Kind of Company

As a young boy, I experienced first-hand the consequences of a family without resources or adequate benefits. My father, a World War II veteran, held a number of low-paying jobs during his life. In 1960, he had a home delivery route exchanging clean for dirty cloth diapers when he slipped on a sheet of ice, fracturing first his hip—and then our family—when he was promptly fired. I grew up in public housing in Canarsie, New York, often dependent on the generosity of others. The image of my dad, lying on the sofa and immobilized in a body cast has been burned into my memory, and I decided at an early age that if I ran a business, it would be a company based on respect and shared success, unlike the company that had fired my dad.

My vision for Starbucks Coffee Company has always been a company steeped in humanity, respect, and shared success. It is a company committed to listening to its partners and creating a better future for them while delivering innovation and an increasingly more elevated and differentiated experience to its customers. Starbucks follows its guiding principles, lives its mission and values, celebrates diversity and inclusion, and welcomes all on the belief that our differences make us better and stronger. We are a different kind of public company that balances profitability with social conscience. Aspiring to achieve that vision has been my life's work.

Today, with my 1-year term as Starbucks interim chief executive officer having come to a close, I appear before you with love and gratitude for what we have built at Starbucks over the last 40 years. I could not be more grateful for the contributions and support of millions of Starbucks partners who have believed in the company, joined our vision, and made Starbucks a success. In fact, we call our employees “partners” to underscore our shared ownership and success. Today, Starbucks has more than 36,000 stores in 84 markets, employs more than 450,000 people, serves more than 100 million customers around the world every week and, on average, is opening eight stores around the world every day.

When a partner joins Starbucks and puts on our iconic green apron, it is far more than a job. They are joining a diverse group of partners committed to being their best selves and making a difference to each other and their communities. Across all 50 states, our partners include young people who have come for their first job, working parents, veterans and military spouses, students, and many more. Our partners create moments of connection and that defines the Starbucks experience.

How we Built Starbucks—It Starts with Our Partners

The essential operating approach at Starbucks since 1987, when we had 11 stores, has focused on values-based decisionmaking. The leaders who built Starbucks believed if we exceeded the expectations of our partners, they would, in turn, exceed the expectation of our customers.

Exceeding the expectations of our partners includes a legacy of industry-leading benefits for all eligible full-time and part-time partners. We were among the first companies to provide comprehensive health care to part-time employees starting 35 years ago, in 1988, and we have provided 401(k) benefits to eligible partners since 1987. The term “partner” is not simply a moniker. Since 1991, we have issued “Bean Stock,” equity in the form of stock ownership, to all eligible full-time and part-time partners, the first company to do so, to underscore our commitment to shared ownership and success. The Starbucks Bean Stock program remains a unique partner benefit that both rewards and recognizes the contributions of our partners. To date, Bean Stock has awarded more than \$2 billion in pre-tax earnings to partners who have used those funds for everything from a down payment on a home, to a child's education, to health care for their parents, to a wedding or car—and so much more.

We also provide significant benefits to our partners to advance their education. Today, nearly 24,000 partners are currently enrolled in our Starbucks College Achievement Plan and Pathways to Admission programs. By the end of the current semester, more than 10,000 partners will have graduated with a college degree, and 100 percent college tuition coverage, through our partnership with Arizona State University (ASU). And to further reduce academic barriers, our Pathways to Admission program provides a roadmap for eligible partners who do not initially qualify for admission at ASU. Starbucks was also one of the first companies to offer student loan assistance.

Many employers in our sector do not offer any paid sick leave unless mandated. In contrast, Starbucks provides the same generous paid sick leave benefit across all states, even where not mandated to do so, and partners start accruing sick leave

from their first day of work. Similarly, many employers do not provide fully paid parental leave. Starbucks offers fully paid parental leave for eligible birth parents and non-birth parents. Most employers offer mental health support through their health insurance plans where employees must pay a cost share or through an Employee Assistance Program with an average of three visits. All Starbucks partners and their eligible family members are eligible, from date of hire, for up to 20 free therapy sessions each year. Starbucks offers a free premium membership to Headspace in support of mental health to all partners from date of hire. And we provide reimbursement for the renewal fee for our partners who are Deferred Action for Childhood Arrivals recipients.

We are also one of the few employers that offers backup care benefits for employees. All Starbucks partners are eligible for 10 backup care days per year from date of hire through our Care@Work program. Most employers offer no reimbursement program assistance for family expansion and if one is offered, it is often limited to adoption expenses. Starbucks partners may also be reimbursed for up to \$40,000 for eligible expenses and the Starbucks program includes adoption and surrogacy expenses, recognizing different ways to expand a family. Starbucks was the first company to offer emergency savings with a direct payroll deposit and incentives to create an emergency savings account.

At Starbucks, we created a range of benefits and have inspired other companies to follow suit. The attached chart shows the evolution of our industry leading benefits.

Over the years, we have employed millions of partners in our U.S. stores, in many cases providing a first job. In the three fiscal years ending September 30, 2023, we will have deployed more than \$20 billion in wages and benefits in our business, including providing full support through the COVID-19 pandemic, while making more than \$3 billion of partner investments, and \$6 billion of investment in our customers and stores. Our business generates significant economic activity in virtually every state in the United States, including contributing more than \$1 billion in sales and other state and local taxes over the last three fiscal years. Today, the average wage in our stores is \$17.50 per hour. With benefits and other income included, the average value approaches \$27 per hour. And we have been recognized by AON for providing higher value benefits to retail hourly employees than any other company measured and significantly above-average benefits to salaried employees. I am very proud of our Starbucks partners and where the company is today. We will continue to invest to innovate, grow the company, and elevate the experiences we deliver to our partners and customers.

We have been widely recognized for our commitment to our partners. Organizations and indexes have benchmarked Starbucks in the highest quartile, including:

- 100 percent on the Disability Equality Index by Disability: In 2022 for the sixth time.
- 100 percent on the Human Rights Campaign Corporate Equality Index for the ninth consecutive year.
- Number 1 for the Food Services industry on Fortune's 2023 World's Most Admired Companies list.
- Number 1 in the Restaurant & Leisure category on 2023 JUST Capital rankings.
- Number 12 on Diversity First's 2023 Top 50 Companies for Diversity.

We have delivered all of this value and innovated to deliver benefit programs that meet partners needs and provide opportunities for the future. We did this because it was the right approach, and it demonstrates the value of our direct relationship with our partners.

Many times, during moments of company economic challenge, investors have urged us to cut our benefits because we had "cover" to do so, occasionally citing the fact that we were, at times, paying more for health care than we did for green coffee for our U.S. stores. My response was always the same: If you think our benefit programs for our partners are too rich, it means you do not understand what drives Starbucks success.

When we put our partners first and exceed their expectations, they exceed the expectations of our customers—setting in motion an accelerating cycle of deepening customer connection and loyalty to the Starbucks brand that reverberates all around the world. The trust our partners have in the company and our commitment to providing opportunities for partners, their families and their communities, is

what propels Starbucks' business forward globally. And as Starbucks grows, all stakeholders benefit, including our partners.

A Direct Relationship with Our Partners is Fundamental to Our Culture and Success

The direct relationship we have with our partners enhances our ability to anticipate and meet our partners' needs, provide opportunities for their success, and is fundamental to who we are and to the success of our business.

We strive to address issues relevant to our people, including pay equity, financial literacy, student debt, human and civil rights, environmental sustainability, hiring military families, civic engagement, "ban the box," partnering on food security and addressing the mental health crisis, while doing our part to help our partners build life skills and a career launching pad.

We have also addressed emergent situations during which Starbucks and our partners responded with urgency, including racial profiling in one of our stores in Philadelphia, after which we closed our stores to implement unconscious bias training and education. Following the murder of George Floyd and the Uvalde and Highland Park shootings, we immediately responded by creating forums to listen to our partners share their feelings and experiences. We have also closed stores when necessary out of concern for the safety of our partners and our customers.

Our business model, and our mission and values, is imprinted with our people. I remember with profound emotion:

The late Jim Kerrigan, one of our first baristas in 1986. Jim contracted AIDS and became too ill to continue to work. We learned that there was a gap in his health care coverage and promptly updated our policy to make critical care a part of our health plan, a benefit that we continue to offer today.

The three young partners senselessly gunned down at closing time in a Washington, DC, store in 1997. While this was the first-time tragedy and societal evil entered our stores and destroyed lives, sadly it was not the last. We implemented enhanced safety measures in our stores which we continue today.

Sage guidance from Starbucks Board Member Secretary Bob Gates that led us to establish a goal of hiring 10,000 military veterans and spouses to help our heroes and their families transition to civilian life. In fact, we have hired more than 30,000 veterans and military spouses since making that commitment a decade ago. In addition, my family foundation, the Schultz Family Foundation, committed \$30 million to support veterans transitioning into civilian life and research on the consequences of post-traumatic stress and traumatic brain injury.

Our efforts to welcome refugees through a commitment to hire 10,000 displaced people worldwide. This also includes work with refugee resettlement organizations to identify potential partners and provide additional tools, resources and support to address the unique needs of refugee applicants.

After the killing of 18-year-old Michael Brown, I traveled to St. Louis, Missouri, in early 2015, for the fourth in a series of partner forums on race and also took the opportunity to visit nearby Ferguson. We moved quickly to announce our plans to build a store in Ferguson, as part of an accelerated program to open stores in diverse urban communities across the United States. There are now 30 Starbucks Community Stores across the country, and we have a commitment to build 100 Starbucks Community Stores. These Community Stores are intended to help strengthen the communities where we live, work and grow. Community Stores focus on providing economic opportunity in communities and creating impact in partnership with local nonprofit organizations. In those stores, we prioritize hiring partners from the local community because our partners know their communities best.

This is the story of Starbucks. It is a tapestry of stories created by millions of Starbucks partners around the world who have worn the green apron. The direct relationship with our partners is also fundamentally linked to our decision not to franchise but to have company-owned stores. While franchising was a logical route to national expansion and a lower cost business model, we rejected that approach. We train our partners, link them to a set of values and guiding principles, and ex-

ceed their expectations in terms of the overall partner experience, generating enthusiasm, loyalty, and tremendous engagement. This has been the secret sauce of Starbucks over the years. And the strong, company-owned approach has allowed us to be a pathway for many in the company to grow life skills, customer service skills, barista craft and operational roles within and outside the company. Today, 63 percent of our retail managers started as hourly baristas, underscoring the opportunity we provide for shared growth and success.

Compliance and Good Faith Bargaining

As labor issues are a focus of this hearing, I would like to take this opportunity to address that topic directly.

Starbucks respects the right of all partners to make their own decisions about union representation, and Starbucks is committed to engaging in good faith collective bargaining for each store that has a union. I embrace these commitments. At the same time, our business requires speed and flexibility, both on the job and when operating more than 9,000 U.S. company-operated stores of every shape and size while addressing ever-changing customer preferences. Our business also depends on having trust, connection, and shared commitment among Starbucks, its partners, and its customers. For five decades, our strength has always been to look for answers based on full engagement with our partners.

Starbucks has engaged in good faith bargaining. We have been arranging more than 350 bargaining sessions involving more than 200 sets of negotiations—each relating to a single store—and Starbucks representatives have been physically present at more than 85 sets of negotiations. However, union representatives have improperly demanded multi-store negotiations, delayed or refused to attend meetings, and insisted on unlawful preconditions such as “virtual” bargaining and participation by outside observers, among other things.

Moreover, Starbucks has complied with the National Labor Relations Act. After Workers United prevailed in National Labor Relations Board (NLRB or the Board) certified elections, we recognized the union without appealing and began the bargaining process in more than 200 stores. Where partners have been subject to discipline, those partners engaged in misconduct contrary to Starbucks policies and procedures. No Starbucks cases involving Workers United have been decided by the Board, and the NLRB litigation process usually takes years to complete.

My Return to Starbucks as Interim CEO

Looking back, it is clear that prior to my return last April the company had lost its way on many levels.

Under former leadership, the dangerous influence of Wall Street short-termism that I had always rejected had found its way into the company. Instead of innovating and delivering more relevant and meaningful experiences to our partners and customers, we were relying on prior successes. Instead of thinking entrepreneurially and playing the long game, we were deploying capital in areas that would assuage Wall Street for the moment but assure lower long-term returns than our historic standard. Focusing on Wall Street short-term targets as a priority, and not our people and customers, is antithetical to our history and breaks the equation that built Starbucks. As I watched the company over the last few years after I stepped away, it became clear to me that Starbucks had lost sight of what drove the company’s success—making our partners and customers proud—and that the company’s culture and its future were at significant risk. Starbucks is addressing those shortcomings.

Starbucks Reinvention Plan

It was obvious that we had some significant investments in our partners—and in our business—to catch up on, which is why immediately upon my return, I suspended Starbucks stock buyback program. We would no longer be rewarding shareholders at the expense of our partners or the long-term success of our business.

The list of shortcomings we identified last spring and summer through our co-creation sessions, where partners directly told us what they needed, is long, and solving them is not a 1-year fix. But we are back on the right path. Starbucks’ Reinvention Plan investments—informed by our co-creation sessions—are beginning to have impact. The significant improvement in hourly partner retention, a measure that is already twice the industry average, is a fantastic proof point that underscores the success of our Reinvention-driven investments to elevate the partner experience. The spirit of leadership at the company has returned to the mindset required. Every

day we wake up thinking about how we put all Starbucks partners in a position to win.

We Play the Long Game on Our Terms: Investing in our Partners for Long-Term Success

Over the years, I have never wavered from the view that to achieve long-term value for shareholders, a company must first create value for its employees and customers. Our shareholders and partners, past and present, have come to recognize and appreciate that the investments we make to enhance total rewards and partner well-being strengthen us as a company. This is the value proposition of Starbucks. This is what makes us different.

Over the last year, we have demonstrated the success of this model through investments that would enable our partners to have improved pay, benefits, and stability. Below are some areas supported by the more than \$1 billion of incremental investments:

- Raised minimum starting rate for all U.S. hourly partners to \$15 or more.
- 11Launched new financial well-being benefits—from support and incentives to help start and grow savings to resources to help with financial education and student loan management.
- Implemented faster paid sick time accrual.
- Launched a new partner recognition platform.
- Brought back the Coffee Master program at the request of partners, and 800 partners who completed the program have traveled to Costa Rica to participate in the Origin Experience.
- Updated our Family Expansion Reimbursement Program, including increasing the lifetime maximum.
- Updated our dress code policy to provide more flexibility based on partner feedback.
- Developed portable cold foamers to reduce the burden on our partners; they are being rolled out in the United States starting this month and are slated to be in all stores by late summer.
- New coffee delivery equipment called “Clover Vertica” beginning to deploy.
- Launched better print ordering system to help customer service.
- Credit and debit card tipping, enabling customers to recognize directly the great work of our partners.
- Doubled training hours for new barista and shift supervisors.
- Launched supply chain product delivery enhancements.
- Added more time for hourly performance and development conversations.
- Added quarterly foundational training for all partners including upcoming sessions during the spring promotional season.
- Updated inventory tracking tools.
- Co-created our new Green Apron Coffee Blend made possible by more than 24,000 partner submissions.

Although not a complete list of everything we are doing, these partner-focused efforts are the cornerstone of our reinvention. Properly designed and implemented, these investments lead to increased partner engagement and satisfaction, increased productivity, and longer employee retention, all of which drive sales and reduce costs, particularly in connection with training. We have more work to do at a systemic level, but the intention and early progress is happening, and it will no doubt be fueled by the new mindset and future leadership of the company.

In closing, our Board and our leadership are in complete agreement that a direct relationship with our partners, where we have the flexibility to implement improvements quickly in wages and benefits and share success in the future, as we have in the past, is the right path forward for Starbucks, our partners and all company stakeholders. Our leadership team and Board of Directors share a common view on our heritage and our aspiration for the future.

We are a different kind of company, in a different kind of world. We are in the human connection business. We exist to build bridges. With every cup, with every conversation, with every community, we nurture the limitless possibilities of human

connection. At our best, we commit to mutual success for all. We work closely with our partners to bridge to a better future. We promise our customers that we will uplift their everyday. We contribute positively to our communities. With our farmers, we ensure the future of coffee for all. We give the earth more than we take. For our investors, we generate long-term returns. The beauty of Starbucks is the balance we create—between the work outside, and the work inside; between the partners and customers in our stores and the farms, roasting plants and distribution centers supporting our stores; between the limitless possibilities that human connection brings and the work it takes as a company, as a team and as individuals.

Thank you for the opportunity to be here today, and I welcome the opportunity to answer your questions.

Highest-rated benefits for retail hourly workers.



A COMMITMENT TO SHARED SUCCESS.

OUR TRACK RECORD OF PUTTING PARTNERS FIRST* (FULL AND PART TIME WORKERS)

- 1972 **Vacation and Other Time Off Options**
- 1972 **Weekly Coffee Markout**
- 1972 **Life Insurance**
- 1972 **Short and Long Term Disability**
- 1988 **Future Roast 401(k)**
- 1988 **Healthcare Insurance**
- 1991 **Bean Stock Equity for All Partners**
- 1995 **Stock Investment Plan (SIP)**
- 1998 **Partner Perks and Benefits**
- 1998 **Caring Unites Partners (CUP) Fund**
- 2002 **Family Expansion Reimbursement**
- 2005 **Catastrophe Pay**
- 2007 **Partner Networks**
- 2009 **Commuter Benefits**
- 2014 **Starbucks College Achievement Plan**
free 4-year degree

*Aon Hewitt, the gold standard in benefits analysis, cited Starbucks for providing higher value benefits to hourly retail employees than any other company measured.

over →

2015	Fitness Reimbursement Program
2016	DACA Reimbursement
2016	Spotify
2017	Paid Parental Leave
2017	Starbucks Global Academy Academic Curriculum <i>open source</i>
2017	Pathway to Admission <i>free curriculum to qualify for college</i>
2018	Care @ Work <i>family support model</i>
2019	Partner and Family Sick Time
2020	Mental Health Benefits (Headspace and Lyra)
2020	COVID Self-Isolation Pay and Benefits
2022	Shift Marketplace <i>app to facilitate scheduling</i>
2022	\$15 Per Hour Wage Floor
2022	Coffee Master & Black Apron Training/Credential
2022	Updated Dress Code
2022	Doubling Training Time for New Barista & SSV
2022	New Barista Training Program
2022	Enhanced In-App Tipping & Unlocked Credit Card Tipping
2022	Incentivized Savings Program
2022	Student Loan Management
2022	Faster Sick Time Accrual



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one.starbucks.com/get-the-facts



The CHAIR. Mr. Schultz, thank you very much. My time is limited, as is the time of all of our Members here, so I am going to be asking you to respond to each question as briefly as you can, hopefully with a yes or no.

Do you understand that in America workers have a fundamental right to join a union and collectively bargain to improve wages, benefits, and working conditions? Do you understand that?

Mr. SCHULTZ. I understand, and we respect the right of every partner who wears a green apron, whether they choose to join a union or not.

The CHAIR. Are you aware that NLRB judges have ruled that Starbucks violated Federal labor law over 100 times during the past 18 months, far more than any other corporation in America?

Mr. SCHULTZ. Sir, Starbucks Coffee Company, unequivocally, and let me set the tone for this very early on, has not broken the law.

The CHAIR. Okay. Are you aware that on March 1st, 2023, an administrative law judge found Starbucks guilty of, “egregious and widespread misconduct,” widespread coercive behavior, and showed, “a general disregard for the employees’ fundamental rights” in a union organizing campaign that started in Buffalo, New York, in 2021? Are you aware of that?

Mr. SCHULTZ. I am aware that those are allegations. And Congress has created a process that we are following and we are confident that those allegations will be proven false.

The CHAIR. Mr. Schultz, before answering the following questions, let me remind you that Federal law, that 18 U.S. Code Section 1001 prohibits knowingly and willfully making any fraudulent statement.

Mr. SCHULTZ. I understand that.

The CHAIR. Were you ever informed of or involved in a decision to fire a worker who was part of a union organizing drive?

Mr. SCHULTZ. I was not.

The CHAIR. Were you ever informed of or involved in a decision to discipline a worker in any way who was part of a union organizing drive?

Mr. SCHULTZ. I was not.

The CHAIR. Have you ever threatened, coerced, or intimidated a worker for supporting a union?

Mr. SCHULTZ. I have had conversations that could have been interpreted in a different way than I intended. That is up to the person who received the information that I spoke to them about.

The CHAIR. Were you informed of or involved in the decision to withhold benefits from Starbucks workers in unionized stores, including higher pay and faster sick time accrual?

Mr. SCHULTZ. My understanding, when we created the benefits in May, 1 month after I returned as CEO, my understanding was under the law we did not have the unilateral right to provide those benefits to employees who were interested in joining a union.

The CHAIR. Am I hearing you say that you were involved in the decision to withhold benefits from Starbucks workers in unionized stores, is that what I am hearing?

Mr. SCHULTZ. It was my understanding that we could not provide those benefits under the law.

The CHAIR. Mr. Schultz, have you ever asked the Starbucks worker, “if you hate Starbucks so much, why don’t you go work somewhere else?”

Mr. SCHULTZ. I am glad you asked that question, because I have read in the press that quote and that is not exactly what I said. Can I tell the story, do you mind?

The CHAIR. I have some other questions. I am sorry—a lot of people—

Mr. SCHULTZ. I think it is important to hear the facts.

The CHAIR. You will have your chance. Will you commit to testifying in any trial where you personally are accused of breaking Federal labor law, something that you have been accused of doing nearly a hundred times since 2021?

Mr. SCHULTZ. Mr. Chairman, let me say under oath these are allegations and Starbucks has not broken the law.

The CHAIR. Mr. Schultz, were you informed of or involved in the decision to close all Buffalo area stores in November 2021, just days before area union elections, in order for Starbucks employees to listen to you give a speech on why they should vote against forming a union, a meeting the NLRB has determined was a violation of the law?

Mr. SCHULTZ. I think this is another area that I hope I get a chance to speak about. For the last 12 months, my involvement, my engagement, and my return to Starbucks has been primarily, I would say, 95 percent focused on the operations of our business, the customer, domestically and around the world.

My involvement and engagement in union activities, despite this event today, has been *de minimis*. I was not involved in any issue of closing stores.

The CHAIR. Are you aware, Mr. Schultz, that an administrative law judge ordered you to record and distribute a video of yourself reading a notice to Starbucks employees about their rights under the National Labor Relations Act, how Starbucks violated those rights, and to assure that Starbucks will not infringe upon those rights in the future, and that this notice must be posted in all Starbucks stores and shared digitally to all of Starbucks employees. Are you prepared to read that notice?

Mr. SCHULTZ. No, I am not, because Starbucks Coffee Company did not break the law.

The CHAIR. Under your leadership, Starbucks has repeatedly refused to bargain with any of the 7,000 workers in nearly 300 stores where workers have voted to represent themselves through a union.

The first group of workers to win their election have been waiting more than 460 days to reach a first contract. Mr. Schultz, will you commit right now that within 14 days of this hearing, Starbucks will exchange proposals with the union, something it has refused to do for more than 450 days, so that meaningful progress can be made to bargain a first contract in good faith? Will you make that commitment?

Mr. SCHULTZ. Because the arrangement that was made by the union and the NLRB in Buffalo to negotiate one single store at a time, we have met over 85 times for a single store. We have tried to arrange over 350 separate meetings.

We have said publicly, and I say it here again, that we believe that face negotiations is the way to proceed. And the reason I want to make that point is that there have been safety issues in which Starbucks managers have been outed on social media.

There are privacy issues. We don't want to do it on Zoom. We are prepared to meet face to face on a single-story issue.

The CHAIR. Will you make a promise to this Committee that you will exchange proposals with the union so that we can begin to make meaningful progress?

Mr. SCHULTZ. On a single store basis, we will continue to negotiate in good faith. That is what we will do.

The CHAIR. Senator Cassidy.

Senator CASSIDY. I defer to Senator Paul.

Senator PAUL. Ayn Rand's Howard Roark points out the ingratitude that man has for the entrepreneur, the creator. Thousands of years ago, the first man discovered how to make fire. He was probably burnt at the stake he taught the others to light, but he left them a gift that had not been conceived, and he lifted darkness from the face of the earth.

Now, Starbucks didn't exactly discover fire, but Starbucks did somehow, somewhere discovered in the depths of man's soul that he would pay as much for a double mocha latte as he once did for a week's worth of coffee.

My wife, Kelly, and I tried to get my grandparents some fancy coffee once, and my grandfather, a survivor of the depression, informed us in no uncertain terms that he drank Maxwell House, \$3.99 for a week's worth of coffee.

The Pauls, although German, often missed the zeitgeist of the times, and so while we continued to purchase Maxwell House, others, our contemporaries bought Starbucks stock and did much better than we did. Who knew people would pay \$6 bucks for a cup of coffee? But I digress.

Convincing the public to buy very expensive coffee is not the discovery of fire, but still, it deserves respect. Instead, Congress convenes today not to praise Starbucks, but to bury them. The hearing today is convened to attack a private company for its success when its success has benefited both customers and its employees alike. We have heard of the average wages, over \$17.

We have heard of the 401(k) plans. We have heard of the parental leave, even for part time employees. Starbucks given away tens of millions of dollars each year. They have 100 percent tuition and fee for bachelor's degree. Maybe it isn't so too bad a place to work. Starbucks is among the most charitable companies in the country.

Since 2016, they have had a program to give away unused food to feed over 5 million hungry families. Starbucks didn't do all this under orders from a Government bureau. They did it because capitalism works. We have more charity when we have more money, when we have more success, when we have more profit.

Nobody buys \$6 coffee in impoverished nations. We are an extraordinarily rich nation. Marian Tupy and Gayle Pooley wrote a book called Super Abundance. They say we live in an era of super abundance. Starbucks can only exist in an era of super abundance. The average calorie count since when I was born, about 2,800.

It has gone up to 3,700. Many would argue have too much food. You can buy seven times as much food for the same amount of

worker hours. If you measure stuff in time prices, how many hours of the average worker it takes to buy something, it is extraordinary how wealthy we are.

Even in inflation adjusted terms from 1960 to today, 1952 to today, the average income inflation adjusted is up four-fold. These are all extraordinary tales. This is also a story of a company that started out of nothing and employs tens of thousands of people, all making great wages.

We are here to say as if this is like Charles Dickens. I mean, we think it is 1812. I mean, it is an amazing success story. We live in the era of super abundance. In 1820, 96 percent of people lived on less than \$2 a day. Adjusted for inflation, you know how much of the world lives that way?

Less than 10 percent. Trade, capitalism, profit. People all the time are talking about we want sustainable this and sustainable that. You know what sustainable, capitalism and profit and employment. You want to put all those Starbucks workers in the Government dollar? You want to have a Government coffee company?

You know, what are we talking about here? If you don't want their coffee, be like my family and buy Maxwell House, but for goodness sakes, don't deride one of the great American success stories. This is not who we are. We are better than this. If the goal is to destroy the goose that laid the golden egg, then by all means, this hearing is a good beginning.

For me, I see the fabulous success of Starbucks, and I understand that luxury, the luxury to spend an extraordinary amount of money for a cup of coffee is a testament to capitalism. It is a testament to the fact that we have enough money that we can do that.

When I walk in Starbucks, I don't see billionaires buying coffee. I see everyone from top to bottom and they are paying for the coffee because they have decided the quality is worth it. But I don't want to be part of any witch hunt that vilifies any American business, so count me out.

Count me as one who is ecstatic that Starbucks is an American success story, and I will have no part in trashing their success.

The CHAIR. Thank you. Senator Hickenlooper, you have to pre-empt soon, so you ask the first questions.

Senator HICKENLOOPER. Great. Thank you very much, Mr. Chair, Ranking Member. Mr. Schultz, I appreciate you coming before us. I realize that you have spent your life creating one of the most successful brands in American history. You mentioned the long-held aspiration to make Starbucks a company that balances profitability with social conscience.

I think that brand is exceedingly attractive, especially to young people, and I think it is part of your success. I think in many ways the ability of Starbucks to attract young workers and have them believe in the brand and the vision is a big part of that success, which I think is part of what this group believes, is that the partnership between the company and the workers is a key to success for any successful company.

Many folks who work at Starbucks came because they want a chance to work for a company that prioritizes earnings and bene-

fits, wellness. And your testimony described in some detail that you are near the top of that ladder.

But we also heard over the last few weeks from other workers, some from Colorado, who told us they came to work for the partner centric model but were disappointed because they wanted that opportunity to be part of a union and told us that disillusionment has been very hard for them.

I guess the question I would ask first is that appearance that so many of the employees have of that their organizing efforts are being interfered with seems at odds with the commitment to the partner model and the worker welfare. So how do you respond to those workers who appreciate the Starbucks model but would like to be able to organize with less confrontation?

Mr. SCHULTZ. Well, thank you for the question and the opportunity to answer that without some of the propaganda that has been floating around. You know, I have built my life trying to create a company that values every single person with dignity and respect who puts on the green apron.

That has not changed as a result of 1 percent, 3,400 people out of 250,000 who want to join the union. We have said it publicly, we respect the law, we respect their rights, and we want to treat everyone with respect and dignity.

However, I have the right and the company has the right to have a preference, and our preference is to maintain the direct relationship we have had with our employees, who we call partners.

We have a track record that demonstrates the values that we have shown and the value that we have created. But we maintain a level of respect for everyone who wears the green.

Senator HICKENLOOPER. Thank you. There has been considerable questions about the shrinking middle class. This is—I am not asking you to be an economist, sure in this sense, although you clearly know more about economics than I will ever know. But when you look at the charts, and we have got a chart behind me, that demonstrates that as the middle class has shrunken and as income inequality has increased dramatically, it has directly coincided with the decline in unions.

I certainly respect the desire to be directly connected with all your employees, but in many ways, that right to organize and that opportunity for people to be part of a union is a crucial building block for the middle class that I think gave this country stability that we don't see in the same way that we used to.

At its core, I think union organizing is about having a greater say in their workplace, and I think everybody always wants that. Some of the studies show that entrepreneurs start new business not necessarily to make money but to have someone bossing around.

What do you say to the workers who want to join together with their peers to unionize their workplaces, despite however great Starbucks has been for them?

Mr. SCHULTZ. I have said before and I want to repeat it, I think unions have served an important role in American business for many years. And if you look at the 50's and the 60's, unions gen-

erally were working on behalf of people in a company where those people have not been treated fairly, where there has been, in some cases, nefarious acts by the employer taking advantage of the employee.

I can only say in my own company, based on the tracker that we have had, we do not believe, and it is our preference, that we are that kind of company. We treat our people fairly. We do nothing that is nefarious. We put our people first. We make decisions based on our people and we have the track record to prove it. Starbucks is probably one of the best, if not the best first job in America.

As I said in my opening statement, 65 percent of baristas are now managers. I walked into her store an hour ago, just at 24th and M, just walked in, was met by a guy named Nico. Never met him before. 22 years with Starbucks and he tells me his story.

He came from Senegal. He is an American citizen, started as a barista, became a manager, district manager. And the thing that he wanted me to know, this is an hour ago, is I bought a house and I have a car, and I raised two kids because of Bean Stock at Starbucks. Now, you put that overall, in the last 15, 20 years, over \$2 billion of equity because of Bean Stock, 14 percent of the—

The CHAIR. Senator Hickenlooper, your time has expired.

Mr. SCHULTZ. But it is an important point, \$2 billion of equity because of everyone being an owner comes back to our employees. It is unprecedented. And that is why Starbucks doesn't need a union.

The CHAIR. Senator Cassidy.

Senator CASSIDY. Mr. Chairman, I would respectfully notice that you took 7 minutes on yours and Mr. Schultz should have been allowed to finish his statement.

The CHAIR. Mr. Schultz will have as much time as he needs to respond to the questions of 15 people. Senator Cassidy.

Senator CASSIDY. I defer to Senator Romney.

Senator ROMNEY. Thank you, Mr. Chairman and Ranking Member Cassidy. I recognize at the outset there is some irony to a non-coffee drinking Mormon conservative defending a Democrat candidate for President in perhaps one of the most liberal companies in America.

That being said, I also think it is somewhat rich that you are being grilled by people who have never had the opportunity to create a single job, and yet they believe that they know better how to do so and what is best for the American worker, and what is best for the American economy, and what is best for growth.

I also think it is rich to not recognize the extraordinary conflict of interest we have, which is our Democratic colleagues overwhelmingly get their campaign funds from unions and therefore would like to find every possible way to extend unions, even if an enterprise feels that it is in their best interest to pursue a different course.

Now, I know that there are a number of reasons why you might wish not to have union organization in your various enterprises. At the same time, I agree with Senator Cassidy and with your own

comments, Mr. Schultz, which is that people have a legal right to form a union.

There are some employers that are not good employers, and a union is necessary to protect the rights of those individuals, and that if any enterprise, including yours, has broken the law, then it should be held accountable for having done so.

At the same time, there are legitimate reasons why enterprise might choose not to become unionized. I first would note that within your company there are probably some stores that are union, some that are nonunion. Do the nonunion store employees get paid less than the union store employees?

Mr. SCHULTZ. The starting wage has been the same. The only difference is the benefits that we created in May, and my understanding under the law, is that we were not allowed to provide those benefits to people who are organizing to join a union.

Senator ROMNEY. In fact, the nonunion stores are actually a little better total package than the union stores. Let me ask you another question, which is just make another point, and that is, I wouldn't understand why you would not want to have an adversarial relationship between the store manager and the employees that work there.

I would also understand that sometimes in some union enterprises there are work rules that prevent someone from going from a, let's say, a barista to becoming a manager. And you have indicated that, if you will, career opportunities for people are enhanced when they are able to move from position to position and become a manager. Is that a concern of yours?

Mr. SCHULTZ. No. I mean, can I tell one story, if I can?

Senator ROMNEY. Please.

Mr. SCHULTZ. It happens to be in the State of Vermont. I think this is indicative of the situation that we are currently experiencing. There are seven stores in the State of Vermont that Starbucks has. Of the seven, one of them voted to join the union. This is important fact. 21 Starbucks people, partners work in that store. How many people do you think voted to either become a union or not a union? Take a guess.

Senator ROMNEY. Got me. I would presume the majority.

Mr. SCHULTZ. When you hear the number, you will understand the problem. 21 people in the store, 6 people voted, 6. Four voted to become a union and two voted for not. Now, I am not saying why the other people didn't vote.

That is up to the Committee to decide. But you can imagine there is issues going on in a store like that where people work close together and influence people to do one thing versus the other. But here is the problem.

Since that store, since six people voted to do the union, of the seven stores in Vermont, this particular store has twice the level of attrition, and the majority of the people have left the store.

The tension that exists in any store that Starbucks has since its individual stores voting in a small group of people, there is lots of issues that we are dealing with, and overall, in the stores that have

voted for union, about 300 are twice the level of attrition that we currently have in the 99 percent of stores that have not voted for union.

But the Vermont thing is not a proxy. The Vermont thing is exactly what is going on around the country.

Senator ROMNEY. Thank you. I appreciate that perspective, and would just turn to one other point, which is we talk about corporate greed all the time as if it is something brand new. Of course, profit, incentive, and greed has been there for the beginning of human-kind. But there is also union greed.

Greed exists throughout our society through various enterprises. But let me ask, your company is highly profitable. It was profitable, I presume, very early on, became profitable as time went on.

Where does all that profit go? Does it go to all pay you and the senior executives? Where does the profit go of an enterprise? Did it all go out in dividends or stock buybacks? Where has your profit gone over the history of your company?

Mr. SCHULTZ. The majority of profits that Starbucks has made has gone back into infrastructure, roasting plants, \$800,000 to \$1 million to build a store. The profits of the company have gone back to the business.

Now, what is most important, though, is when we create shareholder value, as we have for Starbucks through the years, our employees, our partners are sharing our shared success model in that profit because everyone has been an owner.

The first day that I came back, April 4th, 2022, the first day, what did I do? The one thing that would get shareholders across the country on Starbucks stock angry with Howard Schultz, and that is I stopped our buyback program on the first day. Our stock went down. I was not concerned about that.

I took that money and I invested it right back into our people, which resulted in higher wages 1 month after I came back. Now, that is the only evidence I have, which is the fact that my operating style, which has been 40 years, is to build a company that balances profitability with a level of shared success for our people, and we have the evidence to prove it, sir.

The CHAIR. Thank you, Mr. Schultz—Senator Murray.

Senator MURRAY. Thank you. Thank you, Mr. Schultz, for coming before the Committee. I appreciate it. You have—I have listened carefully and throughout your testimony, you have made it very clear that Starbucks prefers its workers not to be unionized. But I think that decision is up to workers under Federal law.

I just have been disappointed, I have to tell you, from a number of my constituents I have been hearing from about some of the widespread anti-union efforts at Starbucks, including in Washington State, where the NLRB has certified 19 elections, as you know, at Starbucks stores.

They have issued 71 complaints covering 31 unfair labor practice charges. NLRB judges have issued two decisions now finding that Starbucks violated Federal law. So let me just ask you a simple question. Do you agree that it is workers who get to decide whether they want a union?

Mr. SCHULTZ. Well, Senator Murray, I agree that the person at Starbucks has the right under the law to decide whether or not they want to join a union.

Starbucks Coffee Company also has the legal right to provide a vision for our employees, which currently represent 99 percent of the 250,000 who wear the green apron, that our vision is a preference to maintain our direct relationship.

In terms of what you said, as I said to Chairman Sanders, those are allegations, and Starbucks Coffee Company unequivocally has not broken the law.

Senator MURRAY. Let me just share with you, and I heard you answer to Senator Hickenlooper, with treating your employees with dignity and respect, which I appreciate. But I am hearing from a number of really troubling reports about Starbucks refusing to allow credit card tipping, cutting employee hours, holding the loss of critical benefits like health care insurance and gender affirming care over the heads of employees who are trying to exercise their rights.

I have even heard reports, so you know, about uncertainty for union employees about whether or not they would receive abortion travel benefits, which all your workers receive. I am concerned when I hear from my constituents about unfair threats of any kind or denying benefits unfairly, even when the union agrees to waive its right to bargain.

I would assume you would agree that doesn't constitute treating someone with dignity or respect if they are being threatened.

Mr. SCHULTZ. Senator Murray, you and I have known each other for quite a while, you being the Senator of our home state. I think you have many times actually talked about Starbucks as a model employer in many of the meetings that you have had and speeches that you have given. I do take offense, I have to admit, because it is quite personal when you bring up things that you have heard that are not true.

We have never, ever taken any benefit away and we never would of anyone who was interested in joining a union. We simply have said that under the law, our understanding is we did not have the right to provide incremental benefits during the bargaining process.

Howard Schultz, the leadership team of Starbucks, the board of directors, some of whom are here today, would never take benefits away of any kind of someone who was involved in trying to join a union.

Senator MURRAY. Thank you for the answer. I am giving you the question, so you have a right to respond. That is why I am asking. But you should know that those are some of the things that I hear, and I wanted to hear your response.

Mr. SCHULTZ. Okay.

Senator MURRAY. I have also heard allegations that Starbucks has interfered with employees' ability to testify, including in Seattle, where an administrative law judge found that Starbucks did that. Can you respond to that charge?

Mr. SCHULTZ. I have no knowledge of that, Senator Murray.

Senator MURRAY. Okay, thank you. Thank you very much.

The CHAIR. Senator Cassidy.

Senator CASSIDY. I defer to Senator Tuberville.

Senator TUBERVILLE. Thank you, Chairman. Thank you, Mr. Cassidy. Mr. Schultz, thank you for being here. Thank you. I know this is pretty tough at times, but it is good to hear your side of the story. I came from the coaching profession. You know, for years I talked to young kids every year at the beginning of the year about they all wanted and needed something. I always told them one thing.

Only thing you get from me and from this country is an opportunity. And you took that opportunity and ran with it, and you have got a lot of people that work for you over the years and work for your company—and made something themselves. So, thank you for that. You have been a huge idol for this country in terms of what you have done.

You know, we have heard a lot about what you give to your employees, health care and all that. You know, I fully support unions. If people want to join a union, then that is fine. I mean, I think that is what this country is about.

Sounds like Starbucks employees as a whole, what we have heard so far, have had a great working environment. I understand collective bargaining processes have ongoing with almost 300 individual stores, and you have to negotiate with each one of these individuals in each store, each individual at each store.

I know that there have been difficulties in trying to navigate these individual negotiations. I am sure obstacles have come up that are unique to each store. Is that correct?

Mr. SCHULTZ. That is correct, sir.

Senator TUBERVILLE. Thank you. You want to be respectful, as we all do, to a request of any employee, and you want to make sure that every person or group that you deal with feels that their rights are being respected and their voices heard. This could even include employees with specific rights and protections in the workplace. Is that correct?

Mr. SCHULTZ. That is correct.

Senator TUBERVILLE. I know this has been a long process that requires considerable effort on your side to do all this. So, can you speak to me about the difficulties that you have been having in bargaining processes, specifically in the unique issues that your average person might not understand?

Mr. SCHULTZ. Yes. Thank you very much for that. When Buffalo first emerged and there was a process to try and decide whether or not we were going to negotiate per individual store or by district or region, it was the position of the union to have it one store at a time.

That created significant complications and obstacles in the collective bargaining process. We now have to be put in a position to negotiate individual store, one by one, across the country and set up individual meetings.

Now, because in this process, Starbucks managers and district managers have had safety issues in which the union organizers have been at their home, they have been outed on social media, there have been significant challenges for our people to maintain their personal safety, we have said we do not want these meetings to be anything but face to face so we know who is in the room.

We don't know, if there is a Zoom meeting, of who is taping the meeting, who is in the background, and who is looking in on the meeting and whether or not they are part of the company, part of the union, or whatever.

We have asked respectfully, we will show up as we have 85 separate times in a face to face meeting and we have tried to set up over 365 meetings. It is a very difficult scheduling issue and very difficult logistics issue, and we should not be held accountable for not showing up when all we are asking for is face to face bargaining.

Senator TUBERVILLE. Thank you. I would like to hear your story about your employee, if you would tell it. You have got about a minute and a half.

Mr. SCHULTZ. About?

Senator TUBERVILLE. About the employee that you had the discussion.

Mr. SCHULTZ. This morning?

Senator TUBERVILLE. That you had an argument about—

Mr. SCHULTZ. Oh, okay. Thank you for that. When I came back to Starbucks, I held about 100 co-creation collaborative meetings across the country to understand from our employees what they were experiencing and the challenges of a post-COVID environment on their life at home, on their work life, work balance, etcetera.

Those meetings were not about union negotiations. In fact, we made it clear we are not here to talk about the union, we are here to talk about Starbucks. In a meeting in Long Beach, a Starbucks partner was trying to interrupt the meeting and start talking about the union, and she happened to be sitting next to me.

I didn't know she was recording it. I didn't know she was filming it. But it was clear that there was a disruptive mentality. I just turned to her and I said, if you don't like the company, if you hate the company, you could work somewhere else. It was not a threat, and going back to Chairman Sanders question before, I can understand she may have misinterpreted what I said. It wasn't a threat.

I didn't know I was being filmed. I just simply said, if you hate the company, you could go work somewhere else. Those hundred sessions that I attended are based on what we have done to improve the company, to understand the empathy and compassion we need to have for our people in a post-COVID environment. They were not union meetings. They were meetings to discuss Starbucks and the opportunity for our people. Thank you for the question.

Senator TUBERVILLE. Thank you, Mr. Chair.

The CHAIR. Senator Casey.

Senator CASEY. Mr. Chairman, thanks very much and thanks for calling the hearing. Mr. Schultz, welcome. I want to welcome the

workers in this room who have had to do so much—expend so much effort over many years to have the right to organize and bargain collectively, so we stand with you in that effort.

I think that you are right that every single worker in the United States of America should have the right to bargain collectively, to organize for fair wages and benefits. And too often in our Country, workers don't have that right. I represent a state where workers over generations marched and mobilized and literally bled and died for the right to organize. It wasn't conferred upon them by some CEO or some boss.

They had to fight for it. And that resulted, of course, in the National Labor Relations Act, which is still, in effect, still the law of the land, despite repeated corporate attempts to undermine it. So, we have a lot to talk about, not just with regard to Starbucks, but for workers generally.

I wanted to start, Mr. Schultz, with a discussion about one of the firms that Starbucks hired. I am told that when—during your tenure as CEO, you hire Littler Mendelson, one of the largest and most notorious union busting firms in the country that reportedly charges upwards of \$600 an hour for their services.

It has been reported that in 2021, Starbucks shut down all stores in the Buffalo area, rented out the Hyatt Regency Hotel, flew you, Mr. Schultz and Starbucks senior executives into town, and forced workers to hear you give anti-union talking points. While Starbucks refuses to say how much they have spent on anti-union efforts, it is clear the company is willing to spend a significant amount of money on union busting tactics.

Guess what? Under current law, Federal law, Internal Revenue Service law, Starbucks is able to write off those costs as a run of the mill business expense, meaning taxpayers, taxpayers are subsidizing union busting in the United States of America, including that of Starbucks.

Mr. Schultz, I would ask you, as a private citizen, in your personal capacity, do you believe that corporations should have the right to get a tax break, a taxpayer provided subsidization, a tax break for union busting activities?

Mr. SCHULTZ. Senator Casey, you said a number of things I would like to respond to, but—

Senator CASEY. Just answer that question first.

Mr. SCHULTZ. No, I will. I mean, Starbucks Coffee Company is following the tax laws and the law that Congress—Senator Casey. I didn't ask you about Starbucks. I asked you about your personal view, do you think that provision should stay as the law or should be changed?

Mr. SCHULTZ. My personal view is we should follow the law that Congress has set up.

Senator CASEY. Do you support that?

Mr. SCHULTZ. I support the law.

Senator CASEY. You support—you support the provision that allows a company to hire union busting firms and conduct other activity that interferes with the rights of workers to organize? I un-

derstand it is the law, but you are saying you support it—you would not support a change, is that correct?

Mr. SCHULTZ. I support the law. I also take offense with you categorizing me or Starbucks as a union buster when that is not true.

Senator CASEY. Well, look, you go to just March of this year, administrative law judge issued a 218-page decision finding, “egregious and widespread misconduct, demonstrating a general disregard for the employees’ fundamental rights,” in Buffalo, New York.

I think there is plenty evidence on the record in terms of what the National Labor Relations Board has said forth in their opinions and their work. Let me ask you another question before my time has expired.

There have been complaints, and I want you to answer this, if you know anything about it, that Starbucks is spying on its workers as they try to organize. Again, another National Labor Relations Board administrative law judge recently wrote that Starbucks used headsets, headsets to, “closely supervise, monitor, and create the impression that employees’ union activities are under surveillance.”

We have heard about this with regard to other companies. Do you believe, and again, this is in your personal capacity and you realize where you are now, do you believe that workers have should have the basic dignity at work not to be surveilled by their employers?

Mr. SCHULTZ. Senator, I am incredibly proud of how we treat Starbucks partners and have since 1987.

Senator CASEY. I understand you are——

Mr. SCHULTZ. I am not aware of anyone surveilling anyone, anyone——

Senator CASEY. You are not aware of that?

Mr. SCHULTZ. I am not.

Senator CASEY. Do you support that?

Mr. SCHULTZ. No, I would not support that.

Senator CASEY. Thank you, Mr. Chairman.

Mr. SCHULTZ. Can I come back and just address something you said, if you don’t mind. You talked about Buffalo. I just want to clarify, from what I understand the activities in Buffalo began in August 2021. I was not the CEO at the time.

I came back in April 2022. But I want to share with the Committee what we have found out about the organizing in Buffalo. I think this is important for everyone to know. The organizing in Buffalo began with an individual who we later found out was paid for and joined Starbucks at an employee in 2020.

Even though we hired her on her own merit, we found out that she was paid for by the very union trying to organize Starbucks.

The CHAIR. I am going to have to cut you off. Senator.

Senator CASSIDY. That was a good story. We will come back to that because it sounds like something to do.

Mr. SCHULTZ. I hope you do.

Senator CASSIDY. I will defer to Senator Markwayne Mullin.

Senator MULLIN. Thank you. And considering the Chairman doesn't want to hear any of that information, because I believe he is pretty biased in his opinion already, Mr. Schultz, I will give you an opportunity for you to finish that but do it quickly.

Mr. SCHULTZ. Thank you very much. So, as you might imagine, we are very curious to understand what happened in Buffalo.

We later found out that this individual, which was hired in 2020, was paid for and under the employment of the union that was basically trying to organize Starbucks. We later found out there was more than one person.

You might want to ask yourself, where is the fairness, the objectivity, and the integrity of what we are talking about here today.

Senator MULLIN. I mean, if you are anti-union as a CEO, you are anti-union busting or you are for union busting, I am not saying you are anti-union. I am just saying that it seems like to me, as a former CEO, not nearly as the success that you are, sir, and I am not trying to defend your company because quite frankly, politically, we are on a totally different as a spectrum. The irony of this hearing is actually kind of funny.

I do want to point out some hypocrisy about this hearing with the Chairman. I am not trying to get personal. All this information is going to be very public. But the fact that you can't defend your company because you want to have a good relationship with your employees and you believe in employee value, which we all do—any CEO knows that success of our companies are based on our employees.

We get that. But it seems like unions today, all they want to do is fight with their employees or their employer, the same employer that is hiring those team members. And that friction causes a very volatile and tough workplace.

If the company and employees aren't in the same boat rowing in the same direction, then they can't—neither one can be successful. And unions themselves, if you are part of a union, you can never be an executive, you can never be a manager and never be a CEO.

If you can't be executive or a manager of the CEO, then how are you actually going to implement the changes that the unions want in those in those positions to begin with? And it seems like they actually hold back their team members. But I take offense to the Chairman pointing out that all CEOs are corrupt because they are millionaires.

You know, if you make a lot of money, you are corrupt. Yet it is bothering to me because, Mr. Chairman, you yourself have been very successful, rightfully so, glad you have. And you have been in office for 28 years and you and your wife have amassed a wealth of over \$8 million.

In fact, you are quote on being of being wealthy and being a millionaire was, well, if you write a bestseller, you can be a millionaire, too. If you can be a millionaire, why can't Mr. Schultz and other CEOs be millionaires and be honest, too? If that is the case, then why is it that Mr. Schultz, who actually creates jobs and a

bestseller and the book isn't creating new jobs, why is it that he is corrupt and you are not?

Why is it that all CEOs are corrupt because they are wealthy, and yet our Chairman, who is wealthy, and I am glad you are, you are not? Guys, the Government's role is to create an environment for entrepreneurs, for go getters, for jobs, for world changers to be successful in life.

The U.S. Government is designed for people that want to succeed, can. We can go out and achieve anything that we choose to. But when you lean toward socialism, what you think is Government is the answer and unions are the choice. And if you are against us, then you are dead wrong and you must be corrupt.

That is not the world we are living in. That is not the America that we believe in. I am not against unions. If you want to choose to be in a union, be in a union. But if you choose not to, then you choose not to. And that is why I am good with right to work states.

That is honestly why unions actually thrive in Oklahoma and we are right to work states because it creates a happy environment and a good environment, because employees get to choose what they want to be part of and the employer can have a say in it.

What is wrong with choice? What is wrong with employees having a choice? What is wrong with a CEO defending his company and openly saying that he is providing good benefits and paying higher than everybody else? But yet, if you are not part of a union, you are also paying starvation wages.

What hypocrisy? What bias? Chairman, you are Chair of the Health, Education, Labor, and Pensions Committee. We shouldn't have a biased approach. We should have what is best for America and all those that want to thrive and work in it.

While we politically disagree, Mr. Schultz, I applaud you for your success, and I applaud all the CEOs out there for their success and all the employees that work hard that are in the same boat, that is making their companies great. Thank you. Thank you—

The CHAIR. Well, let me respond since the Senator did mention my name, I think. I think you have got an all-time record here. You have made more misstatements in a shorter period of time than I ever heard. Please correct me if I am worth \$8 billion—excuse me.

Senator MULLIN. All public.

The CHAIR. Excuse me.

Senator MULLIN. Yes, go ahead.

The CHAIR. All right. Excuse me. Yes, sir. I am worth \$8 million. That is good news to me. I am not aware of it. That is a lie. All right, No. 2—

Senator MULLIN. It is under the public records—

The CHAIR. You are probably looking at some phony right wing internet stuff. It ain't true. All right, you should read beyond that. It is not true.

Senator MULLIN. It is part of the record.

The CHAIR. No, it is not public record.

Senator MULLIN. Okay. Well, you made—million on your book—

The CHAIR. It is not public record.

Senator MULLIN. You have made—on your book—

The CHAIR. Excuse me, I have got the mic now. No. 2—I have the mic now, I have got it—

Senator MULLIN. Did you not make a statement that you want to be a millionaire. Did you not make that statement—

The CHAIR. You had your time, all right. You are not telling the truth. Second of all, you have got no evidence that I have ever said all CEOs are corrupt. I have never ever said that.

Senator MULLIN. Probably not all but—

The CHAIR. Probably not, then you shouldn't say it. Furthermore, what this hearing is about is whether or not—and you talk about being pro-union. Really what this hearing is about is whether or not workers have the Constitutional right to form a union.

The evidence is overwhelming, not from me, but from the National Labor Relations Board, is that time after time after time, despite what Mr. Schultz is saying, Starbucks has broken the law and has prevented workers from joining unions to collectively bargain for decent wages and benefits. Senator Baldwin.

Senator BALDWIN. Thank you, Mr. Chairman. Mr. Schultz, I want to begin by acknowledging the leadership role your company has played in providing benefits to workers. You talked about it in your testimony with great pride, comprehensive health benefits to full and part time employees starting in 1988 and stock awards to all employees since 1991.

You noted, I think, that these benefits allow you to attract and retain a workforce that you call the secret sauce of the Starbucks success. Given this history, though, it is all the more puzzling to me that you are fighting this union drive so fiercely. You have said that a union will sever the direct relationship you have with employees, which you call crucial to anticipating their needs.

Instead of leaving it up to your anticipation, a union can ensure that you receive clear feedback about what your workers actually need free from fear of retaliation. While you call them partners, your workers are limited in their ability to engage with you directly because there is a power differential and you have power over them and the benefits that they cherish, a power you have shown your willingness to wield involving employees attempting to organize.

I find it particularly ironic, especially given your own powerful story, that you don't see this power dynamics. Further, I think this number is right for your U.S. employee base, but you employ over 235,000 people and over 3,000 in my home State of Wisconsin alone. You can't possibly have a direct relationship with all of them.

Some intermediary is necessary. If you truly want a direct relationship with your workforce. I would suggest to you that a union can provide that. I also want to note in your written testimony that you returned to Starbucks in April of last year and noted that the company had gone astray, had fallen—lost its way on many levels.

You talked about short-termism, an issue on which I agree profoundly. And who are these partners to turn to with this direct relationship during this time that the company had gone astray?

In Wisconsin, when I met with Starbucks union organizers, it was immediately clear to me that they take significant pride in their work. You talked a little back and forth about the quote of hating Starbucks so much, why don't you quit or get a job somewhere else? These workers don't want to quit. They want to work.

In fact, they seem to share so many of the same goals for the company that you have laid out so eloquently in your testimony. All of these workers are asking is that you respect their right to organize, which would require you to treat them not just as partners, but as equals. It is that power dynamics that I was talking about.

On that note, Mr. Schultz, it has been almost 1 year since the first Wisconsin store voted to unionize. I want to ask you on the record when Starbucks will begin bargaining in earnest with those workers. And when can I expect that I will hear that the first contract has been signed?

Mr. SCHULTZ. I would love to answer your question. I wonder if I can have more time to respond to some of the things you have said. But we are prepared in the State of Wisconsin and other states that we have partners who want to join a union to meet face to face, as we stated consistently, and begin a bargaining process.

We are prepared to do that in Wisconsin. Mr. Chairman, I wonder if I could just speak to a few things that the Senator mentioned.

The CHAIR. You have about 50 seconds.

Mr. SCHULTZ. Okay. Starbucks has had almost 5 million people wear the green apron, 5 million. So, we have created close to 5 million jobs—5 million jobs. Just think about how many families have benefited from Starbucks.

The majority of those partners have participated in an equity plan unprecedented in American business. 14 percent of their base pay is how we started. In addition to that, 99 percent of the 350,000 who work for Starbucks want a direct relationship with the company.

In addition to that, what's the most important metric of any business? And that is trust with your people. And as a result of that, we have the highest level of retention of any company in our sector. That is hundreds of companies, the highest level of retainment—

The CHAIR. Mr. Schultz, I have—there are time limits here. Senator Cassidy.

Senator CASSIDY. I defer to Senator Braun.

Senator BRAUN. Thank you, Mr. Chair and Ranking Member. I think this is an interesting discussion because I recently come from the world of building a business over 37 years, and I have been clear when it comes to unions, they are so important in today's world vis-a-vis large public companies, multinationals.

How would you have any countervailing clout unless you didn't have an effective union? I think this is interesting because the res-

restaurant business, I think currently has maybe 3 to 4 percent of it unionized.

One of the reasons, since I had a small business for 17 years, 15 employees before it grew, and the best avoidance of a union is to treat your employees like family, pay good wages, have good benefits. You do that, you are probably never going to have a union knocking at your door.

But we are talking about an industry here that through COVID, went through one of the most traumatic events any small enterprise or business has gone through. This is not a small enterprise or business, but it is in a business. It is got a high fatality rate due to the nature of it. I don't know currently what you are paying your average employee on the line. That is going to be the first question.

Then what the average pay of senior middle management, senior management would be. I always thought it was good, as long as you are earning equity in whatever you are doing, that you would probably be reasonable there. Don't pull in with a Maserati and all of that. I would love to know where you are at on that wage stratification first.

Mr. SCHULTZ. Thank you, Senator. The average wage is \$17.50. That is higher than the minimum wage of every state in America. The—with benefits, and a majority of our people take the benefits. That is a \$27 an hour. 65 percent of our managers across the country were baristas, and all in, the manager salary is about \$80,000.

Senator BRAUN. Very good. And then you have a stratum of management above that?

Mr. SCHULTZ. District manager, regional manager, and I think what we are most proud of is that the majority of people who are managing stores, managing districts, managing regions started out in our stores. We have hundreds, maybe thousands of beautiful stories that our partners have shared with us about what Starbucks has done for them and their families as a result of the benefits that we created. And those benefits were not created because it was a union. Those were created because of the decisions——

Senator BRAUN. I think that is important to note, but I think what you represent here is a watershed case because you are large. And you generally get large because you are successful along the way.

We have got to be careful because, I am going to pivot to something that the other side of the aisle has proposed, is like the Pro Act. And again, I am probably the most outspoken Republican on the benefit of unions, but you have got to be careful where they go. If they are going into the gig economy, into the independent contractors, which is the next chapter on some of this, that will stifle entrepreneurialism.

When you look at if you are large, you shouldn't necessarily be held to account unless there are things that you are doing to impede the law in terms of unionizing. You have already made that point that you don't think you have been doing it. All I am saying, this is important because this will have a ripple effect way beyond your business.

The one thing we can't have is to suffocate what has made this country great, and that is that you do not necessarily have to wrestle with a union if you do all the things that are good for your employees to begin with.

Can you honestly say that you have done that throughout the history of your company? I know you have mobility. It sounds like there are several different ways you can grow. You have no mobility unless you are growing as a company. But have you honestly done that?

Mr. SCHULTZ. Yes, we have, Senator. I wonder if I could just give you one prime example that I think the Committee should understand. You know, during COVID, as you said, the restaurant industry was really plummeted.

I mean, they—we had it very, very tough. We had thousands of Starbucks stores closed. Many of our peers started cutting benefits during COVID. Starbucks did not cut one benefit during COVID, and we paid every single partner during COVID with no exception.

Senator BRAUN. What was your average wage before COVID? Because you said you are at about \$17 now. Did you have to raise it over the last couple of years?

Mr. SCHULTZ. We raised wages in May, that is correct.

Senator BRAUN. What was it before?

Mr. SCHULTZ. About \$15 an hour, went to \$17.

Senator BRAUN. One final point, even \$17 an hour, that is not a living wage in this day and age. I am proud that in our company we pay the highest starting wage in a low unemployment county, and any large corporation shouldn't necessarily be bragging about \$15 to \$20 wages.

When you look at the typical structure of a large company, that should probably be \$20 plus like many Main Street businesses pay, and I think if companies like yours and the larger companies don't do it, you are going to be constantly grappling with maybe here.

But on the other hand, union shouldn't be trying to get involved in companies that are doing a good job, especially Main Street and smaller ones. I wish we had more time. We will leave it at that.

Mr. SCHULTZ. Thank you, sir.

The CHAIR. Senator Smith.

Senator SMITH. Thank you, Mr. Chair. Good afternoon. Good morning, I think it is still. Mr. Schultz, you repeatedly call your employees partners. Do you value your employees or your partners that want to join a union or have joined a union, do you value them as much as you value those that have not yet joined a union?

Mr. SCHULTZ. We have respect for every single partner who wears a green apron, regardless of their choice to vote for a union.

Senator SMITH. So yesterday I had the opportunity to meet with some unionized Starbuck workers from Minnesota, Gracy and Elizabeth, and they tell me that Starbucks is cutting their weekly hours.

They estimate that they are losing \$4 an hour in wages because the company won't allow them in unionized stores to access credit

card tipping when that is available to workers in nonunionized shops.

They tell me that they are simultaneously understaffed in their stores and unable to get enough hours to pay their bills. If these folks are your partners, why are you treating them differently than the non-unionized workers?

Mr. SCHULTZ. When we raised wages in May, we were, my understanding was that under the law, we did not have the unilateral right to provide those benefits to partners who were involved in collective bargaining. And that is why.

Senator SMITH. You have said that several times during this meeting. You have said that you cannot legally provide these benefits without bargaining over them. But I am sure that the union has specifically stated in this letter, from July 15th, 2022, that they waived any objection to bargaining on this.

It says in the letter, to this end, the union hereby waives any objection that we might have to Starbucks providing union representative employees with any wage or benefit improvements provided to unrepresented employees. I don't think this—I just think you are wrong.

Mr. SCHULTZ. Let me try and explain. There are an array of wages and benefits that need to be negotiated in the collective bargaining process. It just, it would not be proper to take one piece of the puzzle out of the negotiating process since the union, the people who have joined the union have decided that they want to negotiate a contract. It is our preference and our right to negotiate that contract fairly and objectively, but not in piecemeal.

Senator SMITH. I think that the way the law reads is that there is an exception to that requirement to negotiate when the employees make it clear an unmistakable waiver to bargaining.

But let me ask you about this, because the first Minnesota store union was certified over 320 days ago, and no meaningful bargaining has happened since then, though there have been some meetings. Do you know how long those meetings have been in Minnesota?

Mr. SCHULTZ. I am not involved in any of the meetings.

Senator SMITH. The Minnesota folks tell me that those negotiation sessions have not lasted longer than 6 minutes. So that seems to me, sir, as a failure to negotiate in good faith.

Mr. SCHULTZ. When, from my understanding and in many of the meetings that we have showed up to have, face to face meetings, the other side has decided to put on a Zoom or a teams, and then we decide and we have told them upfront that we will not negotiate unless the meeting is in person and we know who is in the room.

We have left those meetings as a result of the fact that we could not preserve the privacy and the integrity of a face to face meeting.

Senator SMITH. My observation here is that this feels like sort of a catch 22 because you are not willing to bargain on issues like credit card tipping while simultaneously you are not coming together to bargain at all.

I think that is why the employees are feeling, who are wanting to join the union, feel so frustrated. But I want to just touch on one other thing. I have been listening really closely to you today, and I also come from the private sector. I had my own company at one time before I moved into the public sector, and I have been really struck by your focus on what an excellent company you are.

Honestly, it sounds as if you are personally offended or even insulted that anyone would question you or your company. And it seems as if you feel that only bad companies should be unionized, that there is something nefarious about a company that has done something bad, and therefore they need to be unionized and that Starbucks doesn't need a union because you are a good company.

But I think, Mr. Schultz, that is not your decision to make. I believe that there is an inherent value in coming together to organize that would address this imbalance of power that I think the many, many Starbucks partners sitting behind you and in Minnesota feel. I mean, you are a billionaire and they are your employees. The imbalance of power is extreme. And that is why people want to come together to form a union.

Mr. SCHULTZ. Senator, I agree with you that I do not have the right to decide who can vote for a union or not. But I am the chairman, I am the CEO of the company, or I was the CEO of the company and I have the preference and the right to communicate to our people about what it is we believe is right for Starbucks.

I want to repeat, 99 percent of the 250,000 want a direct relationship with the company. The last thing you said, and it has been said many times by the Chairman, I just want to make a point of that. This moniker billionaire, let's just get at that, okay.

I grew up in federally subsidized—let me finish. I grew up in federally subsidized housing. My parents never owned a home. I came from nothing. I thought my entire life was based on the achievement of the American dream. Yes, I have billions of dollars. I earned it. No one gave it to me, and I have shared it constantly with people—

The CHAIR. Senator Cassidy.

Mr. SCHULTZ [continuing]. people of Starbucks. Anyone who keeps labeling this billionaire thing, is—

The CHAIR. Mr. Schultz, I don't mean to cut you off. We have time limits here. And you have—I am not cutting you off.

Mr. SCHULTZ. I am just saying, it is your moniker constantly, it is unfair.

The CHAIR. No, it is not. You have had more time—I have been generous with the time. I am sorry—

Mr. SCHULTZ. But Mr. Chairman—

The CHAIR. We have a room full of people. We have a panel to go after. You are not the only person to testify.

Mr. SCHULTZ. Okay.

The CHAIR. Senator Cassidy.

Senator CASSIDY. Defer to Senator Marshall.

Senator MARSHALL. Thank you, Ranking Member. Thank you, Chairman. Mr. Schultz, I want to change the subject a little bit.

Last year, your company decided to close 16 stores across the Nation, including the Starbucks down the street here at Union Station due to rising crime in these cities.

Shortly thereafter, you stated that there are going to be many more closures for similar concerns. Your store managers are quoted saying that their employees have not felt safe amid a spike in crime, a surge of assaults, thefts, and drug use. I agree. In fact—in fact, I fear for my own staff walking home in this neighborhood. I feared so much that I purchased each one of them, one of these noisemakers this past Christmas.

One of our colleague's office staff was recently violently assaulted as well. The lawlessness in this country is out of control. When you decided to close those 16 stores because you feared for your employees' safety, did you then, and do you still believe that the White House needs to focus on restoring law and order and relaying a message to this country of respect for the brave men and women in law enforcement in this country?

Mr. SCHULTZ. Thank you, Senator. We do, in fact, have a significant issue of safety in urban cities around America. And Starbucks has closed many, many stores that were profitable as a result of the fact that our own people do not feel safe working in the stores.

We have a situation of homelessness, drugs, mental illness. And as a result of that, and many of the societal issues that we are facing today are difficult for Starbucks to address because we don't have the power or the responsibility to address these things as you have described.

Senator MARSHALL. You know, thank you for your answer and your honesty. It is a sad day for this nation when the crime is so bad that you feel the need to close profitable shops because you can't keep your employees safe at their place of work.

I have to note for the record that every single location you closed, all 16 of them were in Democrat ran cities. We have another saying—I want to change the subject here again. We have a saying back home that pigs get fat and hogs get slaughtered. You do have 645 unfair labor cases brought against you.

Based upon the size of the crowd, there may be some smoke and fire together there. This is your chance. Tell me your side of the story. Tell me why you have so many complaints. Do you feel like that there has been a fair negotiation process?

Have you been—have you and your company been open to negotiation process? This is—give you a minute here, a minute and a half. Just tell me your side of the story.

Mr. SCHULTZ. Thank you. First off, with regard to the NLRB, Senator Cassidy mentioned a number of issues. Starbucks Coffee Company will abide by the law and follow the process. I hope the Committee does investigate many of the things that are going on within the NLRB and the courage of the whistleblower to come forward with regard to the allegations that she has—that she wants to discuss with the Committee.

This process, unfortunately, has played out publicly in many different ways. And unfortunately, a public company in America today is unfortunately guilty before the—before anything—

Senator MARSHALL. This is your chance——

Mr. SCHULTZ. Yes.

Senator MARSHALL. So why are you innocent?

Mr. SCHULTZ. You know, we are innocent because we have done everything that we possibly can to respect the right under the law of our partners' ability to join a union. But conversely, we have consistently laid out our preference, without breaking any law, of communicating to our people about what we believe is a vision for the company.

When I went to Buffalo, even though it was cited before by Senator Casey, I never mention the word union once. I talked about the vision for Starbucks, and the reason is post-COVID, 95 percent of the people wearing the green apron had worked for the company less than a year.

They didn't know anything about Starbucks. I went to Buffalo to share the story of Starbucks. What we have done as a company, equity in the form of stock options, comprehensive health insurance, all the things that we have done to provide opportunity for our people.

I didn't go there to talk about the union. I went there to lay out our vision for the company, and I consistently have done that as well as the leaders of Starbucks. We have not broken the law. We have simply tried to defend ourselves and tell our employees, all of them, what we stand for, our future, the aspirations we have, the growth of the company, and the opportunity.

Starbucks is in many ways the quintessential entrepreneurial company of the last 30 years. We have created 5 million jobs from a cup of coffee, and we have shared the profits with our people.

We have done all these things because—not because of the union, but because of the compassion, the empathy, and in many ways, my own story of understanding what happened to my father and trying to build the kind of company that my father never got a chance to work for. And that is the story of Starbucks.

The CHAIR. Senator Murphy.

Senator MURPHY. Thank you very much, Mr. Chairman. You know, collective bargaining is a fundamentally conservative idea. I sort of lost track of that. I mean, it is rooted in free market principles, right? The idea that workers should be able to freely join together to negotiate in a free, open negotiation with their employer.

It is kind of disappointing and sad and wild to me at how sort of partisan this debate has become. Democrats standing up for unions. Republicans saying, they support collective bargaining, but not seeing that there is real genius in the idea, in a free market society that workers get to come together.

You know, it is funny, previous Republican candidates, they really fought hard to work to win the union vote, to speak at union conventions. This sort of new dichotomy we have is in fact new. Mr. Schultz, what do you mean when you say that you abide by the law?

I guess when I do a search online to take a look at cases that have been brought against Starbucks for illegal firings, as you

know, New York, Michigan, Pennsylvania, Tennessee, Kansas, Missouri, Washington, a decision out of Buffalo requiring you to reinstate workers, calling your practice egregious and—calling your practices egregious and widespread and misconduct.

You say you follow the law, but then, of course, this Committee sees repeated evidence of NLRB orders forcing you to reverse actions that were on their face a violation of the law. So, when you say you don't break the law, you abide by law, you are you mean you disagree with all of these decisions from the NLRB? You think they got it wrong in all of those cases?

Mr. SCHULTZ. I think what you are talking about is allegations that we look forward to in the process to defend ourselves. But if I can give you one specific case—

Senator MURPHY. These are all—but these are—but some of these are orders from NLRB judges to reinstate employees based upon violations of contract. Do you think in all of those cases in which judges have required stores to be reopened or for workers to be reinstated, that they just all got it wrong?

Mr. SCHULTZ. Well, in Memphis, as—

Senator MURPHY [continuing]. in every case?

Mr. SCHULTZ. In Memphis, as an example, we do have—

Senator MURPHY. I am not actually looking for—I am not looking to litigate each case. Just to clarify, when you say that you are abiding by the law, you mean that in every case in which an NLRB judge has ordered you to take steps to remediate actions, in every single case they have gotten it wrong?

Mr. SCHULTZ. We will follow the law and follow the judge's order, but we look forward—

Senator MURPHY. But the judge is making a finding that you have engaged in conduct that is not allowed by the underlying law, i.e., illegal behavior. In every case, you believe that the judges got it wrong.

Mr. SCHULTZ. I believe the allegations will prove that Starbucks was correct. I can give you a perfect example if you are willing to listen.

Senator MURPHY. Sure. I'm willing to listen.

Mr. SCHULTZ. Okay, so let's take Memphis, which has been a clear, isolated case, but I think indicative of the process. Safety at Starbucks is critically important. We want to protect and preserve the safety of every one of our people. In 1997, we had a tragedy in Georgetown where three Starbucks partners were murdered.

As a result of that, we have always taken safety very seriously. But after that, everything we do is about partner safety. Now, in Memphis, a Starbucks person, and who agreed to join the union, after hours opened up that store for activities that were not consistent with safety and procedures at Starbucks. No one should open up a store that is closed.

The manager took a disciplinary approach and terminated that person. That person was reinstated. That is the fact. Safety is key at Starbucks, so we can't be held accountable for things that we be-

lieve under the procedures of Starbucks, that are based on safety for our people. And that is a clear violation of our procedures.

Senator MURPHY. I understand. I just, I am trying to square your testimony in which you insist that you rigorously follow the law—

Mr. SCHULTZ. Yes.

Senator MURPHY. With overwhelming evidence from the organizations that are charged with enforcing American labor law, that is not the case. It is akin to someone who has been ticketed for speeding a hundred times, saying I have never violated the law, because every single time, every single time the cop got it wrong.

That would not be a believable contention, if someone was to make it up before the Committee. I find it hard to believe your insistence that notwithstanding this extraordinary set of decisions, reinstating workers, forcing stores to be reopened, that you are in fact consistently abiding by the law as your testimony is before this Committee.

Mr. SCHULTZ. I don't believe Starbucks has broken the law.

Senator MURPHY. All right. Thank you.

The CHAIR. Senator Cassidy.

Senator CASSIDY. Let me just make a couple of observations relative to what has been said on the other side of the aisle—of the dais. First, we should have, as I mentioned earlier, an investigation of the NLRB activities.

They are being made out as if they are a totally objective player in all the circumstances. But here I have a letter from NLRB confirming that they—the OIG is investigating allegations of misconduct by the NLRB employees in Region 14. Now we can say, oh, my gosh, NLRB is supposed to be neutral.

There is tangible evidence that they are not. Second, I am sorry Senator Merkley left. Republicans down here have totally supported the right of people to organize. I would also point out that it was Republicans who were standing up for the trade unions when in the first week of his presidency, Joe Biden canceled the Keystone XL pipeline, canceled it when those trade unions needed those jobs to make their pensions.

By the way, if I may point out, subsequently, the Administration has gone hat in hand to Venezuela and the Middle East, asking for more production. If they had not canceled that pipeline, that oil would now be coming down to the State of Louisiana, employing more workers in my state, refining that oil in the most environmentally sensitive way. I kind of stand by our side.

Mr. Schultz, let's explore a little bit. There is this impression that the unionization effort has occurred organically, but you mentioned earlier, and I think I have the facts here, that the person in Buffalo was making \$69,000 a year when she went to work for the store and began to organize. I think that is called salting.

But it wasn't as if there is this organic "let's just all come together and unionize." No "workers of the world unite." It was no, somebody was paid to go in there and create an environment where four out of six people might support it. I don't know if that was a

four out of six pro-union vote. Any comments upon this person getting paid by the union when she came to your store in an attempt to organize it?

Mr. SCHULTZ. Well, if that is not a nefarious act, I don't know what is.

Senator CASSIDY. Yes, it does seem just a little bit inorganic. You made, or your company made in a 2023 proxy statement that Starbucks has not been found to have violated the law as part of any enforced order of the NLRB.

Now, Senator Murphy suggested that you are guilty because you have been charged, and yet you are pointing out that you have not been found to violate the law. Will you try to reconcile those two statements?

Mr. SCHULTZ. That is correct. We have not been found guilty of any violation. These are allegations. We look forward to the process that Congress has set up and to—and I think we will avail ourselves that these will be proven not true.

Senator CASSIDY. Now, I just made the point. I forget if I requested this, but I would like to enter into the record the letter from NLRB confirming that they are investigated for NLRB employees' misconduct in Region 14.

The CHAIR. Without objection.

[The following information can be found on page 95 in Additional Material:]

Senator CASSIDY. Do you have any comments upon what I feel is to be the politicization of NLRB? From your perspective, is that a real thing?

Mr. SCHULTZ. I don't really have any comment on that. I hope the Committee will look closely at it.

Senator CASSIDY. Okay. Now there has been a lot made that contracts have not yet been achieved, so-called first contracts. I have something here from a Bloomberg report that it took on average 465 days for first contracts in a variety of industries to be achieved. More than a half took more than a full year to sign.

It has been argued that you are not negotiating in good faith because you have not yet achieved the contract. And yet that seems to be consistent with the pattern of how these first contracts come about. Is there any statement you would like to make on that?

Mr. SCHULTZ. I think that is true. As I said earlier, we have shown up about 85 times to have a face-to-face meeting. We have tried to set up 365 additional meetings, and we are very clear, we are ready and able to have face to face negotiations and we will do so at a moment's notice.

Senator CASSIDY. Now, NLRB's General Counsel Jennifer Abruzzo found that you had violated Federal labor law by refusing to bargain if some attended over Zoom. I didn't realize it was a law that you had to be able to go over Zoom. But any comment about Ms. Abruzzo, who some have found to be an advocate for unions, in terms of this particular finding?

Mr. SCHULTZ. You know, I think—I have been in business for many, many years, face to face meetings, negotiations, collabo-

rative sessions, they are all better to be had than anything that is on Zoom.

Senator CASSIDY. Is there a law that says that you have to do it over Zoom if one party chooses to go over Zoom?

Mr. SCHULTZ. I have never heard of that law, sir.

Senator CASSIDY. Oh, okay. I haven't heard it either. I yield.

The CHAIR. Senator Hassan.

Senator HASSAN. I am happy to yield to Senator Markey for a minute, and then I will follow up after him, if that works.

The CHAIR. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman. And thank you for this important hearing. And, Mr. Schultz, it is good of you to show up, but then again, you face little choice. It is disappointing to me that it took such a long time and required the threat of a subpoena for you to appear before this Committee.

It is frankly disrespectful to your hundreds of thousands of employees, but we do appreciate your finally appearing here. All across America, workers are saying that they have had enough, rising inequality and outlandish CEO pay for those at the top like you and a paycheck-to-paycheck subsistence for everyone else.

The unionizing Starbucks workers are on the front lines as a groundswell of working and middle class people were banding together to assert their right to organize, form a union, and collectively bargain for their dignity.

My father used to tell me that you can't beg for your rights, you have to take them. He lost his finger in an industrial accident. As a young man, there was no OSHA. He just said, the boss said, see you next week, John. Back on the job. That was before rights were put on books.

Ultimately, that is what Starbucks workers are doing. Workers in Buffalo are the spark to the fire of organizing its locations across the country, including 15 Starbucks locations in Massachusetts. The American people are watching. Public support for unions hit a record high late last year, with 71 percent of Americans approving of labor unions. So, as you sit here denigrating your workers, you are not just morally and legally wrong, you are in the minority.

You are out of touch. Union busting is disgusting. I got the chance this week to meet with Caitlin, who is a Starbucks employee from Gardner, Massachusetts. Like you, Caitlin cares deeply about Starbucks. She originally started working for the company in 2006 and came back to rejoin Starbucks in 2021.

When she came back, she saw Starbucks similar to how you describe it in your testimony, a company that had lost its way. She saw a company that now only cared about money at the expense of the health and well-being of its workers.

To help save the Starbucks she once knew and loved, Caitlin and her coworkers formed a union. They wanted to revive a wayward company. Make your company better. But you vilify Caitlin and her colleagues for caring. You demonize them for participating in their fundamental right to organize.

Worse, you and your company set out to punish Caitlin and her colleagues, withholding benefits and raises, cutting hours, and purposefully understaffing to harm you most dedicated partners.

When you give us ten pages of testimony extolling the benefits that Starbucks offers its employees, that is not what I see. I see Caitlin. I see you squeezing the people who have made you rich with blatant disregard for the law.

Perhaps because you think if you can hire the lawyers and pay the union busting consulting firms, you can get away with violating other people's rights, disregarding their dignity and silencing working people in America. But here's the thing.

If you can pay the lawyers and the consultants and the PR specialists, you can also pay the workers a fair wage. So, you say that your father was unfairly fired after he was injured on the job. Your father had no rights and your family paid the price.

That is how your workers now feel. They have no rights. They don't want to be like your father, who had no rights. They don't want their families to have to pay the price for their children the way your father had to pay a price for his children. They want rights. Your father couldn't protect himself.

That is all your workers are looking for so they can protect themselves and their families so that what happened to your family does not happen to their families. I don't think you understand that Mr. Schultz. They are just looking to be someone who can protect themselves in the way your father could not.

Mr. Schultz, I would just hope that you would understand that, but I am afraid you don't. I am afraid that if you step down as CEO, that you don't understand that these people are afraid that your company will lose its way again and that they need rights that don't just come from you but come from the company.

That is what they are looking for. It lost its way. You say you are back, but it could lose its way again. Workers should not be dependent upon you, Mr. Schultz, and your sense of right and wrong. They should be able to have the laws, protections, unions that stand up for them every single day of the year, and that is something, I think, Mr. Schultz, that you just fundamentally don't understand. These workers are just like your father and they have no rights.

Mr. SCHULTZ. Can I respond, sir?

The CHAIR. 30 seconds.

Mr. SCHULTZ. Only 30 seconds. I need more time for that.

The CHAIR. I am sorry, that is all—every Member here has—

Mr. SCHULTZ. You bring up my father. You don't understand, sir. My father was a World War II veteran. Fought for this country in the South Pacific. You don't understand.

Senator MARKEY. I understand completely. Your father was—

Mr. SCHULTZ. Can I finish, sir?

Senator MARKEY. Yes, sure. Your father served our Country, and then of the company he worked for—

Mr. SCHULTZ. Can I respond, Chairman?

The CHAIR. Yes, please.

Mr. SCHULTZ. Okay. I don't understand. Let me ask you a question since you cited the union as the answer, is there a union contract that you personally are aware of that provides comprehensive health insurance, equity in the form of stock options, free college tuition? Is there at \$17.50 and an average of \$27 with benefits? Are you aware of a union—sir, answer the question—of a union contract that has those benefits, sir? Are you aware—?

Senator MARKEY. Mr. Schultz, here is your testimony. Looking back—

Mr. SCHULTZ. I asked you a question—

The CHAIR. Mr. Schultz—

Senator MARKEY [continuing]. It is clear to prior to my return last April, the company had lost its way. That it had fallen under the dangerous influence of Wall Street short-termism that I had always tried to—

Mr. SCHULTZ. I asked you a question, sir. You don't understand.

Senator MARKEY. Your testimony says that your own company lost its way and it will lose its way again unless there is a union there—

The CHAIR. Okay—Senator Hassan. Thank you.

Mr. SCHULTZ. In a post-COVID environment—

The CHAIR. Mr. Schultz, Mr. Schultz—Senator Hassan, please.

Mr. SCHULTZ. You don't know—

Senator HASSAN. Thank you, Mr. Chairman. I want to thank you for holding this hearing today to discuss reports of illegal union busting at Starbucks locations across the country.

In New England alone, there are 19 unionized Starbucks stores, and a total of eight unfair labor practice violations have been filed by the workers' union. So, it is absolutely critical that we hold companies accountable when they fail to comply with Federal labor law.

Mr. Schultz, I am seriously concerned by reports that Starbucks is coercing and retaliating against workers for exercising their rights to organize, for example, by unjustly firing workers who are involved in union organizing, conducting surveillance of union organizers, and reducing their work hours.

Until 2 weeks ago, you were the CEO of Starbucks and you continue to be a member of the Board of Directors as well as a major shareholder. So, what I want to know is this. I know that Senator Casey asked you about reports that Starbucks was surveilling workers who were engaged in organizing. Do you have any knowledge that such surveillance took place?

Mr. SCHULTZ. I had no knowledge of that, Senator.

Senator HASSAN. Who decided to move these workers to other locations, the workers who were engaged in organizing, or to reduce their hours, or fire them?

Mr. SCHULTZ. I am unaware of that.

Senator HASSAN. You had no participation in decisions about moving workers who were engaged in organizing?

Mr. SCHULTZ. I had no involvement in any specific issue that regards a union in a district or a store, no.

Senator HASSAN. Were you or your successor involved in any of these decisions? I am just asking again.

Mr. SCHULTZ. No—no.

Senator HASSAN. Mr. Schultz, the National Labor Relations Board has filed over 80 complaints against Starbucks for this kind of activity that I just asked you about. Starbucks leadership really needs to end these practices. You have said you don't know anything about them.

You have also, as you discussed with Senator Markey indicated in the past that you came back because you felt that the company had lost its way. I will just add my—my concern about these reports of these activities and urge you as a board member to take action to make sure that the rights of workers who are engaged in organizing activity are protected.

Now, as you know, the National Labor Relations Act requires an employer to bargain collectively with its employees' union representatives. It has been more than 450 days since the first Starbucks union was established, yet there has been little evidence of good faith negotiations between Starbucks and its union.

The delay is truly unacceptable. As CEO of Starbucks, what exactly did you do to move union negotiations along in a timely way?

Mr. SCHULTZ. We said consistently, Senator, that we are prepared to have collective bargaining sessions when they are face to face, and we are ready, willing, and able.

Senator HASSAN. Well, the record to date is unacceptable, 450 days. What will you do as someone who continues to serve on the company's Board of Directors to remedy the situation?

Mr. SCHULTZ. We want to have these meetings. We have scheduled 85. We have been to 85. We have tried to schedule 365, and we are ready to do that.

Senator HASSAN. My understanding is that on multiple occasions after you schedule them, the company cancels them at the last minute. I would suggest to you that is not acceptable.

The facts really do speak for themselves on this issue. Starbucks is an outlier here, so you need to quickly shift course and negotiate with your unionized workers. Earlier this month, this Committee heard from labor leaders about employers across the country who partner with unions to achieve better outcomes for their companies and the economy.

For example, the President of the Teamsters spoke about how they have partnered with United Airlines to build out an apprenticeship program that would create a thousand good paying middle class jobs.

Knowing that other large companies successfully collaborate with unions, why has Starbucks not done more to collaborate with its workers' unions?

Mr. SCHULTZ. I don't think that is true.

Senator HASSAN. Well, failing to reach a contract over 450—this time period between requests to organize and getting contracts

done indicates that you are resisting unionization as opposed to working with the union and then collaborating with it.

Mr. SCHULTZ. Senator, we respect the right of every person who wears a green apron if they want to join a union. But we also have the right to communicate to the 99 percent, 350,000 people who want a direct relationship with the company.

Senator HASSAN. My question is, why not work with the union and collaborate? And why not get the input from the unions to actually improve things for workers?

Mr. SCHULTZ. Well, we have we have we have sat down 85 times to have those meetings and we hope to have some more.

Senator HASSAN. So again, I would just urge you there are lots of examples of large employers who work well with their unions and they actually find that their business does better when they negotiate with unions, reach contracts, and collaborate with those unions. I would urge you to take that approach. Thank you, Mr. Chair.

The CHAIR. Senator Lujàn.

Senator LUJÀN. Thank you, Mr. Chairman. Mr. Schultz, thank you for being here today. I have a series of questions, some of them are yes or noes, and I hope to be able to cover a lot of ground here if it is possible. Mr. Schultz, yes or no, does Starbucks provide employees with generous benefits like health care, paid parental leave, and college scholarships?

Mr. SCHULTZ. Yes.

Senator LUJÀN. You are proud that Starbucks, does it?

Mr. SCHULTZ. Very proud.

Senator LUJÀN. I understand that part time employees need to work at least 240 hours over the course of three consecutive months or roughly 20 hours a week to be eligible for those benefits. Is that true?

Mr. SCHULTZ. I am not sure that is correct, sir. I have to get back—I don't think that is correct.

Senator LUJÀN. I don't want to ask one of your lawyers. I believe that to be true.

Mr. SCHULTZ. Okay.

Senator LUJÀN. I see a lot of head nodding from employees behind you. But nonetheless, we can—I can submit a question to the record so that you can definitively say yes or no to that. Mr. Schultz, what happens if workers hours fall below a threshold, as I suggested? Are you able to answer that question, to their benefits?

Mr. SCHULTZ. I think their benefits would be in question and a manager would try and get their schedule up so they don't lose their benefits.

Senator LUJÀN. I understand that Starbucks has a widespread pattern of reducing worker hours in stores that have unionized. After conversations with constituents from New Mexico, that is what I have learned. And why does Starbucks reduce workers' hours at unionized stores?

Mr. SCHULTZ. I am not aware we do that, sir.

Senator LUJÀN. Mr. Schultz, you announced in May 2022 that the company would raise pay and double training hours at its more than 10,000 corporate owned stores. But you said that these changes and others would not apply to unionized stores or stores where workers had filed for union elections. Mr. Schultz, yes or no, did you say this?

Mr. SCHULTZ. Yes. My understanding was that we were not allowed, under the law, to provide benefits unilaterally to stores and partners that were involved in unions.

Senator LUJÀN. Was there a finding at the end—at NLRB along these lines as well?

Mr. SCHULTZ. I am unaware of that.

Senator LUJÀN. Related to that statement?

Mr. SCHULTZ. I am unaware of that.

Senator LUJÀN. Yes or no, do you claim that Starbucks cannot make changes to benefits without good faith collective bargaining?

Mr. SCHULTZ. That is my understanding.

Senator LUJÀN. The National Labor Relations Board requires an employer and the union to bargain in good faith about wages, hours, and other terms of employment until they agree on a labor contract, not after. Are you familiar with that?

Mr. SCHULTZ. Yes.

Senator LUJÀN. Yes or no, just so that I understand correctly, is it true that Starbucks can hold shareholder meetings virtually, but it refuses to allow some union members to join bargaining negotiations virtually, even if other members are present?

Mr. SCHULTZ. That is correct.

Senator LUJÀN. The reason that I asked the question about the reduction in hours, Mr. Schultz, is I certainly commend and appreciate but decisions were made about respecting employees, about valuing employees as well.

What concerns me is practices that have been shared with me where a reduction in hours, where an employee maybe once worked full time, 36 hours or so, but then hours were changed at that property for whatever reasons, I will suggest that I believe it is because of unionization and look forward to getting your response there, but then the employees, I am told, have to be on call or made available if Starbucks decides to add a shift or something. Is that true?

Mr. SCHULTZ. Sir, I am unaware of a specific store situation in New Mexico, I am sorry.

Senator LUJÀN. I am not asking about a specific store. Starbucks across the country in many properties has reduced hours of employees. That is a fact. Is that correct?

Mr. SCHULTZ. For union workers?

Senator LUJÀN. For anyone. They have reduced hours.

Mr. SCHULTZ. We adjust the schedule based on our business.

Senator LUJÀN. When someone's hours are reduced, if it is for business, does Starbucks have a policy where that employee has to

make themselves available if Starbucks decides to call them back in for a shift that they are not scheduled for?

Mr. SCHULTZ. You—

Senator LUJÀN. Your head nod indicates a yes. I believe the answer to be yes.

Mr. SCHULTZ. Let me try and answer that. The manager and the assistant manager works very closely with the people in the store to adjust hours to accommodate people's work life balance as much as we possibly can.

Senator LUJÀN. Well, that is not my understanding. I would be happy to send something into the record. My concern is this, if a store changes its hours, reduces its open hours, staff's schedules are changed, they are reduced from 36 hours to 20 hours, but they are told they need to stay available, how do they get another job?

If they can't get another job and they are trying to go to school or do something to broaden whatever they are doing in their lives, but then a policy is put in place that says no, we are going to reduce your hours and you have to stay on call. So, whether it is a manager or not, that is a Starbucks policy.

I just hope with all of this—that it's not a policy. Well, we would be happy to pull you in to visit with folks from New Mexico and review some of those areas as well that I have been taught from others. I look forward to that as well. But I hope that can be done here in all of this—there is a lot of interest.

There are cameras outside and all the rest. Mr. Schultz, this company started in a strong way with what it did with its anchor stores out in Seattle and around Washington. You know, there is an NLRB case where they got closed and there is allegations that they have got to open up again. I don't know—and there has been an appeal, so I don't want to get into all of that stuff.

But going to what Mr. Markey said with testimony that we lost our way, I certainly hope that we can find that way back, because a lot of folks support Starbucks because the employees were treated well. I just hope that is something that we can work on together, but I look forward to following up with your staff. Thank you, Mr. Chairman.

Mr. SCHULTZ. I am incredibly proud of the long term track record—

Senator LUJÀN. Mr. Chairman, if I can't speak any longer—I didn't ask a question to Mr. Schultz, but I would be happy to ask a question, if he would like a response.

The CHAIR. Okay. Thank you. Thank you very much, Senator. What we are going to do is we have a wonderful panel that is going to be up here in a second. You have not voted yet and I have not voted yet.

Senator LUJÀN. Mr. Chair—

The CHAIR. Yes.

Senator LUJÀN. Just for 30 seconds, can I be recognized to submit a letter into the record from the Albuquerque store that sent it to Mr. Schultz?

The CHAIR. Without objection.

[The following information can be found on page 98 in Additional Material:]

The CHAIR. Let me conclude this session with Mr. Schultz in saying that we are looking at a situation where one side has all the money, has all the power, has all the consultants can hire and fire at will. We are looking at another side where workers are making not very good wages, wages that were forced stopped, as I understand it, by the threat of unionization.

You now have a \$15 an hour minimum wage. We are looking at a situation that Senator Lujan just mentioned—it was in a lovely room here. This is one world. Out there in the real world, whether it is Seattle or Vermont or wherever it is, people are given arbitrary schedules as to when they can and cannot get to work. Sometimes they are working 20 hours a week, sometimes the working 30 hours a week. It is hard to build a budget around that.

But at the end of the day, this hearing is not about my best-selling book. It is not about Venezuela. And it is a good book. People should read it. But it is—but the issue is pretty simple, workers have a right to join a union. In hundreds of shops that you control, workers have voted to join a union.

There is zero, zero union contracts. What I am not only asking you, I am urging you is do not only the right thing, do what is legal. Sit down, and you have said you are prepared to sit down face to face. Is that what I heard?

Mr. SCHULTZ. Yes.

The CHAIR. Do it. Sit down in the next 2 weeks, come back to us and tell us the success that you have had in finally negotiating a first contract. That is my hope. And with that—

Senator CASSIDY. Do I get to say—

The CHAIR. You do.

Senator CASSIDY. Yes. I would also say this hearing is about how we should have a neutral process by which NLRB is not placing a thumb on the scale on the side of one side or the other, but in which they are attempting to have a neutral process.

This Committee should be investigating the allegations that we have confirmation that OIG is investigating, that there are NLRB employees who are doing precisely that. Now, we on this side of the aisle firmly defend the ability of people to unionize, and we are promoting policies much more favorable for unions, for example, Keystone XL pipeline, and it absolutely has to do with the Administration's desire to buy oil from Venezuela rather than from Canada.

Why in the world that would be, I don't know, rather employing American workers in American trade unions. Why that would be, I don't know. But nonetheless, that is their call and it is not mine.

But we should not in this Committee, presume that someone is guilty before we have done our own independent evaluation, particularly because it would depend upon an evaluation by NLRB, which we happen to know right now is under investigation for being biased.

The CHAIR. NLRB is not under investigation for anything. All right, with that—

Senator CASSIDY. Their employees are—their employees are.

The CHAIR. Thank you very much for being with us. We are going to recess for 10 minutes and then we are going to have a very excellent panel joining us. Thank you.

[Recess.]

The CHAIR. Okay, thank you all very much for your patience. It was an important vote that we had to cast. We are now going to begin the second panel, and we are delighted to have an excellent panel which will include Maggie Carter, Jaysin Saxton, Sharon Block, Bradley Byrne, and Rachel Greszler.

Our first witness is Maggie Carter. Ms. Carter began working at Starbucks part time 4 years ago to get health benefits and pay while attending University of Tennessee. Her store in Knoxville, Tennessee, was the first Starbucks store in the South to unionize, and since then, Ms. Carter has helped workers at numerous other stores organize, and I am delighted to have her here to talk about her experience. Ms. Carter, thanks for being with us. Turn the mic on and—

**STATEMENT OF MAGGIE CARTER, STARBUCKS BARISTA,
KNOXVILLE, TN**

Ms. CARTER. Thank you much, Mr. Chairman.

The CHAIR. You are welcome.

Ms. CARTER. My name is Maggie Carter, and I am a single mom to a beautiful 8 year old boy named Colson. Being his mom is the absolute greatest gift of my life. He is why I ended up at Starbucks, the only place to offer me part time benefits and what I thought would be flexible scheduling while in school. As a lesbian, I was also drawn to Starbucks by its reputation as a progressive employer.

I started working in Starbucks in Jackson, Tennessee, in May 2019. I was paid \$8.35 an hour. Then March 2020 came and it felt as if the world shut down, just not at Starbucks. I worked consistently from day one of the pandemic because as a single mom, I didn't have a choice.

In April 2020, I told my manager I needed to move from Jackson to Knoxville. It wasn't until 2 months later, she responded, telling me I had only 48 hours to decide between quitting and being rehired in Knoxville, losing all of my seniority and benefits, or taking a leave of absence without pay and crossing my fingers to see if I would be transferred to a Knoxville store.

Because of COVID, the company had frozen the normally easy transfer process. I couldn't risk losing my benefits, so I chose the second option, but it meant that I went without pay for 3 months. Luckily, I was able to begin work at a Knoxville store in August 2020. The whole situation was a punch to the gut and the emotional impact of the disrespect I felt ultimately contributed to my belief in the need to organize a union.

In October 2021, Starbucks announced that starting pay would increase to \$15 an hour almost a year later. I scoured the internet searching Starbucks wages, benefits, pay increases, and I learned about Starbucks workers organizing.

I shared this information with my coworkers and we decided to stand together to file for an election on Christmas Eve. We were proud to be the first store in the South, but it wasn't without an epic fight because Starbucks resisted us every step of the way. Just 5 days after announcing our union drive, our regional director drove to our store from out of state and was working alongside my partners attempting to make drinks.

It is the first time in my entire time with the company that I have met a regional director in person. Partners suddenly started getting disciplined for minor dress code violations or being five or so minutes late every day.

It felt as if there was a concerted effort to build a case against partners who showed even the smallest bit of support for the union. Days prior to ballots being mailed out for the election, managers closed our store for our long periods, most during peak operating time to hold impromptu captive audience meetings.

It felt like the company was suddenly paying full attention to us and were willing to throw absolutely anything at us to deter us from organizing. We won our vote 1 year ago today, March 29, 2022. Since then, we have made every attempt to try to bargain in good faith with the company. Starbucks walked out on our stores only scheduled bargaining session after just 30 minutes.

On May 3d, the company announced that partners who were organizing or had already unionized would not receive a series of important benefit increases that nonunion stores would be granted. My partners, along with thousands of partners across the country, still do not have access to these benefits.

Nor do we have a company that is willing to sit across the table with us and bargain for them. This is part of my store's campaign story. But if you look to the 7,500 plus members of Starbucks Workers United, you will find thousands of stories that detail similar or more grotesque accounts of Starbucks behavior during their scorched earth union busting campaign.

My coworker Michelle Eisen stated it perfectly when she testified before the House, it should not take an act of bravery to ensure you have a voice at work. Stated laws allow so much room for companies to harshly assert themselves. Unequal resources combined with unparalleled unbalanced power dynamics ensure that the company's voice will often be louder than the collective voice of workers.

Schultz has made a career selling that idea of offering benefits to part time workers because he wanted to operate a different kind of company. I am a single mother working tirelessly for this company for 4 years, and I am certainly not alone in feeling nothing but left behind during a time where everything we knew about the world was uncertain. You cannot be pro-partner and anti-union.

It is well past time for the company to bargain in good faith. Help us hold them accountable. Thank you for allowing partners to have a seat at this table alongside former CEO Howard Schultz, because that is significantly more than he was willing to offer.

To Starbucks new CEO Laxman Narasimhan, you have an opportunity to chart a different course to truly make Starbucks the dif-

ferent kind of company Schultz promised, but failed epically to produce.

This is a chance for your company to stop its unprecedented campaign of union busting and instead partner with us, your so-called partners, and our union to build a company that truly lives up to its stated progressive values. Thank you so much.

[The prepared statement of Ms. Carter follows:]

PREPARED STATEMENT OF MAGGIE CARTER

My name is Maggie Carter, and I am a single mother to a beautiful 8-year-old boy named Colson. Being his mother is the absolute greatest gift of my life. He's why I ended up at Starbucks, as it was the only place to offer me benefits as a part-time worker, and what I thought would be flexible scheduling while I sought out higher education. As a lesbian woman living in Tennessee, I was also drawn to Starbucks by its reputation as a progressive employer. Plus I had been a faithful customer for years.

My partnership with the company began in Jackson, Tennessee in May of 2019, where I was paid \$8.35 an hour. At first, I was eager to step into my position as a barista, despite being pretty overwhelmed with the lengthy drink menu. As I grew more comfortable making drinks and serving customers, it became clear to me that Starbucks doesn't actually uphold the values they profess to the public. Starbucks refers to us workers as "Partners," because they give us a minor share of the company through our benefits package—but they treat us more like we are problems.

However, when we as Partners wanted a true partnership in the company by organizing a union, I realized just how little depth there was to the term.

Not even 1 year into my tenure with Starbucks, March of 2020 came and it felt as if the world shut down, just not at Starbucks. I worked consistently from day one of the pandemic, because as a single mom, I didn't have a choice. The world was calling service workers "essential workers," but we weren't treated as if our labor was essential. I personally felt disposable in this situation.

In April 2020, I told my Manager I needed to move from Jackson to Knoxville. For reasons I'll never know, she didn't respond until almost 2 months later. In normal times, I would have just entered the transfer pool to be transferred to a new store, but with the pandemic, transfers were frozen company-wide. Instead, she told me I had two options, and only 48 hours to decide. Option one; I could quit and risk being re-hired once I moved to Knoxville, losing all my seniority and benefits. Option two; I could take a leave of absence without pay, but retain my benefits, and enter the indefinitely frozen transfer pool. I'd have to cross my fingers to see if I would be transferred to a Knoxville store. I couldn't risk losing my benefits, so I chose the second option, but it meant I went without pay for about 3 months.

When I got to Knoxville, I visited the store closest to the one bedroom apartment I now share with my son, and was lucky that the Manager there somehow got my transfer approved. I started working at my current store in August 2020. During that time, My son and I were faced with burdens that we shouldn't have had to face, and that has stuck with me throughout this process. The whole situation was a punch to the gut and the emotional impact of the disrespect I felt ultimately contributed to my belief in the need to organize a union.

Shortly after transferring to my new store, I realized that every Starbucks store has its own unique environment. There was a sort of hierarchy in my new store that didn't "inspire and nurture the human spirit" as Starbucks claims is one of its core values. Specifically, Partners were asked not to test for COVID so we wouldn't have to shut down in the case of positive tests. The veil of Starbucks "values" completely faded for me as a Partner. Partners in my new store told me working conditions deteriorated during the pandemic. We got hazard pay for a while, bringing wages up to \$12 an hour, but Starbucks cut that off even as the hazards of working in a deadly pandemic persisted.

In October of 2021 Starbucks announced starting pay would increase to 15\$ per hour company-wide, but that increase would not be made until the "end of Summer 2022".¹ I was intrigued by this announcement, as I was paid almost half that

¹ An NLRB Administrative Law Judge would later find that the announcement of this increase and the implementation of it both constituted violations of workers' rights under the NLRA. See Starbucks Corp., JD-17-23, NLRB Case 03-CA-285671, p. 145 (March 1, 2023).

amount when I started with the company 3 years prior. I went to my Store Manager and asked, "Why are they announcing this raise so far ahead?" She told me Starbucks made so much money in the pandemic that they weren't quite sure what to do with it. Eager to learn more, I scoured the internet searching different combinations of "Starbucks wages, Starbucks benefits, and Starbucks pay increase." It was then I learned of the effort by workers in Buffalo to join together in a union with Workers United. I immediately began searching for every ounce of information I could find to teach me everything about unions and what they stand for. It seemed as if Starbucks had bumped the starting pay to decrease Partners' incentive to organize. I immediately began talking with my coworkers about the union, ultimately bringing them information I found. In November, I reached out for the first time to Starbucks Workers United and was put in direct contact with an organizer from the union.

I wasn't sure unionizing was possible for workers in the South. How was I going to take on all of this work of educating myself and then relaying that to my coworkers? In spring of 2021 we started to notice a persisting horrendous odor of what smelled like mold coming from the grout in our floors. It got worse and worse as the grout was scrubbed away during each night's cleaning. We reported the smell to our superiors, but there was never any movement from management to address the issue.

In November of 2021, we were going through an increasingly tough period due to an influx of customers around the holidays. Pumpkin spice is the precursor to the full holiday beverage launch, and we were bombarded with customers on Starbucks's so-called "Red Cup Day," the day when many Starbucks stores give out reusable red cups. Overworked and feeling unheard, we realized the people above us didn't have our best interests at heart. It was the second week of December when my Partners told me they wanted to stand together and file for a union election, like the workers in Buffalo.

At first, only a few of us were willing to put ourselves at risk to lead this effort for fear of being fired. But we began meeting and planning how we would go about organizing our coworkers. Just days before Christmas, we started talking to fellow Partners and on Christmas Eve, reached a majority on cards to officially petition for an election with the National Labor Relations Board. It was then when we went public with our campaign and officially announced our intent to become the first unionized store in the South, which I am proud to say we eventually accomplished.

But it wasn't without an epic fight because Starbucks resisted us every step of the way. Just 5 days after announcing our union drive, I received a text from Partners that our Regional Director was at our store, working alongside my Partners on bar, attempting to make beverages. Bar is a planted position on the floor where your sole responsibility is to make each drink that comes out of the ticket printer. It is highly abnormal for any supervisor to be working in this planted position. This is not only uncharacteristic of the Partner experience, it's the first time in my entire time with the company at two different stores that I've met a Regional Director in person. Soon, it also became routine to see our District Manager in our store. Prior to this point, he would come by our store and chat with our Store Manager outside without ever even entering to speak with us. Suddenly, we had full access to contact him and chat anytime we wanted. It also felt as if every aspect of our performance was now under a microscope. Partners suddenly started getting disciplined for minor dress code violations and being five or so minutes late, which didn't happen before we went public with our intent to unionize. Every day it felt as if there was a concerted effort put forth to build a case against Partners who showed even the smallest bit of support for the union.

Our Regional Director also sent an email to Partners across both districts in Knoxville explaining that "Starbucks had no choice but to petition for every one of you to have a vote in this union election." The company was trying to expand the bargaining unit beyond our store in a misguided effort to attempt to crush support for our organizing drive. We had to have a hearing before the National Labor Relations Board to fight for the right for our store to vote as a unit. In this hearing, I testified and it felt like I was being interrogated by the company's legal representatives about my private conversations with Partners in Buffalo who helped us organize. Starbucks' legal team even interrogated me about tweets posted on my social media.

The judge ruled in our favor, but the company's anti-union campaign was just getting started. The very next day after the hearing, my coworkers and I were called to our first captive audience meeting. We were split into two groups with the same four Managers in the room for both meetings. It's difficult preparing for a captive audience meeting, because it's challenging to know what to expect. Starbucks chose

the path of trying to paint distrust amongst Partners, referring to those leading the organizing as “outsiders,” or “third parties,” when just 1 day prior these same Managers saw two of the Partners in the room testifying against them to win our right to organize our store. It felt as if we were being taken advantage of and bullied by a company who calls us “Partners,” but refuses to listen to us when we are quite literally begging to simply be heard.

The “progressive” brand that Starbucks marketing aspires to represent completely faded from our view, and it truly felt as if we were at a standoff. Our store was the only one in our district to stay open throughout the entirety of the pandemic. Unfortunately, this captive audience meeting exposed both groups in both meetings to COVID and our store had to be shut down for 5 days. Multiple Partners caught COVID as a result of this meeting, but this careless mistake definitely didn’t deter Starbucks from forcing us to endure more.

Just 2 days before the captive audience meeting, January 17th to be exact, I was first introduced to Partners organizing at the Poplar and Highland store in my hometown of Memphis, Tennessee. I was so excited to work with them because after growing up there, Memphis has always been a place that is so dear to me. These Partners were so excited to organize, and mentioned that the majority of their store was on board too. They decided to go public with their campaign on Martin Luther King Jr. Day to honor Dr. King, and it was truly a beautiful moment to witness. Part of their motivation to unionize included COVID-related policies, exposed electrical lines that cold brew leaked on frequently, and being told to operate business in a store where standing water was present. In their letter to former Starbucks CEO Kevin Johnson, these workers asked Starbucks to honor Martin Luther King Jr. Day by signing the Fair Election Principles² and ending their union busting campaign. Instead, Starbucks only doubled down.

A few weeks later these Partners participated in a media interview inside their store, a matter in which Starbucks normally would take no issue with. Starbucks regularly reposts or shares videos taken in their stores by outside parties on their website and social media. These Partners confided in me once their District Manager began interrogating them about the interview with a member of Starbucks Partner Resources. They were fearful they would be fired. On February 8th, 2022, the Poplar and Highland store lost power during an ice storm when many Memphis residents were without power. Starbucks Managers decided to open the doors of the store anyway, powering the store with a generator. They then proceeded to terminate seven Partners—almost all of them core members of the store’s organizing committee, alleging minor violations of policy that are typically not enforced in most Starbucks stores across the nation. Prior to the Memphis 7 firings, I was helping organize a store from my home district in Jackson which just so happened to be under the same Regional Director that testified for Starbucks in the Memphis 7 10(j) injunction hearing.³ This store was excited to organize, but once the Memphis 7 were fired, the Partners shared their fear and would no longer have contact with us. The impact of those firings, and the over 200 more firings that have followed since then, have had a very broad reach and significant chilling impact on people’s willingness to speak up or express themselves for fear of facing retaliation.

Throughout all of the chaos around the Memphis 7 firings, Starbucks was still aggressively trying to fight off the threat of unionization in my store. Suddenly, our moldy grout lines were swiftly repaired and COVID was the sole blame for no contractor being able to fix it for over 6 months. It felt like every day we were walking into a different one-on-one meeting with our Store Manager, where she would highlight all of the “lovely” benefits Starbucks provided. But these benefits have become so costly over the years that most Partners can’t even truly afford to use them. For example, when I surveyed my store, only one Partner used the Starbucks health insurance plan. What Starbucks failed to realize is that they should have been listening to us all along, and they were actually showing some of our Partners that by standing together we can facilitate change at the store level.

Days prior to ballots being mailed out for our election, Managers closed our store for hour-long periods, most during peak operating times, to hold impromptu captive audience meetings. There were even more Managers from the area in these meetings to speak at us about the Partner experience. One Store Manager spoke about

² See the attached copy of the Fair Election Principles workers sent to Starbucks.

³ Section 10(j) of the National Labor Relations Act authorizes the National Labor Relations Board to seek temporary injunctions in Federal district courts to stop unfair labor practices while a case is being litigated before administrative law judges and the Board. [https://www.nlr.gov/what-we-do/investigate-charges/10j-injunctions#:text=Section%2010\(j\)%20of%20the%20law%20judges%20and%20the%20Board](https://www.nlr.gov/what-we-do/investigate-charges/10j-injunctions#:text=Section%2010(j)%20of%20the%20law%20judges%20and%20the%20Board).

working in a job that had a union and signing the contract to become a member without realizing it. It was clear this was a distant memory as she talked of being “forced” to pay dues, but when asked what the terms of her contract was she couldn’t share a single detail and ceased speaking for the rest of the meeting. It felt like the company was suddenly paying full attention to us, but not listening to us, and were willing to throw absolutely anything at us to deter us from successfully organizing.

Throughout the campaign, I personally faced numerous accusations from my Store Manager about my motives for organizing, with some comments even taking aim at my character. Partners were pulled aside while on the clock to have conversations that were supposed to be geared toward “performance development.” Rather than focusing on Partners’ concerns and development with the company, Partners told me that these conversations were mostly centered around my presence in the organizing drive. They tried to turn the Partners who I care about so deeply and share the floor with day in and day out against me, and unfortunately it was successful with some, which pains me still to this day.

My Store Manager began working on the floor regularly on shifts I worked, something that about my motives for organizing, with some comments even taking aim at my character. Partners were pulled aside while on the clock to have conversations that were supposed to be geared toward “performance development.” Rather than focusing on Partners’ concerns and development with the company, Partners told me that these conversations were mostly centered around my presence in the organizing drive. They tried to turn the Partners who I care about so deeply and share the floor with day in and day out against me, and unfortunately it was successful with some, which pains me still to this day.

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We ultimately went on to win our vote 1 year ago today, March 29, 2022. We won by a vote of 8–7. Since then, we’ve consistently attempted to try to bargain in good faith with the company. Our store’s bargaining committee first sent our request to bargain on April 7, 2022. To date, the company has scheduled one bargaining session with our store that took place on December 6, 2022, in which the company walked out on us within 30 minutes of the session starting. I have been able to attend a few virtual bargaining sessions with the Elmwood and Genesee Street locations in Buffalo, New York. These sessions were usually around three to 4 hours, and being in them felt exhausting. We came to the table with proposals in hand, eager to finally bargain and it seemed as if the company wasn’t willing to participate in any meaningful way. It felt as if they were checking a legal box, only agreeing to bargain on what appeared to be a surface level.

Shortly after my store voted successfully to join Starbucks Workers United, the company announced that Partners who voted to join the union before May 3d would not receive the \$15 per hour wage increase first announced in October 2021. The company also announced an entirely new and generous benefits package that, coincidentally, included core proposals we had brought up at the bargaining table in Buffalo, such as credit card tipping, a more lax dress code, and a larger percentage wage increase for tenured workers. At the bottom, Starbucks wrote, “New pay and benefits changes will be applied to stores where Starbucks has the right to unilaterally make these changes, not where Starbucks lacks the right to make these changes”—meaning it would not apply to unionized stores. My Partners and I spoke about feeling like the company was using this new package like a cat toy, dangling them in front of our faces as reasons why we should be completely comfortable not having a voice in the workplace.

It’s hardly a coincidence that these generous benefits were announced at a time where unionized stores were growing in numbers. I’ll never forget the day that I watched over Zoom as 16 stores won their union elections. My Partners, along with thousands of Partners across the country, still do not have access to these benefits, and it doesn’t appear as if we have a company that is willing to sit across the table from us and bargain for them.

This is part of my store’s campaign story, but if you look to the 7,500 plus members of Starbucks Workers United, you will find thousands of stories that detail similar or more grotesque accounts of Starbucks’ behavior during their scorched earth union busting campaign. My co-worker Michelle Eisen stated it perfectly when

she testified before the House Committee on Education and Labor last year, “it should NOT take an act of bravery to ensure that we have a voice at work.” The laws in place now allow so much room for companies to harshly assert themselves over their workers. Unequal resources combined with unbalanced power dynamics and inadequate labor laws ensure that the company’s voice will often be louder than the collective voice of workers.

We as a movement are challenging that notion, and are therefore in turn challenging the world to stand with us against billionaire bullies. We desperately need action in the form of updated labor law, such as passing the Protecting the Right to Organize Act, to attempt to level the unequal balance of power between workers and billion dollar corporations and their wealthy CEOs. Workers need the National Labor Relations Board to have a larger budget, so that when companies do choose the worst form of retaliation possible, termination, they won’t have to wait months or years for their lives to return to a semblance of normal. Most of all, we need stronger protections to be able to hold greedy CEOs like former Starbucks CEO Howard Schultz accountable.

Schultz has made a career trying to sell the myth of him offering benefits to part-time workers because he wanted to operate a “different kind of company” after being raised by a struggling father. I am a single mother working tirelessly for this company to support my family for 4 years, and I’m certainly not alone in feeling nothing but left behind by the company during a time where everything we knew about the world was uncertain. Starbucks is not building a “Partner-first” culture, nor are they showing a “commitment to support the shared success of all Partners,” by essentially refusing to negotiate with the workers who sought union representation. I don’t believe you can be pro-Partner and anti-union, and it’s well past time for the company to meet us at the table and bargain a fair contract with their workers. Help us hold them accountable. Thank you for allowing Partners to have a seat at this table alongside Howard Schultz, because that is significantly more than he has been willing to offer.

To Starbucks’ new CEO, Laxman Narasimhan, you have an opportunity to chart a different course, to truly make Starbucks the “different kind of company” Schultz promised, but failed, epically, to produce. The transition in the C-Suite is a chance for your company to stop its unprecedented campaign of union busting and instead partner with us, your so-called Partners, and our union, to build a company that truly lives up to its stated progressive values.

[SUMMARY STATEMENT OF MAGGIE CARTER]

My name is Maggie Carter, and I am a single mom to a beautiful 8-year-old boy named Colson. Being his mom is the absolute greatest gift of my life. He’s why I ended up at Starbucks, the only place to offer me part-time benefits and what I thought would be flexible scheduling while in school. As a lesbian woman living in Tennessee, I was also drawn to Starbucks by its reputation as a progressive employer. I started working at Starbucks in Jackson, Tennessee in May 2019. I was paid \$8.35 an hour. Then March 2020 came and it felt as if the world shut down, just not at Starbucks. I worked consistently from day one of the pandemic. As a single mom I didn’t have a choice.

In April 2020, I told my Manager I needed to move from Jackson to Knoxville. I only had 48 hours to decide between quitting and being re-hired in Knoxville, losing all my seniority and benefits, or taking a leave of absence without pay and crossing my fingers to see if I would be transferred to a Knoxville store. Because of COVID, the company had frozen the normally easy transfer process. I couldn’t risk losing my benefits, so I chose the second option, but it meant I went without pay for about 3 months. Luckily, I was able to begin work at a Knoxville store in August 2020. The whole situation was a punch to the gut and the emotional impact of the disrespect I felt ultimately contributed to my belief in the need to organize a union.

In October 2021 Starbucks announced that starting pay would increase to \$15 per hour almost a year later. I scoured the internet searching for information about the pay increase and I learned about Starbucks workers organizing. I shared information with my co-workers. We decided to stand together and file for an election on Christmas Eve. We were proud to be the first store to file in the South. But it wasn’t without an epic fight because Starbucks resisted us every step of the way. Just 5 days after announcing our union drive, our Regional Director drove to our store from out of state, and was working alongside my Partners. It is the first time in my entire time with the company that I’ve met a Regional Director in person.

Partners suddenly started getting disciplined for minor dress code violations and being five or so minutes late. Days prior to ballots being mailed out for the election, Managers closed our store for hour-long periods, most during peak operating times, to hold impromptu captive audience meetings. It felt like the company was willing to throw absolutely anything at us to deter us from organizing. We won our vote 1 year ago today, March 29, 2022. Since then, we've made every attempt to bargain in good faith with the company. The company walked out on our store's only scheduled bargaining session after 30 minutes. On May 3d, the company announced that Partners who were organizing or had already unionized would not receive a series of important benefit increases that non-union stores would be granted. We still do not have access to these benefits.

This is part of my store's campaign story, but if you look at the 7,500 plus members of Starbucks Workers United you will find thousands of similar or worse stories. Dated laws allow so much room for companies to harshly assert themselves. Unequal resources combined with unbalanced power dynamics ensure that the company's voice will often be louder than the collective voice of workers. You cannot be pro-Partner and anti-union, and it's well past time for the company to meet us at the table and bargain a fair contract. Help us hold them accountable. To Starbucks' new CEO, Laxman Narisimahn, you have an opportunity to chart a different course, to truly make Starbucks the "different kind of company" Howard Schultz promised, but failed, epically, to produce. This is a chance for your company to stop its unprecedented campaign of union busting and instead partner with us, your so-called Partners, and our union to build a company that truly lives up to its stated progressive values.

The CHAIR. Thank you, Ms. Carter. Our next witness is Jaysin Saxton, who is a former Starbucks shift supervisor. Mr. Saxton started working at Starbucks in Augusta, Georgia, in 2019.

He and his coworkers successfully unionized their store in April 2022, and in July 22, after a 2-day strike, he was illegally fired by Starbucks. Mr. Saxton, thanks very much for being with us.

STATEMENT OF JAYSIN SAXTON, FIRED STARBUCKS WORKER LEADER, AUGUSTA, GA

Mr. SAXTON. Thank you, Chairman Sanders. My name is Jaysin Saxton. I am a wrongfully fired Starbucks worker from Augusta, Georgia. I started with the company in 2019, hired on as a shift supervisor. In time, I became the go to not only for baristas, but management as well.

I was recognized for my dedication and hard work, as well as the positive and infectious energy and environment I created for partners and customers. I even won Partner of the Quarter. My time at Starbucks wasn't all bad. I met my amazing wife, who is now the mother of our 2 year old Ava.

I got to be there for the customers who relied on us during the pandemic and support my coworkers, whose families were also going through some really tough times. Being a disabled veteran with osteoarthritis of the spine from my time in the Coast Guard, I felt it was my duty to serve my country again in order to make my workplace more equitable, but also so that my work family could have what they needed to survive.

We faced many failed and broken systems working at Starbucks 1 day when we began to organize a union. We saw that Starbucks had failed at honoring its stated mission values, so we chose to live up to them in challenging the status quo.

In late 2021, when we started to hear about Starbucks workers in Buffalo organizing a union, I thought, we need this too. I

reached out to Starbucks Workers United to see how we could get started organizing in our store and began talking to my coworkers.

We kept organizing despite increasing retaliation and surveillance. The company sent higher up managers to our store and it felt like it was just to surveil us. The regional director who drove down from Atlanta was in our store regularly with the district manager.

We were disciplined for minor things that happened in the store, like being written up for being 2 minutes late, which had never happened before. Terminations increased to a partner who experienced sexual harassment from one of our managers was terminated. After reporting it, they held captive audience meetings.

They called them one on one for us to have all of the facts, but the partners were outnumbered. Every time in these meetings, partners were being threatened with losing their benefits if they joined the union, which made them feel intimidated and scared.

In February 2022, we heard about the Memphis Seven, a high profile case of retaliation and termination against a group of mostly workers of color. Their firing had a chilling effect on me and my coworkers as we saw the company betraying the very values and mission that these Memphis workers were upholding.

Despite our fears, we were inspired by the courage and power of the Memphis Seven and filed for our election a month later, in March 2022. A week after we filed, they replaced a sympathetic store manager, but it backfired as more people got on board with the union. In April, our store won our election by a landslide 26 to 5.

Despite all of the threats and intimidation, Starbucks retaliation and union busting ramped up even more after we won our election. We were constantly being watched and managers listened in on our conversations through our headsets. Store hours were constantly changing and hours kept getting cut.

People were fired right on the shop floor. They fired seven of our union members. Two of them were shift supervisors. Two partners requested medical and maternity leave. Management refused to sign off on their leave and they were terminated. Several people quit, including my wife.

Some of us were told that we should look for another job. In July, I led a 2-day unfair labor practice strike and delivered our demands. A month later, I was fired for supposedly being disruptive. I did not receive any write up or discipline and there was no investigation. I was fired after organizing like so many union leaders across the country.

I filed an unfair labor practice charge with the NLRB seeking to be reinstated at Starbucks. Starbucks and big corporations have a lot of power and money, and they are willing to pull out all the stops today to deny workers a voice and a seat at the table in a union. That is why I am thrilled to be here today to have witnessed firsthand Howard Schultz being held to account for his company's illegal behavior.

We are coming together to demand better pay, affordable health coverage, and stronger safety procedures. I am proud to be a leader

of this new labor movement. We are taking on corporate power and fighting for all of us.

One day my daughter's going to be able to look up her dad on the internet and find out that I fought for a better future for every Starbucks worker and for all working people. I know she will also read that we took on one of the most powerful corporations and won. That is why I keep fighting, and that makes everything worth it.

[The prepared statement of Mr. Saxton follows:]

PREPARED STATEMENT OF JAYSIN SAXTON

My name is Jaysin Saxton. I'm a disabled veteran of the U.S. Coast Guard, a proud father to a beautiful 2-year old girl, Ava, and a former Starbucks Shift Supervisor.

I grew up in a small, predominantly Black area in Georgia. I always say I grew up in Atlanta because it's easier, most people don't know Decatur. At a pretty young age, I realized I liked learning, going to church on the weekends with my grandmother, and being of service.

When I was 7-years-old, my grandmother was diagnosed with breast cancer and passed away. She was my best friend. I stepped up to take care of my mom. Things weren't going too well with my dad, and we were preparing to move to a mostly white neighborhood an hour away. I didn't grieve much, because I wanted to make sure I was available to show up for my family.

After graduating high school, I began working random jobs to contribute to the household. I worked with staffing agencies and packaging companies, and it was fine, but I wanted to do more than just pay my bills. My dad suggested that my brother and I join the military. So we did.

I joined the Coast Guard, because I wanted to be close to home and go on rescue missions. Become a leader in my own right. I did not realize that I would be one of two people of color there. I experienced racism in the form of daily microaggressions. After 3 years and a diagnosis of osteoarthritis impacting my back and foot at the time, I was honorably discharged from the Coast Guard.

In the Coast Guard I did technical drawing and after being honorably discharged, I decided to take advantage of the G.I. Bill and applied to Savannah College of Art and Design. I took a year off from working at Walmart and part-time at a pizza place to focus on school. I graduated in 2018, and college opened up so much for me.

In 2019, my roommate encouraged me to apply for a job at Starbucks and I did.

Previously, I said "former Starbucks worker" because I was wrongfully fired after helping lead a successful union organizing drive at my store in Augusta, Georgia. I never imagined I would lead a union organizing campaign. Ultimately, I along with almost a quarter of the coworkers at my store were wrongfully fired. The majority of the workers who were fired at my store were people of color and/or people in the LGBTQ+ community.

A Starbucks partner at my store was fired just last week. Together, we are a dozen of the 211 workers Starbucks has wrongfully fired since we started organizing with Starbucks Workers United more than a year ago. This hasn't stopped our fight.

In 2019, I was hired to work as the closing Shift Supervisor¹ from midday to 10 pm.

Things certainly weren't perfect, but I could see why I had heard it was a progressive company—a good company to work for. And as a special bonus, I met my wife, who was a Barista, on the job. So I will forever be grateful for that.

But then COVID hit and everything changed. Starbucks closed most of the stores in my district, but my store remained open. During all of this, my wife was having a difficult pregnancy and I was terrified I would bring COVID home to her. We were working with people who were sick. We were always short staffed. We asked for breaks and were told no. I was only being paid \$12 an hour at the time.

¹ "Shift Supervisor" is a non-managerial position.

Starbucks put in place some policies that they said were to protect us Partners—that’s what they call us—but then they just took them away a few months later while the pandemic was still raging.

In October 2020, my wife gave birth to Ava. I took family leave and added all my vacation and sick time in. When I came back to work, COVID was starting to die down a bit, but Starbucks was making our lives harder with new changes.

During the pandemic, there were significant increases in drive-thru business and mobile ordering business in addition to regular cafe service. Partners were working a lot harder and experiencing more stress, but there was no increase in pay or resources to meet these new goals and expectations. At the same time, I kept getting passed over for promotions by people with less experience.

I later learned that the Hiring Manager had an issue with me wearing sweatpants to work, however my osteoarthritis requires that I wear loosely fitted pants or I would suffer sharp pains during my shift.

So in late 2021, when I started to hear about Starbucks workers in Buffalo organizing a union, I thought, ‘we need this, too.’ I reached out to Starbucks Workers United to see how we could get started organizing in our store and began talking to my coworkers.

We were in constant fear that we might get sick and that we would make our families sick. During the pandemic we had so many orders coming in over the app, management would turn off the mobile orders so we could take a lunch break, but after a certain point they required that it be on at all times. Often when people asked for a break they were told “no.”

Conversations in my store at that time were the same as the conversations we heard from workers across the country at that time—low pay, lack of benefits like good parental leave and affordable healthcare, and inadequate training.

I wanted to be there for the customers who relied on us during this uncertain time, and Partners’ families were also going through some really tough times too. The child tax and stimulus helped my family for a bit, but we were still below the poverty line.

We were ALL dealing with the same concerns and we were all tired of it. We kept organizing, despite increasing retaliation and surveillance. The company sent higher up Managers to our store, and it felt like it was just to surveil us. The Regional Director, who drove down from Atlanta, was in our store regularly with the District Manager. They would rarely speak to us and just sit in a corner of the cafe and write notes about us.

The notes would become discipline for minor things that happened in the store like being written up for being 2 minutes late, which we had never experienced before we started organizing our union.

Terminations increased, too. A partner who experienced sexual harassment from one of our Managers was terminated after reporting it.

They held captive audience meetings, they called them “one-on-ones” for us to “have all of the facts” but the Partners were outnumbered every time. They would say, “This is a union card, you do not have to sign it.” Management would tell us that we would lose our benefits and hours if we unionized. They posted anti-union materials that distinguished and felt like a threat about what unionized stores would not get and non-unionized stores would get.

In February 2022, we heard about the Memphis 7, a high profile case of retaliation and termination against a group of mostly workers of color. These workers boldly organized to demand better pay, health coverage, and stronger safety procedures. Their firing had a chilling effect on me and my co-workers, as we saw the company betraying the very values and mission that these Memphis workers were upholding. Despite our fears, we were inspired by the courage and power of the Memphis 7 and filed for our election a month later, in March 2022.

A week after we filed they replaced our Store Manager with an interim one, but it backfired as more people got on board with the union. In April, our store won our union election by a landslide, 26–5, despite all of the threats and intimidation.

Starbucks retaliation and union-busting ramped up even more after we won our election. Store hours were constantly changing and hours kept getting cut. People were fired right on the shop floor for what seemed like nothing at all.

They fired seven of our union members, two of them were Shift Supervisors. Two Partners requested medical and maternity leave, management refused to sign off on their leave and they were terminated. Several people quit, including my wife. Some of us were told that we should “look for another job.”

We were constantly being watched. Each person working the floor at Starbucks wears a headset to communicate with each other about food and drink orders, to take drive-thru orders, and discuss conditions in the store as needed. Once we started organizing, Managers would use these headsets to listen in on our conversations, never saying anything, just listening. We only had enough headsets per store for the employees on the floor—so when a Manager took a headset, that meant that one of us had to go without. There was at least one person active in the union drive fired after management claimed they heard over the headset that one of my coworkers cursed on the floor—even though she didn't.

My headset was denied to me while I was working a few times between March 2022 and August 2022, when I was wrongfully fired. As far as I have heard, my coworkers are still having their headsets taken away for what we believe is surveillance at my store.

It created a real culture of fear. A lot of my coworkers were scared. More often than not, I'd be the most vocal—which put me at higher risk for retaliation.

In July, I led a 2-day unfair labor practice strike and delivered our demands. A month later, I was fired for supposedly being “disruptive.” I did not receive any write up or discipline—there was no investigation. I was fired after organizing like so many union leaders across the country.

I have filed an unfair labor practice charge with the National Labor Relations Board seeking to be reinstated at Starbucks, but the company subpoenaed my text messages with union organizers, and now the case challenging my termination has been postponed because we believe Starbucks' subpoena is unlawful. I believe the request for my text messages has nothing to do with my termination but instead is Starbucks trying to pry into private discussions about the organizing campaign and an attempt to scare workers like me from standing up against their union busting and bullying tactics.

Starbucks and big corporations have a lot of power and money and they are willing to pull out all the stops to deny workers a voice and a seat at the table in a union. That's why I am thrilled to be here today—to have witnessed firsthand Howard Schultz being held to account for his company's illegal behavior.

All we want is respect, to have a little more dignity, and to have more of a say in what we have to do on a day to day basis. I'm proud to be a leader of this new labor movement—when we're taking on corporate power and fighting for ALL of us.

One day, my daughter is going to be able to look up her dad on the internet and find out that I fought for a better future for every Starbucks worker and for all working people—and I know she'll also read that we took on one of the most powerful corporations and won. That's why I keep fighting. That makes everything worth it.

[SUMMARY STATEMENT OF JAYSIN SAXTON]

My name is Jaysin Saxton, I am a wrongfully fired Starbucks worker from Augusta, GA. I started with the company in 2019 as a Shift Supervisor. In time I became the go to, not only for the baristas, but management as well. I was recognized for my dedication and hard work, as well as the positive and infectious energy and environment I created for Partners and customers. I even won Partner of The Quarter. My time at Starbucks wasn't all bad, I met my wife working there, who is now the mother of our 2 year old, Ava. I got to be there for the customers who relied on us during the pandemic, and support my coworkers', whose families were also going through some really tough times.

Being a disabled veteran, with osteoarthritis of the thoracic and lumbar spine, from my time in the Coast Guard, I felt it was my duty to serve my country again, in order to make my workplace more equitable but also so that my work family could have what they needed to survive. So in late 2021, when I started to hear about Starbucks workers in Buffalo organizing a union, I thought, 'we need this, too.' I reached out to Starbucks Workers United and began talking to my coworkers. We kept organizing, despite increasing retaliation and surveillance. They held captive audience meetings, they called them “one-on-ones” for us to “have all of the facts” but the Partners were outnumbered every time. In these meetings, Partners were being threatened with losing their benefits if they joined the union, which made them feel intimidated and scared. In February 2022, we heard about the Memphis 7, a high profile case of retaliation and termination against a group of mostly workers of color. Their firing had a chilling effect on me and my co-workers.

Despite our fears, we were inspired by the courage and power of the Memphis 7 and filed for our election a month later, in March 2022.

In April of last year, our store won our union election by a landslide. Starbucks retaliation and union-busting ramped up even more after we won our election. We were constantly being watched and managers listened in on our conversations through our headsets. People were fired right on the shop floor. They fired seven of our union members, two of them were shift supervisors. In July, I led a 2-day unfair labor practice strike and delivered our demands. A month later, I was fired for supposedly being “disruptive”. I did not receive any write up or discipline—there was no investigation. I was fired after organizing like so many union leaders across the country. I have filed an unfair labor practice charge with the NLRB seeking to be reinstated at Starbucks. Starbucks and big corporations have a lot of power and money and they are willing to pull out all the stops to deny workers a voice and a seat at the table in a union. That’s why I am thrilled to be here today—to have witnessed firsthand Howard Schultz being held to account for his company’s illegal behavior. We are coming together to demand better pay, affordable health coverage, and stronger safety procedures. I’m proud to be a leader of this new labor movement. We’re taking on corporate power and fighting for ALL of us. One day, my daughter is going to be able to look up her dad on the internet and find out that I fought for a better future for every Starbucks worker and for all working people—and I know she’ll also read that we took on one of the most powerful corporations and WON. That’s why I keep fighting. That makes everything worth it.

The CHAIR. Mr. Saxton, thank you very much. Our third witness is Sharon Block, a Professor of Practice and the Executive Director of the Center for Labor and a Just Economy at Harvard Law School.

For 20 years, she has held key labor policy positions across the Legislative and Executive branches of Federal Government, including here at the HELP Committee and in the NLRB. Ms. Block, thanks so much for being with us.

**STATEMENT OF SHARON BLOCK, PROFESSOR OF PRACTICE,
HARVARD LAW SCHOOL, CAMBRIDGE, MA**

Ms. BLOCK. Thank you, Chairman Sanders, Ranking Member Cassidy for inviting me to testify today. It feels a little bit like coming home. I want to make clear that first, that I am testifying in my personal capacity and not as a representative of Harvard Law School.

In light of my long service with the NLRB, I would like to start my testimony by recognizing the great work done by the NLRB career staff with regard to the Starbucks campaign, handling hundreds of cases over the past 18 months.

I know them firsthand to be consummate professionals and dedicated public servants. Next, I would like to address the purpose of the National Labor Relations Act so that we understand the consequences when an employer denies workers the rights guaranteed by the Act.

The NLRB does not guarantee that workers will be represented by a union, or that if they are so represented, that they will secure particular outcomes at the bargaining table. Instead, it guarantees to them a fair process to decide for themselves whether they want to exercise these rights.

It is always the workers who make these decisions. It is not the employer’s decision. So thought of in this way, you can say that the NLRB establishes the rule of law for the workplace. And so the question for this hearing is whether Starbucks respected this work-

place rule of law or has undermined the ability of workers to be treated fairly in their quest to decide for themselves whether they want union representation.

I would like to make three main points in the remainder of my testimony. First, the scope of Starbucks violations alleged and found so far is beyond the scope of the anti-union campaigns that I have witnessed during my career as a labor lawyer.

Second, these violations should not be understood as isolated acts, but rather should be viewed as a coordinated campaign to stifle union activity across the company. Finally, it is critical that this kind of egregious conduct is taken seriously because otherwise it will send a message to workers across the economy that their rights are as disposable as a paper Starbucks cup.

First, I will address the scope of the violations. As you have heard already, Starbucks is facing more than 500 allegations that it has violated the NLRB, and already career board agents have found merit in more than half of those charges.

In addition, four board members from both political parties and seven career administrative law judges have concluded that Starbucks has committed violations of the Act. While it sadly has become quite common for companies to respond hostilely and often unlawfully to organizing campaigns by their workers, I am not aware of another company in recent years that has had this many allegations leveled against it, or these many allegations found to have merit.

The egregiousness of many of the violations also makes this campaign stand out. For decades, Ford Law has deemed the firing of pro-union workers during an organizing campaign as a hallmark violation.

That is a violation that is likely to have significant impact, not just on the worker who is fired, but also on the organizing rights of coworkers. Already, the General Counsel and ALJs have found more than 20 Starbucks employees have been fired because of their union activity. These discharges and other hallmark violations found is conduct that goes to the very heart of workers' rights under the Act.

In the words of the ALJ who reviewed Starbucks anti-union campaign in Buffalo, Starbucks has engaged in egregious and widespread misconduct, demonstrating a general disregard for employees' fundamental rights.

That observation leads to my second point. What has happened at Starbucks is not just a collection of individual violations. It looks more like a company campaign to stop the workers campaign in its tracks.

Each time the company commits a new violation in a new location or in a new stage in the union's campaign, it is communicating to all of its workers that the rights accorded to them by the law can be defeated, that the company has the resources, the will, and the stamina to undermine the exercise of their rights at every turn.

Therefore, I am also concerned about the wider message that Starbucks vast anti-union campaign sends. Workers across the country, especially low wage workers, have also been inspired by

what the Starbucks baristas have achieved over the past 18 months.

But what do these workers and the public think when they see that Starbucks is willing to break the law that protects these rights hundreds of times? I commend the Committee for holding this hearing to show that you take seriously workers' rights to organize and to sit at a bargaining table if they choose, even if their employer is a huge company that really doesn't want them to have a union.

It is a bedrock of our democracy that the law applies to everyone, including the most powerful. So I believe that much is at stake in ensuring that Starbucks workers' rights to unionize are protected and respected. Thank you for your time.

[The prepared statement of Ms. Block follows:]

PREPARED STATEMENT OF SHARON BLOCK

Chairman Sanders, Ranking Member Cassidy and Committee Members

Thank you for inviting me to testify today about the union organizing campaign at Starbucks. I'm Sharon Block and I'm a professor at Harvard Law School and the Executive Director of the Center for Labor and a Just Economy there. I am testifying in my personal capacity, not as a representative of Harvard. I also served for a long period of time as a career civil servant at the NLRB and then as a Member of the Board during the Obama administration.

It is in the context of my long association with the NLRB that I would like to start my testimony by recognizing the great work that has been done by the NLRB career staff with regard to the Starbucks campaign. They have worked restlessly to process hundreds of requests for elections, conduct those elections to ensure their fairness and then to investigate and assess the many hundreds of allegations of violations that Starbucks workers have made about the company's conduct. Nothing about how professionally the career staff has handled this monumental task has surprised me. I know them first hand to be consummate professionals and dedicated public servants.

Next, I would like to address the purpose of the National Labor Relations Act so that we understand the consequences when an employer denies workers' the rights guaranteed in the Act. The Act states in Section 1¹ that it is:

the policy of the United States to . . . encourage[e] the practice and procedure of collective bargaining and . . . protect[s] the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

It is important to understand that the NLRA does not guarantee a particular outcome. It does not guarantee workers that they will be represented by a union or that, if they are so represented, that they will secure particular outcomes at the bargaining table. Instead, it guarantees to them a fair process—both for deciding questions of representation and for negotiating with their employers. Thought of in this way, you can say that NLRA establishes the rule of law for the workplace, just as our constitution and legal system establish the rule of law for our democracy.

And so the question for this hearing is whether Starbucks has undermined the ability of workers to be treated fairly in their quest to decide for themselves whether they want to act collectively through union representation. Put another way, when faced with the breadth and seriousness of the violations alleged by Starbucks workers, the question is whether Starbucks is denying workers the rule of law in the workplace.

I would like to make three main points in the remainder of my testimony. First, the scope of Starbucks' violations alleged and found so far is beyond the scope of the anti-union campaigns that I have witnessed during my career as a labor lawyer. Second, these violations should not be understood as isolated acts, but rather should be viewed as a coordinated campaign to stifle union activity across the company. Fi-

¹ 29 U.S.C. Sec. 151.

nally, it is critical that this kind of egregious conduct is taken very seriously because otherwise it will send a message to workers across the economy that their rights are not real or have no meaning.

First, I will address the scope of the violations. As you have heard already, Starbucks is facing hundreds of allegations that it has violated the National Labor Relations Act. My understanding is that so far, in just the 18 months that the campaign has been underway, Starbucks workers have filed more than 500 unfair labor practice charges² in relation to the Company's conduct in response to the campaign. Already the NLRB General Counsel has found merit in more than half of those charges. In addition, four Board members (from both political parties)³ and seven administrative law judges⁴ have found that Starbucks has committed violations of the Act. The overwhelming majority of the remaining allegations have not yet been dealt with by Board agents—very few allegations have been dismissed and no findings of violations by ALJs or the Board have been overturned.

While it sadly has become quite common for companies to respond hostilely and often unlawfully to organizing campaigns by their workers, I am not aware of another company of any size in recent years that has had this many allegations leveled against it—not merely viewed on a per employee basis but also when viewed on an aggregate basis. Although my career spans too long a period to be able to say this with absolute certainty, I am fairly confident that I have never witnessed a company amass so many unfair labor practice allegations over a similar period of me.

The egregiousness of many of the violations also makes this campaign stand out. Let's start with allegations and findings that Starbucks has fired workers who were serving as union organizers. Already, administrative law judges and district court judges have found that Starbucks has fired more than 20 workers because of their organizing activity or because they cooperated with the Board's investigations.⁵ For decades, Board law has deemed the firing of pro-union workers during an organizing campaign as a "hallmark" violation—that is, one that is likely to have a significant impact on both the fired employee and the organizing rights of coworkers. In 1941, the Fourth Circuit in a case called *Entwistle Manufacturing*, recognized that this kind of conduct "goes to the very heart of the Act."⁶ By the Fourth Circuit's logic, Starbucks has struck at the heart of its workers' statutory rights again and again over the past 18 months.

Starbucks has been accused of committing a number of additional hallmark violations, ranging from threats to close stores to granting benefits for the purpose of influencing workers' feelings about the union to actually closing stores that had campaigns underway. The administrative law judges that have reviewed Starbucks' conduct have characterized it as extreme. For example, a judge in the Buffalo cases found that Starbucks had engaged in "egregious and widespread misconduct demonstrating a general disregard for employees' fundamental rights."⁷ It took the judge more than 200 pages to describe all the misconduct that he found Starbucks to have perpetrated. In addition, at least two Federal district court judges have taken the extraordinary step of ordering baristas returned to their jobs even before the Board has made a finding because of the seriousness of the allegations that the

² Reuters, "Barista union to ask Starbucks shareholders to back labor review," Hillary Russ, Mar. 10, 2023, <https://www.reuters.com/business/retail-consumer/barista-union-ask-starbucks-shareholders-back-labor-review-2023-03-10/>.

³ *Starbucks Corp.*, Case 18—CA—293653 (Mar. 3, 2023) (Judge Geoffrey Carter), *Starbucks Corp.*, Cases 03—CA—285671 et al. (Mar. 1, 2023) (Judge Michael Rosas), *Starbucks Corp.*, Cases 07—CA—293742 et al. (Feb. 9, 2023) (Judge Christal Key), *Starbucks Corp.*, Cases 27—CA—290551 et al. (Feb. 6, 2023) (Judge Amita Tracy), *Siren Retail Corp.*, Case 19—CA—290905 (Jan. 31, 2023) (Judge John Giannopoulos), *Starbucks Corp.*, Cases 19—CA—289275 et al. (Nov. 3, 2022) (Judge John Giannopoulos), *Starbucks Corp.*, Cases 14—CA—290968 et al. (Oct. 12, 2022) (Judge Arthur Amchan), *Starbucks Corp.*, Cases 07—CA—292971 et al. (Oct. 7, 2022) (Judge Geoffrey Carter), and *Starbucks Corp.*, 372 NLRB. No. 50 (2023) (Judge Andrew Gollin below).

⁴ *Starbucks Corp.*, 372 NLRB. No. 50 (Chairman McFerran and Members Wilcox and Prouty participating), and *Siren Retail Corp. d/b/a Starbucks*, 372 NLRB No. 10 (2023) (Chairman McFerran and Members Kaplan and Wilcox participating).

⁵ *Kerwin v. Starbucks*, No. 22-cv-12761,—F. Supp.3d—(E.D. Mich. 2023), *McKinney v. Starbucks*, No. 2:22-cv-2292-SHL-cgc, 2022 WL 5434206,—F. Supp.3d—(W.D. Tenn. 2022), *Starbucks Corp.*, Cases 03—CA—285671 et al., *Starbucks Corp.*, Cases 27—CA—290551 et al., and *Starbucks Corp.*, Cases 07—CA—292971 et al.

⁶ 120 F.2d 532 (4th Cir. 1941).

⁷ *Starbucks Corp.*, Cases 03—CA—285671 et al., slip op. at 196 (Mar. 1, 2023).

workers had been fired for their union activity and the strength of the evidence supporting the allegations.⁸

Let's remember two important facts—(1) the Board agents who have investigated these charges and the administrative law judges who have made these finding of violations are career Federal employees and (2) they are just at the beginning of adjudicating the allegations against Starbucks. There are more than 80 trials either underway or still to be held. So, it seems likely that this catalog of hallmark violations will grow in the coming days and months.

That observation leads to my second point. What has happened at Starbucks is not just a collection of individual violations. To see the full extent of the damage that Starbucks has done to its workers' rights, these violations must be viewed as part of a single effort to stop organizing at the company. In my experience, it simply isn't credible to assert that there have been more than 500 isolated incidents of misconduct during this campaign. Instead, it is much more credible that the company has launched its own campaign—to deny workers a fair chance to exercise the rights guaranteed to them by the National Labor Relations Act.

The geographic scope of these violations shows that these aren't isolated incidents or the product of a few bad supervisory apples in the barrel. The allegations or findings of violations span 38 states. Moreover, as was just discussed on the previous panel, Mr. Schultz's own conduct is the subject of many allegations of violations.⁹ The Board has long accorded particular weight to violations committed by high-ranking company officials. During this campaign, until last week, there has been no one higher ranking at Starbucks than Mr. Schultz.

Most significantly, the violations alleged and found demonstrate a pattern to undermine the union at every stage of its campaign to represent and bargain on behalf of Starbucks workers. The allegedly unlawful conduct started during the onset of the first campaign in Buffalo. There have been allegations at multiple sites to threaten or intimidate baristas before they file petitions for elections, while those petitions are pending and then after the union has won elections. The NLRB also has found that Starbucks' unlawful behavior has extended to the bargaining table, finding that the company has refused to bargain in good faith. The pattern of violations has followed every stage of the campaign. As new locations start the organizing process, we see the same patterns play out. First, pro-union workers at Buffalo were fired, threatened or otherwise retaliated against by the company. Then in Tennessee, Michigan, Arizona, Pennsylvania, Colorado, Missouri and on and on as the organizing campaign spread across the country and matured in each location.

The message sent to Starbucks employees by this pattern of violations is one of disregard for their rights under the NLRA. Each time the company commits a new violation in a new location or at a new stage in the union's campaign, it can be understood to be communicating to all of its workers that the rights accorded to them by the law can be defeated—that the company has the resources, the will and the stamina to undermine the exercise of their rights at every turn.

As someone who has been inspired by the energy of the baristas that I have met and read about, I am now concerned about the wider message that Starbucks' vast anti-union campaign sends. Workers across the country—especially low-wage workers—also have been inspired by what the Starbucks baristas have achieved over the past 18 months. It cannot be a coincidence that record high public support for unions according to several independent polling organizations has coincided with the Starbucks baristas' approximately 300 election victories. Nor can it be a coincidence that nascent union organizing campaigns have taken off in several other high profile retail chains in the baristas' organizing wake. But what do these workers and the public think when they see that Starbucks is willing to break the law that protects these rights hundreds of times?

I commend the Committee for holding this hearing to show that you take seriously the rights of Starbucks workers to organize and to sit at a bargaining table, if they choose, with their employer—even if their employer is a huge, Fortune 500 company and even if their employer really does not want them to have a union. It is a bedrock of our democracy that the law applies to everyone, including the most powerful. I believe that labor unions play an important role in protecting that bedrock principle. So I also believe that much is at stake in ensuring that Starbucks' workers' rights to choose whether to unionize are protected and respected.

Thank you for your time. I am happy to answer any questions.

⁸ McKinney and Kerwin, *supra*.

⁹ <https://www.nlr.gov/case/19-CA-294579>, <https://www.nlr.gov/case/21-CA-294571>, and <https://www.nlr.gov/case/19-CA-297589>.

[SUMMARY STATEMENT OF SHARON BLOCK]

In my testimony, I plan to discuss the following points:

I will address my experience with the professionalism and dedication of NLRB career public servants.

Next, I will address that the purpose of the National Labor Relations Act is to guarantee employees a fair process when deciding whether or not to be represented by a union or bargain collectively with their employer, not to guarantee union representation or a particular outcome at the bargaining table.

I will make three additional points in my testimony. First, I will discuss my observation that the scope of Starbucks' violations alleged and found so far is beyond the scope of the anti-union campaigns that I have witnessed during my career as a labor lawyer.

In support of this point, I will note that Starbucks is facing more than 500 allegations that it has violated the NLRA and already career Board agents have found merit in more than half of those charges. In addition, four Board members (from both political parties) and seven career administrative law judges have concluded that Starbucks has committed violations of the Act. I will note that the violations found so far include many violations of the type considered to be "hallmark" violations—that is, violations that affect the rights not only of the workers directly involved but also the rights of coworkers and the integrity of the process.

Second, I will discuss my opinion that these violations should not be understood as isolated acts, but rather should be viewed as a coordinated campaign to stifle union activity across the company.

Finally, I will share that I believe that it is critical that egregious conduct is taken very seriously because otherwise it sends a message to workers across the economy that their rights might not be valued or respected in their workplaces.

The CHAIR. Thank you, Ms. Block. Senator Cassidy is voting, so I am going to introduce his witnesses. Former Representative Bradley Byrne served four terms in Congress and has more than 30 years of experience as a labor and employment attorney in private practice. Mr. Byrne, thanks for being with us.

**STATEMENT OF HON. BRADLEY BYRNE, OF COUNSEL, ADAMS
& REESE LLP, MOBILE, AL**

Mr. BYRNE. Thank you, Senator Sanders, and I appreciate the opportunity to be here. I have submitted a written statement. I won't read that to you. I do not represent Starbucks. I do not have a position about whether they have or have not committed unfair labor practice violations. I do not have a position on whether they should or should not be organized.

I believe that is up to the workers and I trust the wisdom of the workers at the Starbucks stores to make those decisions in appropriately conducted elections.

I am here because I represent a whistleblower, a long time employee, professional employee at the National Labor Relations Board who has come forward to the Inspector General of the National Labor Relations Board with information that there have been significant irregularities, violations of the neutrality of the organization of the agency during at least one such election.

Now, why does that matter? The process that we follow in these elections is very important because, as the previous speaker said, it is to make sure that the employees make a free and uncoerced decision. It is not to protect the management of the company. It is not to protect the union.

It is certainly not to protect the NLRB. The NLRB is required to conduct what we call laboratory conditions from the time a petition is filed until the time you have an election. That means you have got to make sure that the voting environment is free, that there isn't any coercion, and most especially in this case, that the NLRB isn't putting its finger down on one side or the other.

They shouldn't favor the employer, they shouldn't favor the union. They should be professional and neutral in all cases. And in my experience, the vast majority of the employees of the NLRB do exactly that. Unfortunately, we know that at least, in at least one case, that was violated. It was violated egregiously, and a hearing officer found four different violations. Now, here is the problem with all of that.

If you do something that challenges the integrity of the process, you have challenged the integrity of the vote. And if you had challenged the integrity of the vote, you have challenged the integrity of the entire system. Because, remember, it is there to give the employees the final decision, not the company, and certainly not the union.

What I would like for this Committee to do is to use its oversight authority, which is considerable, to look into what happened, not just in this one case, but to determine if there is a pattern and practice at the NLRB of violating their neutrality obligation.

If there is a pattern of practice, is that pattern practice being directed from people in higher echelons of agencies? I am very concerned by public statements, public positions taken by the General Counsel of the NLRB.

The General Counsel is a political appointee. There is nothing wrong with that. That is true when you have Republican Presidents, just like it is true when you have a Democrat President. But whether you are a Democratic appointed NLRB General Counsel, or a Republican appointed, you have an obligation to maintain that neutrality.

You have an obligation to follow the law. What this general counsel has done is attack the process for elections altogether. She wants to do away with elections. That greatly disturbs me. It flies in the face of long said law, and it also flies in the face of what I have been hearing a lot about recently, and that is workplace democracy, workforce democracy.

Well, if we believe in workplace democracy, we ought to give employees the right to vote as to whether or not they want a union. If they do, if they have done in some of these Starbucks elections, that is the law. They get to have the union represent them. But in many cases, they vote no.

In the vast majority of cases where I represent an employer representation election, the employees chose not to have a union represent them, fine. Whichever way they vote, it is good.

But they ought to have the right to hear both sides of the story, which they won't have if they don't have an election, and they ought to have the ability to walk into a secret place and cast a secret vote so that no one is coercing them to vote whichever way they want to vote.

I ask this Committee and the Congress to look at this very carefully because of the seriousness of the situation. It should be all of our concern that we make sure that we have true integrity in these elections so that the result is final and fair. I thank you for the opportunity to be here and look forward to your questions.

[The prepared statement of Mr. Byrne follows:]

PREPARED STATEMENT OF BRADLEY BYRNE

My name is Bradley Byrne. I have practiced law for 43 years. A large part of my practice has been in the area of labor and employment law. I have represented clients in numerous representation elections conducted by regional offices of the National Labor Relations Board. I also served in the U.S. House of Representatives for 7 years during which time I sat on the Committee for Education and the Workforce and chaired the Subcommittee on Workforce Protections.

Let me say at the outset that I don't represent Starbucks and have no position on whether Starbucks has violated any law or regulation. Nor do I have a position on the outcome of the elections involving Starbucks stores around the U.S.. I leave that up to the wisdom of the workers in those stores.

I'm here today to express concerns that I have about misconduct by NLRB agents in at least one of the Starbucks elections, and my further concern that there may be a pattern and practice here. Again, I have no objection to a union organizing Starbucks stores, but the process in at least one such election may indicate something threatening the integrity of representation elections in general.

Let me give you a brief explanation of the process normally followed in representation elections. A union will communicate with workers at a particular employer's location and try to convince them to sign cards indicating that the worker signing the card wants to be represented by the union as to the terms and conditions of his or her employment. Once they have a number of signed cards the union will then file a petition with the appropriate NLRB Regional office seeking recognition. An NLRB agent with that region will contact the employer, who may or may not know that the union has been trying to organize its employees, and if the employer requests an election to determine the true decision of the workers in the unit designated, a process begins which will end in a secret vote by each employee in the unit.

The NLRB agent will attempt to get the union and the employer to agree as to the details of the election—exactly who is in the unit, when and where the election will be held, etc. Once that stipulated agreement is reached, its provisions govern the conduct of the election, unless the parties reach a subsequent agreement to amend it.

The National Labor Relations Act's purpose is not to favor employers or unions in the conduct of these elections. Its purpose is to assure that the employees in the unit have a full and free opportunity to decide for themselves whether or not they want to be represented by the union, free of coercion. Therefore, once the petition is filed, the NLRB agent and region involved must assure "laboratory conditions" during the campaign period.

Again, the decision is up to the employees in the unit and no one else.

As the U.S. Supreme Court recognized in the 1981 decision of *First National Maintenance Corp. v NLRB*, the NLRB agents involved in an election must carry out their duties supervising an election in a neutral manner, favoring neither party and protecting the integrity of the process.

This neutrality is central to the obligation to maintain laboratory conditions, and to the assurance of integrity in the election process.

The employer and the union can communicate their reasons against and for the vote but there are significant limitations on those communications which are overseen and enforced by the NLRB agents involved, again in a neutral and impartial manner.

When the day of election comes the NLRB agent conducts the election and each employee in the unit who chooses to vote does so by a secret ballot to assure there is no coercion. At the end of the voting period the NLRB agent counts the ballots in the presence of employer and union representatives and then declares the vote. It takes a majority of votes in the affirmative for the union to be certified as the representative of all the employees in the unit as to the terms and conditions of their employment.

One important note is that during the pandemic representation elections were conducted by mail which adds another set of details to work through to assure the integrity and accuracy of the vote.

In my experience, NLRB agents overseeing elections have been professional and completely neutral, and have followed the applicable law and process. My clients haven't always received the results they desired but it wasn't because of NLRB misconduct.

I presently represent a NLRB agent who has courageously come forward as a whistle blower regarding a specific representation election as to a Starbucks store. She is a consummate professional who doesn't care about the outcome of an election and therefore has no position as to whether Starbucks employees should or should not vote to be represented by the union. But she has knowledge of specific instances where NLRB personnel violated their neutrality obligations during this particular representation election and has brought that information to the Inspector General for the NLRB.

I am not here today to testify for her. I can point you to the transcript and exhibits of a hearing held regarding neutrality violations in a Starbucks election and the findings of the Hearing Officer in that election, wherein he noted instances of violation of the duty of neutrality. Reading that transcript and those findings causes me to have great concern about the integrity of the representation election process. My concern is as a lawyer and as a former Congressman charged with oversight responsibilities over the NLRB.

I respectfully ask this Committee to conduct an active investigation into this matter. Is the behavior in this one election a unique instance, a rogue "one off", or is there a pattern and practice of doing so in other representation elections? And, if there is a pattern and practice, is it being led or encouraged by those higher up?

I am also concerned by the overt efforts by the NLRB's General Counsel to do away with elections altogether. This would mean that employers would be forced to recognize unions merely based on cards even when the employer has reason to believe that the cards don't reflect the views of the majority of employees in the unit. Unions lose many elections even when they present cards indicating a majority want union representation. Representation elections insure the purposes of the National Labor Relations Act are followed and that employees make their choice freely and without coercion.

Representation elections have been conducted when employers have requested them for decades now, since the passage of the Taft Hartley Act, and ensconced in NLRB case law since the 1974 decision in Linden Lumber Division, Summers & Co. V NLRB. It has been recognized by the U.S. Supreme Court in the 1969 decision of NLRB v Gisselle Packing Co. The General Counsel's hostility to representation elections flies in the face of this well settled law.

These NLRB agents supervising elections operate under the General Counsel's ultimate control. Given the present General Counsel's hostility to elections in general, I hope this Committee will use its oversight powers to assure that longstanding law and Board precedent is indeed being followed.

I appreciate this opportunity to be heard and look forward to your questions.

[SUMMARY STATEMENT OF BRADLEY BYRNE]

1. I do not represent Starbucks and have no position as to whether Starbucks has acted inappropriately in any union election nor do I have a position on the outcome of such an election.

2. I am concerned by at least one instance of NLRB agent misconduct, specifically several violations of the obligation of neutrality, in a Starbucks election, reported by my client who is a whistleblower.

3. I am not here to testify for my client but can point to a hearing officer's determination in a Starbucks election case that NLRB agents violated the obligation of neutrality.

4. The obligation of neutrality is central to the NLRB's obligation to maintain laboratory conditions in representation elections.

5. Such violations have hitherto unheard of in my years of labor and employment law practice.

6. I am asking the Committee to conduct an oversight investigation as to whether these violations are limited to this one election or whether they are part of a pattern and practice, potentially guided by one or more persons in the NLRB hierarchy.

7. The NLRB General Counsel's open hostility to representation elections make my concern more acute.

The CHAIR. Mr. Byrne, thank you very much. Rachel Greszler is a Senior Research Fellow in Economics at the Heritage Foundation. She previously served as a Senior

Economist at the Joint Economic Committee of Congress. Ms. Greszler, thanks very much for being with us.

STATEMENT OF RACHEL GRESZLER, SENIOR RESEARCH FELLOW, GROVER HERMANN CENTER FOR THE FEDERAL BUDGET, HERITAGE FOUNDATION, WASHINGTON, DC

Ms. GRESZLER. Good morning—good afternoon and thank you for the opportunity to be here.

The CHAIR. Is your mic on?

Ms. GRESZLER. Yes, I will—

The CHAIR. Okay, hold it close.

Ms. GRESZLER. Thank you for the opportunity to be here today. First, I want to recognize the important role that unions have played in U.S. history in securing important worker safety protections, just wages, and giving workers a previously unheard of voice.

Many of the things that unions fought for are now protected by law, and the globally competitive economy has empowered individual workers and ultimately weakened unions' advantages. For example, when the only cars that Americans could buy were those that were produced in the U.S., the United Auto Workers Union could impose above market competition—compensation.

While that benefited union workers in the short run, it meant more expensive cars, fewer people able to afford them, and fewer workers needed to produce them. When foreign competition entered and unions maintained their excessive compensation demands, automakers began shuttering their doors.

Domestic auto production today is one-third of what it used to be two decades ago. In addition to shifting to more service-oriented jobs, American workers have become more educated and more mobile.

The average worker changes jobs 12 times throughout their career, which means pensions built on decades of service are less desirable. And rigid pay scales may work for 9 to 5 jobs where everybody produces 20 widgets a day, but few jobs today are so routine, and most workers want to be paid based on what they contribute.

Consequently, union advantages have been waning. Since 2007, nonunion wages have increased 56 percent, while union wages have increased only 41 percent, and union pensions have recklessly promised \$677 billion in pension benefits that they haven't set aside to pay. Instead of adapting to provide new services that workers value, unions have turned to political force and inciting animosity.

Depicting company management as 12 foot disease rats is dehumanizing and destructive. Most people want to be part of a team, not a battle. In fact, positive workplace relationships are the big-

gest indicator of employee satisfaction. Most people also don't want their money taken to pay for things that they don't value.

But many unions spend more money on politics than they do representing workers. A recent study found that only 16 percent of teachers union dues go to the local union that bargains on their behalf. The rest goes to the state and the national unions that spend a lot of that money on politics.

Unionization hit an all time low of 10.1 percent last year, and in part, that is because employers can be more responsive and accommodating to workers desires without a union dictating what they can and can't do. Instead of wooing workers, unions are trying to forcibly reverse their decline through laws that would take away workers privacy, their secret ballot elections, the right to work without paying a union, and the ability to be their own boss.

But instead of forcing workers into one size fits all unions, alternative worker organizations could benefit more workers. For example, Major League sports bargain collectively for some things, but players are able to negotiate their own salaries.

Professional organizations like the Freelancers Union provide educational services, and they bring workers together to pull benefits. And worker choice models, would allow more workers who want to be in a union to have that option while not forcing anybody who doesn't want to be in the union.

The Employees Right Act would secure fundamental rights like privacy, secret ballot elections. It would elevate the voices of and the opportunities of union and nonunion workers alike. And it would also protect the livelihoods of 59 million Americans who participate in independent work.

It would also preserve the small business franchise model. The recent shortage of workers and a longer-term decline in labor force participation is troubling for the economy and civil society. To help more people find meaningful and productive work, policymakers should expand apprenticeship opportunities, enable more portable benefits, and unnecessary regulations that prevent employers from offering more flexible and generous benefits.

Additionally, it is the NLRB's job not Congress, to investigate unfair labor practices and to render consistent and impartial decisions. It is also the NLRB's job to oversee fair elections, and to protect workers and employers' free speech rights. I don't know about specific unfair labor practice charges at Starbucks or any of the roughly 18,000 unfair labor practices filed with the NLRB last year.

But I do know from my work advocating for workplace flexibility that Starbucks has been a leader in expanding benefits like paid family leave and providing college tuition and high starting wages. The fact that their turnover rate is less than half the industry average suggests that they are doing something right.

Running a business and attracting and retaining workers isn't easy, and employers shouldn't have to fear congressional harassment if they don't want a union coming between them and their workers. Thank you.

[The prepared statement of Ms. Greszler follows:]

PREPARED STATEMENT OF RACHEL GRESZLER

My name is Rachel Greszler. I am a senior research fellow in Economics, Budgets, and Entitlements at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

My testimony briefly summarizes the state of the labor market since the start of the COVID-19 pandemic. Then, I discuss the changing nature of work, which has become less conducive to traditional union models that have failed to evolve substantially to meet the needs of an increasingly specialized and mobile workforce that desires greater autonomy and flexibility. I conclude by discussing alternative labor organization models that might better elevate workers' voices and meet their desires,

and by providing policy recommendations to protect workers' and employers' rights and to modernize labor policies so that more people will participate in the labor force and have opportunities to work in ways that are best for them.

The U.S. Workforce Still Lacks Workers

The labor market is strong, but the workforce still lacks workers. Although the unemployment rate is on par with the pre-pandemic and half-century low of 3.5 percent, employment today is 2.5 million workers below the pre-pandemic rate of employment.¹ The current 10.8 million job openings are 3.3 million above the pre-pandemic record high.²

The shortage of workers has caused tremendous struggles for employers and for consumers who have had to deal with product shortages, delays in services and deliveries, and rising prices. While employers have responded by raising workers' pay, adding new benefits, and creating more flexible work policies, employers' increased costs for those changes have added to inflationary pressures. Even with significantly above-average wage gains of 4.3 percent per year over the past 2 years, inflation has turned those 4.3 percent pay raises into 2.2 percent pay cuts, with the average worker losing \$3,600 in wages over the past 2 years.³

While the labor market remains strong for workers, workers and employers face growing uncertainty over the strength of the economy and the Federal Reserve's ability to maneuver a soft landing following a 34 percent (\$8 trillion) increase in Federal debt over the past 3 years (roughly half of which was financed by the Federal Reserve creating new money).⁴

A particularly troubling part of the recent decline in labor force participation is that it has been most pronounced among young workers ages 20 to 24, who should be launching into the work world, gaining experience and life skills that will increase their future work and income opportunities. While employment among workers ages 25 to 54 is not back on par with pre-pandemic employment rates, employment among 20-to-24-year-olds is 2.0 percent below pre-pandemic rates. Sitting on the sidelines at such a crucial stage could have lifelong consequences for those individuals and the economy at large.

Work is foundational to human flourishing and societal well-being. The significant decline in employment over the past 3 years follows a more gradual decline in employment—particularly among men and young workers—over the prior two decades. Many government policies have contributed to these declines.⁵

Continued low levels of employment will reduce the rate of economic growth, diminish real incomes and output, result in greater dependence on government social programs, require higher levels of taxation, and exacerbate the U.S.'s already precarious fiscal situation.

¹ For the methodology of the employment gap, see Rachel Greszler, "What Is Happening in This Unprecedented U.S. Labor Market? February 2022 Update," Heritage Foundation Backgrounder No. 3684, February 8, 2022, <http://report.heritage.org/bg3684>.

² U.S. Bureau of Labor Statistics, "Job Openings and Labor Turnover Survey," <https://www.bls.gov/jlt/> (accessed March 21, 2023).

³ Author's calculations using average weekly earnings in real and nominal dollars from the Bureau of Labor Statistics monthly Employment, Hours, and Earnings data available for download at <https://www.bls.gov/data/home.htm> (accessed March 15, 2023).

⁴ The total U.S. Federal public debt was \$23.410 trillion on February 28, 2020, and \$31.459 on February 28, 2023. U.S. Department of the Treasury, "Debt to the Penny" dataset, <https://fiscaldata.treasury.gov/datasets/debt-to-the-penny/debt-to-the-penny> (accessed March 7, 2023).

⁵ Rachel Greszler, "What Is Happening in This Unprecedented U.S. Labor Market? July 2022 Update," Heritage Foundation Backgrounder No. 3716, July 7, 2022, <https://www.heritage.org/sites/default/files/2022-07/BG3716.pdf>.

On the other hand, a flourishing workforce will increase incomes and output, empower individuals and families to pursue their desires, and naturally ease the U.S.'s troubled finances.

To help to achieve an environment in which more Americans want to pursue work, are rewarded for their contributions, and are able to find jobs that meet their needs and desires, policymakers need to end welfare-without-work policies and break down government-imposed barriers that restrict education opportunities, that hold back workers' wages, that make it harder for employers to provide flexibility, and that limit individual workers' voices.⁶

The Changing Nature of Work

While many Americans still hold traditional 9-to-5 jobs that require them to report to a workplace, the workforce has become increasingly flexible. The establishment of the gig economy and growth in freelancing and contract work has enabled tens of millions of Americans of all demographics and education levels to engage in be-your-own-boss work. And COVID-19 caused a giant leap forward in remote work capabilities and in flexible, family friendly workplaces. According to the Bureau of Labor Statistics, 27.5 percent of all private-sector businesses had employees teleworking some or all of the time in August and September 2022.⁷ And the percentage of workers with access to paid family leave increased by 79 percent between 2016 and 2022.⁸

Even before the pandemic, employers said that workplace flexibility was what workers most desired and what they were increasingly providing to attract and retain the workers they needed. All kinds of workers desire flexibility for many different reasons, and it is especially valuable—even essential—for parents and individuals with disabilities. Of the 59 million Americans who performed independent work in 2021, 32 million (55 percent) said they could not work for a traditional employer because of personal circumstances, such as their own health condition or their caregiving responsibilities.⁹

In addition to a rise in independent work and workplace flexibility, today's workers are also increasingly educated and mobile. In general, work has become less rote and more specialized, and people tend to change jobs—even careers—more frequently. These changes have rendered the traditional union model less effective at elevating workers' voices and maximizing workers' well-being.

Politically Weaponized, Industrial-Era Union Model Does Not Benefit Most Workers

Labor unions have played an important role in U.S. history—particularly during the first half of the 20th century—securing worker health and safety protections, obtaining just wages in line with workers' value, and giving workers a previously unheard voice with management. Many of the protections that unions fought to secure are now protected by law. And the globally competitive economy has simultaneously empowered workers and weakened monopolistic union control.

For example, when the only cars that Americans could buy were those produced in the United States, by members of the United Auto Workers, the union could impose above-market compensation without the threat of competition. But higher costs meant higher prices, fewer people able to afford cars, and fewer workers needed to produce them. Domestic auto production today is one-third of what it was just two decades ago,¹⁰ and unions undoubtedly contributed to shuttered auto manufacturing plants through their excessive compensation demands (two-thirds higher

⁶ Ibid.

⁷ U.S. Bureau of Labor Statistics, "Telework, Hiring, and Vacancies—2022 Data from the Business Response Survey," March 22, 2023, <https://www.bls.gov/news.release/pdf/brs1.pdf> (accessed March 24, 2023).

⁸ U.S. Bureau of Labor Statistics, "Employee Benefits Survey," 2022, <https://www.bls.gov/ebs/latest-numbers.htm>. (accessed March 21, 2023)

⁹ Adam Ozimek, "Freelance Forward Economist Report," Upwork, 2021, [https://www.upwork.com/research/freelance-forward-2021#:text=Upwork percentE2 percent99s percent202021 percent20Freelance percent20Forward percent20survey percent20confirms percent20the percent20finding.,the percent20eight percent20years percent20that percent20we percent20have percent20been percent20surveying.%20msckid=af38e75aa94311eca0aa2072597d624b](https://www.upwork.com/research/freelance-forward-2021#:text=Upwork%20percentE2%percent99s%20percent202021%20percent20Freelance%20percent20Forward%20percent20survey%20percent20confirms%20the%20percent20finding.,the%20percent20eight%20percent20years%20percent20that%20we%20percent20have%20percent20been%20percent20surveying.%20msckid=af38e75aa94311eca0aa2072597d624b) (accessed March 24, 2023).

¹⁰ Domestic auto production was 137,400 in January 2023, compared to 420,400 in January 2023. Prior to the pandemic, in 2019, domestic auto production was half of what it was two decades prior, in 1999. Source: Federal Reserve Bank of St. Louis, "Domestic Auto Production," updated March 3, 2023, <https://fred.stlouisfed.org/series/DAUPSA> (accessed March 24, 2023).

than foreign competitors)¹¹ as well as the red tape and restrictive work rules they imposed. Meanwhile, a globally competitive labor market helps workers to leave undesirable, unjust, or unrewarding jobs and pursue better opportunities. The largely unchanged industrial-era union model is not well suited to the increasingly educated, transient, and adaptable workforce. The shift away from lower-skilled manufacturing jobs toward higher-skilled manufacturing and more service-oriented jobs has rendered one-size-fits-all union policies and pay scales ineffective and undesirable for many workers and companies.

One-Size-Doesn't-Fit-All. The union model, with its seniority-based pay scales and rigid rules about schedules and time off may have worked for 1950's manufacturing plants or coal mines, but it doesn't work well for much of the 21st-century workforce that provides increasingly specialized products and services and that is living in a culture that demands greater flexibility. Yet, instead of adapting to changing circumstances, unions have maintained rigid compensation and workplace structures that limit productivity and flexibility.

Responses to the COVID-19 pandemic were a perfect example of unions holding workers and output back, instead of propelling them forward. When the COVID-19 pandemic temporarily shut down production for most manufacturers, one non-unionized auto company immediately engaged directly with its workers, seeking their input on what they needed to be safe and feel comfortable returning to work. That enabled the company to limit production delays and prevent lost paychecks. Meanwhile, unionized car manufacturers were stuck in virtual negotiations with union bosses, as facilities and workers sat idle. And across all industries, years-long union contracts meant unionized workers missed out on the large pay raises non-unionized employers were providing in response to inflation and labor shortages.¹²

Even beyond the COVID-19 pandemic, unions' control over all things worker-related make it extremely difficult for managers to accommodate workers' circumstances and preferences. Flexibility is extremely important for parents, caregivers, and individuals with disabilities, but the fact that union policy handbooks—not managers—are what determine whether a worker can switch shifts, leave work for an emergency without incurring an infraction, or if an employee can work remotely when needed makes it extremely difficult for managers to be flexible and accommodating in unionized workplaces.

Nearly All Workers Prefer Pay for Performance—Not Tenure. Unlike a 1950's assembly line where workers clocked in at 9 a.m. and out at 5 p.m., and everyone produced 20 widgets a day, few jobs today are so clear cut or routine, and most workers want to be paid and promoted based on their unique contributions instead of how many years they have been on the job.

In addition to being considered a more just system, performance-based pay also enables significantly larger income gains because it encourages greater productivity.¹³ Yet, unions not only impose seniority-based pay scales—they also explicitly prohibit employers from providing performance-based bonuses to employees, even when these bonuses are strictly above and beyond the union-negotiated pay scale.

While union wages have traditionally exceeded non-union wages (not taking into account factors such as the cost of living), non-union wage growth has significantly outpaced union wage growth in recent years. Between 2007 and 2022, median week-

¹¹ James Sherk, "Auto Bailout or UAW Bailout? Taxpayer Losses Came from Subsidizing Union Compensation," testimony before the Committee on Oversight and Government Reform, U.S. House of Representatives, June 10, 2013, <https://www.heritage.org/testimony/auto-bailout-or-uaw-bailout-taxpayer-losses-came-subsidizing-union-compensation>.

¹² F. Vincent Vernuccio, "With Inflation High, Unions Suppress Wages," *The Wall Street Journal*, August 7, 2022, <https://www.wsj.com/articles/with-inflation-high-unions-suppress-wages-collective-bargaining-contracts-starbucks-delta-nonunionized-workers-labor-law-negotiations-11659888541> (accessed March 25, 2023).

¹³ Studies show that average pay rises by 6 percent to 10 percent after companies adopt pay-for-performance structures: Alison L. Booth and Jeff Frank, "Earnings, Productivity, and Performance-Related Pay," *Journal of Labor Economics*, Vol. 17, No. 3 (July 1999), pp. 447–463; Edward Lazear, "Performance Pay and Productivity," *American Economic Review*, Vol. 90, No. 5 (December 2000), pp. 1346–1361; Tuomas Pekkarinen and Chris Riddell, "Performance Pay and Earnings: Evidence from Personnel Records," *Industrial and Labor Relations Review*, Vol. 61, No. 3 (April 2008), pp. 297–319; Adam Copeland and Cyril Monnet, "The Welfare Effects of Incentive Schemes," *Review of Economic Studies*, Vol. 76, No. 1 (2009), pp. 93–113; and Daniel Parent, "Methods of Pay and Earnings: A Longitudinal Analysis," *Industrial and Labor Relations Review*, Vol. 53, No. 1 (October 1999), pp. 71–86.

ly union wages increased by 41.0 percent while non-union wages rose by 56.4 percent.¹⁴

Unions' Broken Pension Promises. According to the most recently available data from the Pension Benefit Guarantee Corporation, unions had accumulated \$677 billion in unfunded pension promises.¹⁵ As of 2019, multiemployer or union pensions had set aside only 44 cents of every dollar they promised to pay, and this underfunding is pervasive across nearly every union pension plan.¹⁶ In 2019, more than two of three workers and retirees with union pensions were in plans that were less than 50 percent funded, and more than nine of 10 workers and retirees were in plans that were less than 60 percent funded.¹⁷

The unprecedented \$90 billion taxpayer bailout of private union pensions passed through the partisan American Rescue Plan under the guise of COVID-19 relief (and the Administration's extralegal measure to retroactively add \$4.5 billion more than the law specified to union pension coffers) was only the tip of the iceberg.¹⁸ That bailout did not impose a single meaningful constraint on plans receiving bailouts and instead encouraged plans to continue making unfunded pension promises.¹⁹

It is wrong that many newly unionized workers will be subject to the equivalent of wage theft by having significant portions of their compensation put into union pension funds that—absent additional taxpayer bailouts—will return to them mere pennies on the dollar in promised pensions.

Union Election Structure Suppresses Employees' Voices. A primary purpose of the National Labor Relations Act, according to its preamble, is “protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing.”²⁰ Yet, National Labor Relations Board rules allow workplaces to be organized without workers' having the opportunity to vote in a secret ballot election and without majority support from workers. Moreover, unionization is typically a once-and-done process because workers do not get to regularly vote on their representation and the process for decertifying a union is extremely difficult. Consequently, a 2016 Heritage Foundation report by James Sherk found that, “In practice, only 6 percent of [workers] covered by unions under the National Labor Relations Act (NLRA) have ever voted for union representation.”²¹

This lack of true workers' voice and choice has been exacerbated in recent years as workers have quit their jobs at record paces (nearly one in three workers quit their jobs in 2022)²² and as unions have targeted industries with extremely high turnover rates.

High turnover rates mean that a diminishing share of workers have the opportunity to exercise their right to choose their representation. For example, Starbucks' reported turnover rate of 65 percent is significantly below that of other quick-service restaurant rates of 150 percent or more.²³ Yet even with an exceptionally low turnover rate for its industry, it is likely that only a small fraction of Starbucks employees working at a location that unionized 2 years ago had the opportunity to vote

¹⁴ U.S. Bureau of Labor Statistics, Current Population Survey, “Median usual weekly earnings (second quartile), Employed full time, Private wage and salary workers,” available for download at <https://www.bls.gov/data/home.htm> (accessed March 23, 2023).

¹⁵ Pension Benefit Guaranty Corporation, “Data Table Listing,” Table M-9, Aggregate Funding of PBGC-Insured Plans (1980-2019), Multiemployer Program <https://www.pbgc.gov/prac/data-books> (accessed March 24, 2023).

¹⁶ *Ibid.*

¹⁷ *Ibid.*, Table M-13, Plans, Participants, and Funding of PBGC-Insured Plans by Funding Ratio (2019).

¹⁸ Rachel Greszler, “Biden's Abuse of Power Causes CBO to Raise Cost Estimate of Private Pension Bailouts by \$4.5 billion,” *The Daily Signal*, October 12, 2023, <https://www.dailysignal.com/2022/10/12/bidens-abuse-of-power-causes-cbo-to-raise-cost-estimate-of-private-pension-bailout-by-4-5-billion/>.

¹⁹ Rachel Greszler, “What Taxpayers, Workers, and Retirees Need to Know About the Union Pension Bailout That Has Nothing to Do with COVID-19,” Heritage Foundation Issue Brief No. 6059, February 26, 2021, <https://www.heritage.org/sites/default/files/2021-02/IB6059.pdf>.

²⁰ The National Labor Relations Act, 29 U.S. Code § 151.

²¹ James Sherk, “Unelected Representatives: 94 Percent of Union Members Never Voted for a Union,” Heritage Foundation Backgrounder No. 3126, August 30, 2016, <https://www.heritage.org/jobs-and-labor/report/unelected-representatives-94-percent-union-members-never-voted-union>.

²² U.S. Bureau of Labor Statistics, “Job Openings and Labor Turnover Survey,” <https://www.bls.gov/jlt/> (accessed March 24, 2023).

²³ Jane Harkness, “Global Food and Beverage Companies That Have Cracked the Code on Employee Retention,” *Force Brands*, October 3, 2018,

for their representation. <https://forcebrands.com/blog/global-food-beverage-companies-employee-retention/> (accessed January 31, 2023).

Many Workers Don't Want to Pay for Unions' Politics. Whereas unions originally focused on their own workers and workplaces, unions have increasingly turned their focus from individual member representation to political engagement. Today, up to one-third of workers' dues go to unions' political and ideological activities, with some unions spending more on politics than on representing their own members.²⁴ Many teachers, for example, have the majority of their dues handed over to state and national teachers' unions, even though local unions are the only ones bargaining directly on their behalf. A 2018 report by Rebecca Paxton of the Pioneer Institute found that, on average, 84 percent of teachers dues went to state and national union organizations—not the local union.²⁵

This shift in union spending on politics as opposed to worker representation is ostensibly intended to reverse the decline in union membership through legislation that forces more workers into unions, instead of unions focusing on providing valuable services to the individual workers they represent.

The use of union members' money and the application of unions' power toward political candidates and causes is evidenced by former AFL–CIO union leader Richard Trumka's quid pro quo threat to Congressional lawmakers ahead of a vote on the union-backed Protecting the Right to Organize (PRO) Act:²⁶ “And to those who would oppose, delay or derail this legislation—do not ask the labor movement for a dollar or a door knock, We won't be coming.”²⁷ That legislation was subsequently renamed the Richard L. Trumka Protecting the Right to Organize Act of 2023.²⁸

Many workers have been turned off by unions' political activism, their use of intimidation²⁹ and deceit³⁰ to gain members, and union corruption.³¹

Union Membership Rate at Record Low. Despite media reports about increased unionization and the Biden administration's “whole of government” approach to pushing more workers into unions, the unionization rate declined to a record low 10.1 percent across all workers, and 6.0 percent among private-sector workers in 2021.³²

Neither Companies Nor Government Agencies Should Be Above the Law

Companies that violate labor laws should be consistently and impartially prosecuted and workers who expose violations should be protected. Similarly, government agencies that fail to judiciously carry out the law should be held accountable, and agency staff who expose violations should be protected.

Claims of unfair labor practices should be promptly investigated with decisions and consequences consistently and impartially applied. It is important to note that allegations of unfair labor practices are not necessarily evidence of wrongdoing because as anyone can make a claim of an unfair labor practice. Alleging unfair labor practices is a tactic that unions can use to challenge election outcomes if the results

²⁴ Free to Teach, “Where Do Your Union Dues Go? (2017–2018): Teachers Union Spending in Pennsylvania, 2017–18,” <https://www.freetoteach.org/where-do-your-union-dues-go/> (accessed September 10, 2020).

²⁵ Rebekah Paxton, “Where to Teacher Union Dues Go?” Pioneer Institute Public Policy Brief, November 2018, <https://pioneerinstitute.org/wp-content/uploads/dlm-uploads/PNR-225-UnionDues-PB-V05.pdf> (accessed March 24, 2023).

²⁶ Rachel Greszler, “6 Ways a Union-Backed Bill Will Upend the Job Market,” *The Daily Signal*, February 5, 2020, <https://www.dailysignal.com/2020/02/05/6-ways-a-union-backed-bill-will-upend-the-jobs-market/>.

²⁷ Richard Trumka, Twitter, February 5, 2020, <https://twitter.com/RichardTrumka/status/1225128484374294531> (accessed September 8, 2020).

²⁸ H.R. 20, 118th Congress, Richard L. Trumka Protecting the Right to Organize Act of 2023, <https://www.Congress.gov/bill/118th-congress/house-bill/20?q=percent22searchpercent22percent3Apercent5Bpercent22employee+rights+act+senate+scottpercent22percent5Dpercent7D&s=1&r=3> (accessed March 25, 2023).

²⁹ F. Vincent Vernuccio, “Card Check Coercion: Intimidation,” in *Protecting the Secret Ballot: The Dangers of Union Card Check* (Midland, MI: Mackinac Center for Public Policy, 2019), <https://www.mackinac.org/26958> (accessed March 24, 2023).

³⁰ Sean Higgins, “Fraud Alleged in Auto Plant ‘Card Check’ Union Organizing Bid,” *Washington Examiner*, September 26, 2013, <https://www.washingtonexaminer.com/fraud-alleged-in-auto-plant-card-check-union-organizing-bid> (accessed March 24, 2023).

³¹ Eric D. Lawrence, “Feds: UAW's FCA Unit ‘Riddled with Corruption’ During Scandal,” *Detroit Free Press*, December 12, 2018, <https://www.freep.com/story/money/cars/chrysler/2018/12/12/fca-uaw-scandal/2290892002/> (accessed September 10, 2020).

³² News release, “Union Members—2022,” U.S. Bureau of Labor Statistics, January 19, 2023, <https://www.bls.gov/news.release/pdf/union2.pdf> (accessed March 24, 2023).

do not go their way. Over the past decade, fewer than half of all the unfair labor practices alleged by unions have been substantiated by the NLRB.

Moreover, a recent proposal by the NLRB would encourage unsubstantiated allegations of unfair labor practices by halting union decertification election processes if unfair labor practices are filed, even if those charges are unsubstantiated or unrelated to the union decertification process.³³

Troubling Claims of Misconduct Within the National Labor Relations Board (NLRB). The purpose of the NLRB is to administer and enforce the NLRA and to conduct representation elections. Recent claims from Starbucks officials about NLRB officials' activity surrounding a union election in Overland Park, KS,³⁴ and a subsequent NLRB hearing officer's report that corroborated some of those claims, suggest that NLRB officials engaged in misconduct regarding their duties to conduct fair and impartial elections.³⁵ A March 7, 2023, letter from Ranking Member Cassidy to the NLRB Chairman and General Counsel noted that the troubling allegations by NLRB employees include:

Board employees making secret arrangements with union representatives to vote in-person in what all parties agreed would be a mail-ballot election; providing union agents with confidential, nonpublic information regarding vote counts in order to enable SWU [Starbucks Workers United] to target and intimidate employees; providing unions duplicate and triple ballots; and individualizing voting arrangements for voters hand-picked by SWU.³⁶

Moreover, Chairwoman Virginia Foxx of the Education and Workforce Committee stated, "The Committee understands that the NLRB employee misconduct in representation elections is more widespread than the allegations in the Starbucks letter and findings in the Hearing Office report."³⁷

The NLRB's potential interference in union elections is very troubling and Congress should continue to investigate allegations related to Starbucks Workers United, as well as other similar misconduct that could be occurring between NLRB officials and other labor organizations.

Politicization of Labor Policy Hurts Workers and Employers Alike. Important issues in labor policy have swung back and forth in recent years, making it difficult for employers and workers to go about their business and occupations without risks of lawsuits or even losing their livelihoods.

The Biden administration's NLRB under General Counsel Jennifer Abruzzo has pursued an especially political agenda, seeking to overturn more than 40 prior NLRB decisions. Moreover, the General Counsel has arguably used memoranda to circumvent the court and rulemaking processes. Memoranda are supposed to provide useful information and guidance for employers, to help them to conform to the law, but they cannot be used to overturn past decisions or change the law.

Yet, Abruzzo's April 2022 memorandum, "The Right to Refrain from Captive Audience and other Mandatory Meetings,"³⁸ for example, provides guidance that is counter to a 65-year-old court decision,³⁹ and which directly violates employers' free speech rights. Just as employers may require workers to attend informational

³³ National Labor Relations Board, "Notice of Proposed Rulemaking; Request for Comments," Federal Register, Vol. 87, No. 213, November 4, 2022, pp. 66890-66933 <https://www.govinfo.gov/content/pkg/FR-2022-11-04/pdf/2022-23823.pdf>

³⁴ Letter from Zarina Jenkins, Acting Exec. Vice President & Gen. Couns., Starbucks, & Kimberly J. Doud, Couns. for Starbucks, to Lauren M. McFerran, Chairman, NLRB, & Jennifer A. Abruzzo, Gen. Couns., NLRB, August 15, 2022.

³⁵ Starbucks Corp., No. 14-RC-289926, at 9 (NLRB, February 24, 2023) (hearing officer's report and recommendations on objections).

³⁶ Letter from Senator William M. Cassidy to Lauren M. McFerran, Chairman, NLRB, & Jennifer A. Abruzzo, Gen. Couns., NLRB, March 7, 2023, <https://www.help.senate.gov/imo/media/doc/nrb-weaponization-letter.pdf> (accessed March 24, 2023).

³⁷ Letter from Rep. Virginia Foxx to Rebecca A. Dormon, Assistant to the Regional Director NLRB, Region 15, March 22, 2023, <https://edworkforce.house.gov/uploadedfiles/letter-from-chairwoman-foxx-march-22-2023.pdf> (accessed March 24, 2023).

³⁸ See Jennifer A. Abruzzo, "The Right to Refrain from Captive Audience and other Mandatory Meetings," National Labor Relations Board, Office of the General Counsel, Memorandum GC 22-04, April 7, 2022, available for download at <https://www.nlr.gov/guidance/memos-research/general-counsel-memos> (accessed March 24, 2023).

³⁹ Babcock & Wilcox Co., 77 NLRB 577 (1948).

meetings about safety policies or workplace benefits, employers should be free to require workers to attend informational meetings about unions.⁴⁰

Recent polling from the Institute for the American Worker found that only 12 percent of workers opposed mandatory employer meetings on unions, and union households, black voters, and democrats had the strongest support for mandatory meetings.⁴¹ One of the reasons workers support mandatory union information meetings is to prevent workers from being singled out or intimidated if their choice to attend the meeting is viewed by union organizers and supporters as them opposing the union.

Clarity and Employee Rights Needed in Labor Law. Politicized labor laws that swing back and forth between Administrations, inconsistency in the application of labor laws, and memoranda that directly contradict labor laws make it difficult for employers and workers to know what they can and cannot do. These uncertainties put employers in difficult situations where they risk lawsuits in both directions.

For example, recent NLRB rulings have found companies to be guilty of unfair labor practices for dismissing employees who violated company safety policies or who harassed other workers because those violations occurred during a unionizing campaign. Yet, not firing workers who violate company policies could create liabilities or lead to lawsuits from workers who were harmed by their co-workers' violations.

Complex and shifting labor law also adds unnecessary administrative and legal costs that make it harder for businesses to start and to expand.

Congress should codify important components of labor policy into law to provide clarity and continuity for employers and employees alike. That includes, among other things, creating a single bright-line test for independent contractors across all Federal laws based on the common law definition, defining joint employer status based on direct and immediate control, and protecting important worker and employer rights. The Employee Rights Act includes these and other important provisions to modernize and stabilize labor law.⁴²

Alternative Labor Organizations

Unions thrive on adversarial relationships and strong-arm tactics, pitting employees against employers and preferring the role of bully instead of benevolent mediator. Union tactics, such as using 12-foot blow-up rats to depict company management and anyone who does not toe the union line, are dehumanizing and destructive to the basic workplace ideals of mutual respect and compassion.

Unions' typically combative stances are counter to the amicable relationships that workers and employers desire with one another, and are counter to employers' and employees' mutual reliance on one another.

Policies like performance-based pay and bonuses, voluntary paid-family leave benefits, and promotions from within help workers to grow and help companies to succeed. Direct communication is also mutually beneficial—whether it is a worker being able to negotiate a schedule or compensation package that meets her unique needs, or an employer receiving valuable employee input and ideas on how to improve the company, everyone benefits from his or her voice being heard.

So how can workers and employers have more communications with, and investment in, one another? The solution is voluntary engagement, absent the strong arm of unions or the heavy hand of government. The recent rise in wages, benefits, flexibility, and remote work options even as unionization has declined is evidence that a strong labor market is the best way for workers to achieve what they desire without the unintended consequences of government mandates or forced third-party interventions.

Workers should never be forced to pay for services they do not want, nor should they be prevented from choosing their own representation or representing themselves when talking or negotiating with their employer. Likewise, employers should not have to succumb to micromanagement by an outside organization to meet work-

⁴⁰ During mandatory employer meetings on unionization, employers are not allowed to threaten, interrogate, or make promises to employees, and like other mandatory workplace meetings, employees are paid for their time in the meetings.

⁴¹ Institute for the American Worker, "Polling Results for Employer Meetings on Unionization," conducted August 2–9, 2022, <https://www.Congress.gov/bill/117th-congress/house-bill/7194> (accessed March 25, 2023). <https://i4aw.org/resources/polling-results-for-employer-meetings-on-unionization/> (accessed March 26, 2023).

⁴² S. 3889, Employee Rights Act, 117th Congress, and H.R. 7194, Employee Rights Act, 117th Congress,

er desires. Neither should be micromanaged by government regulations that prohibit choices or shut off opportunities.

The following models offer ways to improve employee and employer relations, for workers' voices to be heard, and for both workers and employers to grow and succeed:

Worker-Choice Arrangements. The union exclusivity model is flawed on both sides: Workers in a unionized workplace can be forced to pay for representation they do not want (94 percent of union members never voted for a union) and can be prevented from communicating or negotiating directly with their employer; and unions must represent all workers, including those in right-to-work states and public employees' unions, who choose not to join the union and do not pay union dues.⁴³ Forced solidarity is unjust and unhelpful.

Worker-choice models would solve the free-rider problem that unions lament as well as the forced-representation problem that many workers lament. In worker-choice models, workers who want the benefits of the union would have to pay union dues, and those who do not could choose their own representation.⁴⁴ Unions could even allow workers to pick and choose the services they want to contract with the union to receive.

Professional Worker Organizations.⁴⁵ Workers do not have to be employed by the same company or even in the same field of work in order to organize around shared interests and pool their resources to obtain benefits, such as health insurance at a lower cost. The Association of Independent Doctors is a professional organization that provides a collective voice for independent doctors who previously lacked organization and combined power, while also offering reduced-cost insurance. The dues-free Freelancers Union has attracted nearly half a million workers across very diverse professions and wide income ranges by providing things that workers value, such as education, insurance benefits, and advocacy. An advantage of professional organizations is that workers can take their benefits with them from one job, contract, or gig to another.

Unions as Providers of Education and Certification. As technology and trade continue to alter the workplace, unions or worker associations could provide valuable education and voluntary certifications to help to prepare workers for changes within their own career or help them to gain the skills and experience for a new type of work. Some unions do provide valuable worker training; expanding training beyond the job that workers already perform could be particularly beneficial for workers in declining industries. Certifications can also improve workers' job options by serving as a trusted measure of knowledge and experience.

Representation Services. Unions have often focused on compensation, but the typical seniority-based structures that unions impose do not make sense for workplaces with a wide range of positions, skills, and expertise. Moreover, union-negotiated pension benefits are less valuable as many workers do not plan to stay in the same job or profession for their entire career. Yet, without dictating compensation, unions could still provide value through things like representation services and setting minimum salary requirements, while allowing individual workers to negotiate their compensation packages directly with their employer. This is the type of structure that the Major League Baseball Players Association provides, for instance.

Solutions to Protect and Empower Workers

The only true way to elevate workers' voices is to allow them to express their voice how they desire—whether through a union, an alternative form of representation, or speaking directly with their employer. Government attempts to dictate who gets to speak on behalf of workers minimize individual workers voices.

⁴³ F. Vincent Vernuccio, "Worker's Choice: Freeing Unions and Workers from Forced Representation," Mackinac Center for Public Policy, June 1, 2016, <https://www.mackinac.org/22471> (accessed September 9, 2020), and James Sherk, "Unelected Representatives: 94 Percent of Union Members Never Voted for a Union," Heritage Foundation Background No. 3126, August 30, 2016, <https://www.heritage.org/jobs-and-labor/report/unelected-representatives-94-percent-union-members-never-voted-union>.

⁴⁴ States could allow worker-choice arrangements for public-sector employees by amending their labor laws, while Congress could allow them for private-sector workers by amending the National Labor Relations Act.

⁴⁵ F. Vincent Vernuccio, "Unionization for the 21st Century: Solutions for the Ailing Labor Market," Mackinac Center for Public Policy, November 11, 2014, <https://www.mackinac.org/S2014-07> (accessed September 9, 2020).

In addition to laws addressing employer and employee relationships, policymakers can help to maximize workers' well-being by removing government barriers that prevent them from becoming more productive and achieving their goals.⁴⁶ To that end, policymakers should:⁴⁷

- **Allow worker-choice agreements** so that workers are not forced to pay fees to or be represented by unions, and so that unions are not forced to represent workers who are not dues-paying members. The Workers Choice Act would accomplish this.⁴⁸
- **Protect workers' rights to a secret ballot and in-person elections.** A stated purpose of the NLRA is "protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing" The surest way to protect that right is through secret-ballot, in-person elections. The so-called card-check process allows workplaces to be unionized without a secret-ballot vote and through a process that too often includes intimidation,⁴⁹ misrepresentation,⁵⁰ promises, coercion, and threats. Moreover, a recently proposed NLRB regulation would further restrict workers' rights by denying them the ability to appeal an employer's voluntary recognition of a union through the card-check process if they believe that process compromised workers' true desires.⁵¹

Moreover, many recent elections have been conducted through mail-in ballots, which are subject to increased risks of fraud and coercion, as well as significantly lower voting rates. According to the NLRB, worker participation for in-person union votes was 79 percent during the fiscal year 2020 to fiscal year 2022 period, compared to 68 percent for mail-in elections.⁵² Congress should guarantee that a majority of employees have a right to a secret-ballot paper election—something that 76 percent of union households support.⁵³

- **Protect employers' rights to free speech.** In light of recent NLRB actions to threaten employers' free speech through memoranda, it may be necessary for Congress to clarify in law the 65-year old precedent that mandatory employer-led informational meetings on unions (so long as they do not include prohibited threats, interrogation, or promises) are protected under employers' free speech.
- **Allow unionized workers to receive wages and bonuses.** Many union contracts prevent employers from providing pay raises or bonuses to workers. The Rewarding Achievement and Incentivizing Successful Employees Act would allow employers to provide performance-based raises without union consent.⁵⁴

⁴⁶ Rachel Greszler, "The Future of Work: Helping Workers and Employers Adapt to and Thrive in the Ever-Changing Labor Market," Congressional testimony before the Health, Education, Labor, and Pensions Subcommittee and the Workforce Protections Subcommittee of the Education and Labor Committee U.S. House of Representatives October 23, 2019, <https://edlabor.house.gov/imo/media/doc/GreszlerTestimony102319.pdf> (accessed September 10, 2020).

⁴⁷ Rachel Greszler, "Labor Policies for COVID-19 and Beyond: Recommendations to Get Americans Back to Work," Heritage Foundation Backgrounder No. 3506, June 30, 2020, <https://www.heritage.org/sites/default/files/2020-07/BG3506.pdf>.

⁴⁸ H.R. 5147, 116th Congress, The Worker's Choice Act, <https://www.Congress.gov/bill/116th-congress/house-bill/5147/text/r=7&s=1> (accessed March 25, 2023).

⁴⁹ F. Vincent Vernuccio, "Card Check Coercion: Intimidation," in *Protecting the Secret Ballot: The Dangers of Union Card Check* (Midland, MI: Mackinac Center for Public Policy, 2019), <https://www.mackinac.org/26958> (accessed March 24, 2023).

⁵⁰ Sean Higgins, "Fraud Alleged in Auto Plant 'Card Check' Union Organizing Bid," *The Washington Examiner*, September 26, 2013, <https://www.washingtonexaminer.com/fraud-alleged-in-auto-plant-card-check-union-organizing-bid> (accessed March 24, 2023).

⁵¹ National Labor Relations Board, "Notice of Proposed Rulemaking; Request for Comments," *Federal Register*, Vol. 87, No. 213 (November 4, 2022), pp. 66890–66933 <https://www.govinfo.gov/content/pkg/FR-2022-11-04/pdf/2022-23823.pdf> (accessed March 25, 2023).

⁵² National Labor Relations Board, letter to the Honorable Virginia Foxx and Rick W. Allen regarding mail-in elections, November 3, 2022.

⁵³ Employee Rights Act, "What Does the Employee Rights Act Accomplish?" <https://employeeightsact.com/> (accessed March 24, 2023).

⁵⁴ H.R. 6952, 117th Congress, "RAISE Act," https://www.Congress.gov/bill/117th-congress/house-bill/6952?q=percent7B_percent22search_percent22_percent3A_percent5B_percent22H.R.+6952_percent22_percent5D_percent7D&s=1&r=1 (accessed March 25, 2023).

- **Protect union members' pensions** by applying the same rules and regulations to union pensions as to non-union pensions.⁵⁵
- **Enact the Employee Rights Act.** This proposed act includes important worker protections (including many of those listed above), such as privacy rights, secret-ballot elections, and protections from coercion and intimidation. It also includes modernizations to protect and support successful small-business models and to help to enable more flexible and increasingly desirable be-your-own-boss work opportunities.

While addressing employee and employer relations is important for unionized or potentially unionized workplaces, 94 percent of private-sector workers in the U.S. do not belong to unions and are unlikely to belong to unions anytime soon. To help encourage stronger labor force participation and opportunities for work that offer rising incomes and the flexibility that workers desire, Congress should:

- **Reduce regulations to free up resources for more productive uses.** When entrepreneurs face fewer barriers to entry, they create more jobs. And when businesses do not have to comply with costly and unwarranted regulations, they have more resources to devote to raising wages, and educating and promoting workers.
- **Allow the private sector to provide benefits that workers desire,** such as the ability to accrue paid time off through the Working Families Flexibility Act.⁵⁶
- **Allow accessible, affordable, and portable worker benefits.** The average worker will change jobs 12 times throughout his career, but no one wants to roll over his 401(k) plan or change health insurance 12 times. Current policies make it difficult for workers to obtain portable benefits.
- **Expand apprenticeship options.** The Apprenticeship Freedom Act⁵⁷ and Training America's Workforce Act⁵⁸ would help to level the playing field so that apprenticeships could develop across more industries and provide more workers with the option of on-the-job, paid education ending in a successful career.
- **Refuse to close doors to work opportunities.** Excessive wage regulations, prohibitions on independent work options (including the Department of Labor's recently proposed Independent Contractor rule), and attempting to redefine entire business models (including the NLRB's proposed Joint Employer Standard) all limit income and growth opportunities.
- **Hold agencies and businesses accountable to the law.** No business or government agency should be above the law. Unfair labor practices and workplace violations should be prosecuted according to the law. Agencies should be held accountable so that they carry out their mission without prejudice or collusion. Lawmakers should provide clarity and certainty in labor laws by codifying clear definitions so that employers and workers are not subject to the whim of politicized memos and regulations.

Summary

Although uncertainty lingers, the labor market is strong, and workers have benefited from increased compensation and improved flexibility and family friendly poli-

⁵⁵ Rachel Greszler, "Congress's Multiemployer Pension Committee Should Act Now: 12 Reforms to Protect Pensioners and Taxpayers," Heritage Foundation Backgrounder No. 3368, November 20, 2018, <https://www.heritage.org/sites/default/files/2018-11/BG3368-0.pdf>.

⁵⁶ Private-sector employers are currently prohibited from offering lower-wage hourly workers the choice between accruing paid time off and receiving pay in exchange for their overtime hours. The Working Families Flexibility Act would end this restriction so that private-sector workers can have the same option as public-sector workers to accumulate paid time off. See Rachel Greszler, "Mike Lee's Bill Would Boost Paid Family Leave Without Growing Government," The Daily Signal, April 11, 2019, <https://www.dailysignal.com/2019/04/11/mike-lee-s-bill-would-boost-paid-family-leave-without-growing-government/>.

⁵⁷ News release, "Rep. Good Introduces 40th Bill, the Apprenticeship Freedom Act," Congressman Bob Good of Virginia, December 13, 2022, <https://good.house.gov/media/press-releases/rep-good-introduces-40th-bill-apprenticeship-freedom-act> (accessed March 11, 2023).

⁵⁸ News release, "Thune, Scott Introduce Legislation to Combat Workforce Challenges," John Thune, U.S. Senator for South Dakota, March 7, 2022, <https://www.thune.senate.gov/public/index.cfm/2022/3/thune-scott-introduce-legislation-to-combat-workforce-challenges> (accessed March 25, 2023).

cies. Yet, there are still millions of missing workers, with government policies partly to blame.

Amidst evolving worker skills and desires and a continually changing way of work, traditional union structures fail to maximize most workers' voices and well-being. Unions' failure to adapt and provide services that directly benefit workers and to instead attempt to gain members and power through politics has been met with a massive decline in unionization in the U.S. Yet, workers' desires for upward mobility and increasing flexibility show that workers' voices are as important today as at any time before.

By definition, forced unionization and exclusive representation muffle the voices, deny the rights, and extract the earnings of at least a minority of workers. That does not mean that collective labor organizations are useless; it does mean that a transformation to voluntary worker associations would be far more helpful. Choice-based worker representation accompanied by reduced government barriers to worker pursuits can help to elevate the voices of union and non-union workers alike, improve their well-being, and expand their opportunities.

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[SUMMARY STATEMENT OF RACHEL GRESZLER]

The U.S. faces a recent and longer-term decline in labor force participation, and government policies are partly to blame.

Over the past decades, workers have become increasingly educated and mobile. New ways of working and a more service-oriented economy have enabled more flexible work opportunities and more accommodating workplace policies.

Unions have typically failed to adapt by providing workers with new forms of value and have instead invested in political causes and lobbying for laws that push more workers into unions.

Unions have engaged in reckless pension management, accumulating \$677 billion in unfunded pension promises and resulting in nine of 10 workers with multi-employer pensions having plans that are less than 60 percent funded. The U.S. Treasury is currently depositing taxpayers' dollars—up to \$90 billion worth—into a select group of private union pensions accounts.

Unions' adversarial tactics are destructive to mutually beneficial employer and employee relationships, and their rigid rules impede flexible and accommodating workplaces as well as creative and rewarding productivity.

Labor laws should be clearly defined, and consistently and impartially enforced. Recent NLRB actions have created uncertainty and heightened legal risks for employers, making it harder for them to understand and apply the law consistently across employees and multiple workplaces.

DOL regulations have also complicated labor law, including for the overwhelming majority of companies that do business with independent contractors and the tens of millions of workers who perform independent work. Congress should enact legislation to establish clarity and consistency across Federal laws.

The NLRB is supposed to interpret and enforce the NLRA and was not meant to serve as a political pendulum. The NLRB should focus on addressing cases that come its way instead of pursuing a political agenda. NLRB officials engaged in misconduct must be held accountable.

Labor organizations can be valuable, but to expand their reach, they must adapt and abandon purposefully combative relationships. Alternative forms of organization that put individual workers in control of their representation and the services they want to pay for could help foster more productive and accommodating workplaces, relationships, and worker benefits.

Congress can benefit union and non-union workers alike by safeguarding workers' rights, expanding workers' options, promoting work, and eliminating barriers to alternative education, rising incomes, and flexible work opportunities. More people working in the ways that work for them would also help alleviate the Federal Government's severe fiscal imbalance.

The CHAIR. Thank you very much. Let me begin my questioning with Ms. Carter and Mr. Saxton. You have heard, I suspect, Mr. Schultz saying that he obeys the law, he respects the right of workers to organize if that is what he wants. Starbucks does not engage in union busting. Ms. Carter, what is your observation about that?

Ms. CARTER. My observation is that is not my experience while working in a store that was unionizing. Thank you for your question, Chairman. So we were forced to go through multiple captive audience meetings in our store, and our store was the only one to stay open throughout the entirety of the pandemic.

Unfortunately, because of a captive audience, meaning a member of management who traveled to our store from, I don't know where, I had never met them before, gave them multiple partners COVID in this meeting and we had to shut down for 5 days. Now, that is a little bit of union busting and outside experiences, but kind of crazy to—

The CHAIR. Do workers have any option about whether or not they would undergo this meeting with the Starbucks executive?

Ms. CARTER. We were scheduled for that meeting and it actually was our very first one. So we weren't told at this point in time that we didn't have to attend. So it was very much not an option.

The CHAIR. Okay. Let me get to Mr. Saxton. You heard what Mr. Schultz said. What do you think?

Mr. SAXTON. Thank you for your question, Senator. That hasn't been my experience in my store. We when we failed, they fired our store manager. We—he was a very well-liked store manager.

He actually helped in our organizing effort once he was fired. After that they brought in a interim store manager and a store manager team to make our store more efficient. That making our store more efficient resulted in us constantly coming in to work with everything moved around.

Every single day we had to relearned where everything was. With that, the interim store manager would take notes about what she would hear or see on the floor and she would write down partners names.

We didn't find out until after we had our election that those people that—the names that she had written down were going to be written up and or fired. So I—

The CHAIR. What I am hearing from you is you didn't quite accept Mr. Schultz's view that he is not engaged in anti-union activity?

Mr. SAXTON. They have definitely engaged in anti-union activity.

The CHAIR. Let me get Ms. Block. If I heard you correctly, I think you indicated that what you are seeing at Starbucks is unprecedented and that—in modern history—and that what Starbucks is doing is also sending a signal to the corporate world that in a sense, if they can get away with this, other corporations can as well. Am I right on that?

Ms. BLOCK. Yes, I think that is a fair interpretation of how this campaign may be perceived. And in my mind, most importantly, among the other low wage workers that work for large corporations that have the resources to engage in this kind of drawn out, long litigation over their activity during an organizing campaign.

The CHAIR. What is the purpose, do you think, of these long, never ending efforts on the part of companies? Why do they do that?

Ms. BLOCK. I mean, I try not to speculate on other people's motives, but I am concerned that we are seeing now fewer petitions being filed by other Starbucks employees. There can be lots of reasons for that.

I think time will tell. But as other witnesses and as other Members of the Committee have indicated, there is necessarily a huge power imbalance between workers and the company.

There's this ability to play things out over a long time just exacerbates that kind of power imbalance.

The CHAIR. Senator Cassidy.

Senator CASSIDY. Thank you, Mr. Chairman. Mr. Byrne represents a constituent of mine who has bravely provided information to the NLRB Inspector General, misconduct that she witnessed during the representation election at a Starbucks in Overland, Kansas.

Specifically, a hearing officer found substantial disparity between the communications the region shared with Starbucks and the communications the region shared with the union. What makes this an issue?

Mr. BYRNE. Well, you are supposed to be neutral. And so if you are having communications with the union about an issue, you need to have communications with management as well. And if you are not having that even in communication, then clearly you are favoring one side over the other.

Senator CASSIDY. Now, some of the communications seem to me fairly benign, but again, I am not a lawyer, but I gather it has to be even keeled. Whatever you do for one, you have to do for the other.

Mr. BYRNE. That is correct. So one of the things that came out in that is, is that the labor board agent actually allowed the union to bring two people to vote at the board's office. And this was a mail in election where you had a stipulated agreement. So the com-

munications weren't just about small things. They were about big things, i.e. the vote.

Senator CASSIDY. So the stipulation that you shall mail in is really kind of ironclad. It may have seemed just kind of like an accommodation, but really they should have said, no, we can't. You have got to go down the street, you've got to put in a mailbox or something like that.

Mr. BYRNE. A stipulated agreement is the law of the case. They have to follow that. Now if they want to vary it, you go to both sides and say, we need a vary it as to this employee or that employee. But you don't just unilaterally do it after having a conversation with the union and you haven't had any conversation with the company.

Senator CASSIDY. So the guy or gal who might forget to mail, and I forget to mail bills all the time, that would take out that variable of whether or not they would actually remember to put it in the mailbox or don't have stamps at home or whatever the variable would be.

I kind of get that. Let me ask you this, can you tell us about records brought forward by your client that implicate a pattern and practice that the union received accommodations by NLRB in other regions, not just Kansas?

Mr. BYRNE. Senator, let me be very careful how I say this. There is a subpoena that has been issued to my client by the House Committee. We are in the process of reviewing that and complying with it.

I can say without going into details of it, that there are documents in there that would indicate that the sort of thing that happened at this one particular election has happened in other elections as well.

There is a basis to determine whether or not there has been a pattern and practice, not just for Starbucks cases, although the House subpoena was limited to Starbucks cases. But if it has happened in Starbucks cases, is it happening in other cases across the country?

Senator CASSIDY. Let me ask you this. Much has been made about the number of filings of unfair labor practices by people seeking to unionize against Starbucks. And yet NLRB, in a letter they submitted for the record earlier—I am sorry, in other documents, has stated that over half of unfair labor practices are dismissed or withdrawn. As a labor lawyer, can you speak to the tactical use of unfair labor practice complaints in an organizing campaign?

Mr. BYRNE. In my experience, the union files unfair labor practice charges, multiple unfair labor practice charges in every election, and it is part of their strategy for handling it. And as you said, the vast majority of them are thrown out.

They don't even get to the point of having a hearing because they didn't have any basis in the first place. So, it is a pattern that the union follows to try to intimidate the employer and try to eat at the time in the election.

Senator CASSIDY. Ms. Greszler, Republicans made it pretty clear that we support the right to unionize. But you point out that the

labor laws we have are a hundred years old, and yet you promote some reforms that would modernize it, if you will, and you mentioned, for example, Major League Baseball, a special case, but in which merit actually dictates wages along with the baseline of benefits.

Can you just quickly summarize some other things that if we were to come together on a bipartisan basis, you would recommend that we do to help people who seek to unionize, but to update the whole concept?

Ms. GRESZLER. Yes. Now, I think the focus has to be on the workers and their choices. And so they may choose to have an organizational structure that allows them to pull together and say these certain benefits are important to all of us and we want to have the same level of them, but there are other things that we want to be able to negotiate more flexibly.

That could also happen across a big company that has multiple different stores in different states that is facing different conditions. I think the important there is letting the workers have the choice to do that.

Work states allow this, but they also in those states have representation on everybody. So even if the worker isn't paying into the union, they are represented by the union.

Now, the union would say that is a free rider problem. So you could eliminate that by saying the union does not have to represent you if you are not paying them. So if you want that representation, you have got to pay.

But if you don't want it, you can be on your own and you can negotiate by yourself or you can have a separate type of negotiation. But just having the choice actually be focused on the worker themselves.

Senator CASSIDY. Got you. With that, I yield.

The CHAIR. Thank you. Senator Smith.

Senator SMITH. Thank you, Chair Sanders and Ranking Member. And welcome to all of you. It is really—I am glad to see you here and I want to thank you in particular the Starbucks organizers, for being here.

Ms. Carter, I understand you organized one of the first stores in the South for the Starbucks workers, and I wanted to ask you something. Mr. Schultz talked repeatedly this morning about this partner relationship that he says that he has with his employees.

I am just wondering, from your experience, how do you have a partnership with hundreds of thousands of people? And when you are doing the organizing in your—when you were doing your organizing, like what did you find—why were people wanting to be part of a bargaining unit?

Ms. CARTER. Thank you so much for your question, Senator. So it is about the rules and regulations that are in place and how we are actually able to service the customer. Throughout COVID, we really saw a decline in maintenance in our stores.

We really saw a decline in upkeep. And frankly, when you report these concerns to your manager, it just really feels like you are

talking sometimes to a wall, as if you are just not getting any response.

That was a huge catalyst to why we wanted to organize, but also just the wages and rent rising in our state. It is just not something that worked for us. And also, benefits are just too expensive for us to actually be able to use. So rather than forgo a paycheck, we just choose not to have health insurance.

Those are a lot of the reasons why we chose to organize. I will say Howard Schultz does not feel like a partner to me as well.

Senator SMITH. Thank you. Mr. Saxton, was there anything I would like to know what you would like to add to this. I am particularly interested in the challenges that folks have dealing with schedules that are uncertain and unpredictable.

You have maybe a promise of some hours that you then don't get. And how would being part of a bargaining unit help you deal with those kinds of challenges as a worker?

Mr. SAXTON. Thank you. To answer the first question, some of the challenges that we faced were, when I talked to some of my co-workers, they overwhelmingly were talking about the training.

The training is 1 week where you were learning everything and then 1 week where you are practicing everything. And then for shift supervisor, it is you go through the same barista training and then you do shift supervisor training, which functions the same way. Then scheduling was a huge thing, and this kind of goes into your second question.

I currently have at my store someone who used to get 25 hours a week. They are a very much so a supporter of our union. They have been reduced down to 5 hours a week. I think that speaks for itself.

You know, if they really want to be partners with us, they hear those concerns and they make those changes. And they feel—so Starbucks has an empty seat that they leave at the shareholders table for their partners. They fill that seat and hear what we have to say.

Senator SMITH. Thank you. Ms. Block, earlier this morning when we were talking with Mr. Schultz, several of us were pressing him on this disparity—disparities in which the unionized folks were being treated versus the non-unionized people who were being treated.

I particularly was talking about this ability for non—for the unionized shops to be able to access the credit card tipping mechanism. Mr. Schultz said that his understanding of the law was that he could not do that.

Now, when I questioned him, he shifted a little bit and he said, well, actually it is our preference not to do that. Could you just address this issue—could you address this issue?

Ms. BLOCK. Absolutely. Thank you for the question. I think as Mr. Schultz eventually was sort of circling around, once the union waived its right to bargain over those particular benefits—

Senator SMITH. Right.

Ms. BLOCK [continuing]. it would not have been unlawful for Starbucks, at least what I can tell from the information that has become public, would not have been unlawful for Starbucks to grant those benefits to the stores that had unionized.

But there is another dimension too in the allegations that in fact withholding those benefits was itself an unfair labor practice. And that goes to the question of why they made that judgment.

If it isn't accurate that the law precluded them from providing those benefits, then you say, well, then what was the reason? And if the reason for withholding those benefits was to retaliate against workers for having a union, to intimidate them in how they exercise that right, then that crosses the line from just not being accurate sense of the law to being an unfair labor practice.

That is the question that will now be before the board.

Senator SMITH. Thank you very much. Thank you, Mr. Chair.

The CHAIR. Thank you, Senator Smith. Just a few more questions. Recently, Starbucks raised their minimum wage, I suspect, in response to union organizing. But tell me, and certainly it is not just people working at Starbucks, what is it like to try to get by on \$15 bucks an hour or \$16 bucks an hour, No. 1.

No. 2, picking up on Senator Smith's question about scheduling, do people know if they are going to have 40 hours or 30 hours or 20 hours? If I go to work, how many hours am I going to be working in a week? Ms. Carter.

Ms. CARTER. Thank you for your question, Chairman Sanders. So, to address your first question, \$15 an hour is not enough to pay bills and actually survive in this world today as we know it. We often struggle.

One of the main things I hear from my partners is I can't pay my light bill and put gas in my car at the same time, or I can't put gas in my car at the same time and get groceries. So just imagine having to ration the most important things that you need to do to survive day in and day out.

Another point that I am really glad you brought up is the hour requirement in order to obtain benefits. In my 4 years at the company, I have never had a problem qualifying for benefits until now.

Suddenly I actually just was taken off of Starbucks benefit policies because I have not been scheduled the appropriate hours or anywhere close to my availability for the better part of—

The CHAIR. Explaining that to the world out here. What does that mean?

Ms. CARTER. Yes, so basically—

The CHAIR. If I am your supervisor, I can reduce your workweek. And because I reduce your workweek, you now lose your benefits, is that what you are saying?

Ms. CARTER. Yes, sir. We have an hour requirement per week. It is 20 hours per week. The threshold was lowered due to COVID. However, that has now since, I believe, been removed. So, yes, because of that, my hours were cut basically since around a little bit before Christmas last year.

I actually just recently lost my benefits because of that hour requirement. So, yes, I mean, having your benefits tied to your hours when you don't get to determine the hours you work is—doesn't really seem conducive, in my opinion.

The CHAIR. All right, let me go to Mr. Saxton. You know, people have to pay rent. They have to deal with all of the needs of a family. How do you do a budget if you don't know exactly how many hours you are going to be working and what kind of paycheck you get at the end of the month?

Mr. SAXTON. You simply can't do a budget when you don't know. Like I said, there is a partner at my store whose hours went down from 25 to 5. They now had to do—to get a second job.

You know, even with that, the scheduling around their second job and with Starbucks, how do you have a second job if you just don't know? Starbucks puts out its new schedule every 3 weeks.

One week you can have 25, The next week you could have 10. The week after that you can have—

The CHAIR. That is theoretical. Is that common? Does that really—

Mr. SAXTON. It is very common. It is very common.

The CHAIR. So how do you know if you are going to be able to pay your rent, if you got 10 hours—

Mr. SAXTON. You get a second job, you do DoorDash, which many of my partners in my store have had to do.

The CHAIR. All right. Tell me about health care. I don't want to misquote Mr. Schultz, but he talks something about comprehensive health benefits. When I hear that, I think that people have universal health care, that they can walk in and the doctor not have to take out their credit card or—what is going on with health care? Ms. Carter, or Mr. Saxton, jump in.

Mr. SAXTON. With health care, I actually had health care with Starbucks. I had myself, my wife, and my daughter covered. The thing about the coverage is it is offered in tiers, so there is like the gold, silver, and bronze. These tiers, you still have to pay your co-pay. You still have to take out your card when you go to the doctor.

The CHAIR. How much is co-pay out of curiosity or does it depend on the—

Mr. SAXTON. It depends on the level that you pick.

The CHAIR. Okay. So would I be correct in assuming that if I am working 10 hours a week—well, first of all, if I work 10 hours a week or 15 hours a week, I don't get that benefit. Is that correct?

Mr. SAXTON. Correct.

The CHAIR. All right. And if I am working 20 hours a week, I am not making enough money to pay the co-payment or the premium, right?

Mr. SAXTON. Correct.

The CHAIR. You want to elaborate on this? It doesn't sound like maybe it is quite the comprehensive benefit that Mr. Schultz—

Mr. SAXTON. It is not very comprehensive at all. Again, so with every wage increase, they increase how much you have to pay into

the health insurance. So that means more of your check is coming out for subpar health insurance that doesn't cover everything.

I have been reduced to going back to just the VA. Besides my firing, I have had to go back to the VA to get things that Starbucks health insurance would not cover.

The CHAIR. It would seem to me that if I was sitting where you were sitting and fighting for a union, one of my demands would be consistent and reasonable scheduling that I have some input to. Is that true?

Ms. CARTER. Thank you, Senator Sanders. Yes, that is absolutely one of our proposals, is to have better consistent scheduling and also just making sure that—well, I don't want to misspeak about the bargaining proposals, but I do know that having that consistent schedule is definitely something that we are fighting for in this movement, because, I mean, if our benefits are tied to it, we need to know that we can get those hours and not have to have this ridiculous availability, what like Jaysin said, keeps you from actually pursuing a second job or pursuing some other form of income.

The CHAIR. What does this availability mean? What does that mean?

Ms. CARTER. I believe it was, I don't want to misquote around the time that this was instituted, but it doesn't apply to union stores. But for nonunion stores, I believe you have to have 180 percent of your hours available on top of the availability that you have if you want—so say, for example, you want to work 12 hours a week, you have to have 18 hours available. If you want to work—I am good at math, so I am just going to use that example. But yes, that pretty much explains it.

The CHAIR. Okay. Anything more that you would like to add, Mr. Saxton, Ms. Carter? No. okay. All right, on behalf of the Committee, let me thank all of our panelists for your testimony.

We appreciate it very much. And this is the end of our hearing. And for any Senators who wish to ask additional questions, questions for the record will be due in 10 business days, April 12 by 5.00 p.m.

I ask unanimous consent to enter into the record two statements from stakeholder groups in support of Starbucks workers in their fight to join a union freely and fairly.

[The following information can be found on page 92-93 in Additional Material:]

The CHAIR. The Committee stands adjourned.

ADDITIONAL MATERIAL

PRIDE AT WORK,
BUILDING POWER FOR LGBTQ+ WORKING PEOPLE,
815 BLACK LIVES MATTER PLAZA, NW,
WASHINGTON, DC,
March 17, 2023.

Hon. BERNIE SANDERS, Chair,
Hon. BILL CASSIDY, Ranking Member,
*U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building
Washington, DC 20510.*

Dear CHAIR SANDERS AND RANKING MEMBER CASSIDY:

Thank you for the opportunity to comment on this important matter. Pride at Work is a nonprofit organization that represents LGBTQ+ union members as a recognized constituency group of the AFL—CIO. We have nearly 30 chapters across the United States that work with state and local labor federations to organize mutual support between the labor movement and the LGBTQ+ community to further social and economic justice.

Starbucks has historically had a higher concentration of LGBTQ+ workers, and we have been proud to support the workers as LGBTQ+ baristas have spearheaded the recent organizing efforts across the country. At its heart, Pride at Work is a labor organization. Queer workers have a long history of supporting the right to organize and join a union because we believe a union contract is the best way to ensure equity, inclusion, and fairness in the workplace. We are proud to stand and fight alongside the members of Starbucks Workers United as they work to achieve these goals.

Pride at Work believes that a union contract is the best way to ensure that LGBTQ+ workers are protected on the job. In a recent study¹ 46 percent of LGBTQ+ respondents reported having been harassed at work. 34 percent of LGBTQ+ workers reported leaving a job due to treatment by their employer. A union contract is enforceable in every state, and nearly every union contract contains non-discrimination language that protects LGBTQ+ workers from these forms of mistreatment.

Starbucks has publicly portrayed itself to be an open and affirming place for LGBTQ+ workers. In fact, many baristas have identified this as a primary factor when choosing to work at Starbucks. Unfortunately, Starbucks began showing their true colors as soon as their LGBTQ+ workers started to lead organizing efforts a little over a year ago.

In Memphis, the NLRB ruled² that they unlawfully fired 7 baristas for union activity. In Kansas, an unfair labor charge filed with the NLRB alleged that Starbucks threatened to deny a pro-union trans employee gender-affirming care because of their support for the union³, and in Upstate New York, Starbucks was found to have widespread anti-union activity so egregious that the ruling against them⁴ was an astonishing 220 pages long.

Unfortunately, these are not isolated incidents, they are just a few examples of the widespread union-busting tactics that Starbucks continues to employ in its effort to silence the will of the workers who have made Starbucks successful and are simply exercising their right under the law to organize.

Pride at Work unequivocally stands with Starbucks workers and demands that Howard Schultz and Starbucks be held accountable for their attacks on their workers, and that they cease and desist from their union-busting efforts, bargain in good faith, and respect the right of their workers to join a union.

In solidarity,

JERAME DAVIS,
Executive Director.

¹ <https://williamsinstitute.law.ucla.edu/publications/lgbt-workplace-discrimination/>

² <https://www.nlr.gov/news-outreach/news-story/nlr-region-15-wins-injunction-requiring-starbucks-to-rehire-seven>

³ <https://www.nrn.com/quick-service/starbucks-accused-illegal-terminations-pro-union-employees-kansas-city-and-memphis>

⁴ <https://www.nlr.gov/news-outreach/news-story/nlr-region-3-buffalo-wins-administrative-law-judge-decision-requiring>

NATIONAL WOMEN'S LAW CENTER (NWLC),
WASHINGTON, DC,
March 20, 2023.

*U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC 20510.*

Dear CHAIR SANDERS AND RANKING MEMBER CASSIDY:

On behalf of the National Women's Law Center (NWLC), I write in support of Starbucks workers across the country who seek to improve conditions in their workplaces and exercise their right to organize—and in support of this Committee's efforts to ensure that Starbucks and its chief executive, Howard Schultz, are held accountable for violations of that right.

Since 1972, NWLC has fought for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. NWLC advocates for improvement and enforcement of our nation's employment and civil rights laws, with a particular focus on the needs of LGBTQI+ people, women of color, and women with low incomes and their families. Ensuring that working people can exercise their rights to organize, join unions, and collectively bargain with their employers is a critical way to advance higher wages and better working conditions, benefiting the communities we serve.

This is especially important in this moment, as union organizing is on an uptick,¹ as support for labor unions is at its highest level since 1965,² and with roughly half of non-union workers saying they would join a union if they could.³ The Starbucks Workers United union drive is clear evidence of this momentum, with more new unions formed in 12 months than at any other single U.S. company in the last 20 years. In December of 2021, zero corporate Starbucks stores were unionized; today, there are over 7,000 Starbucks workers in 280 stores where the majority of workers have voted for union representation.

Most Starbucks workers are women,⁴ and women and nonbinary workers are leading Starbucks organizing efforts.⁵ Women especially gain from union organizing, because collective bargaining increases women's equality at work.⁶ Women union members who work full time typically earn about \$205 more per week than women who are not represented by unions, a larger wage advantage than men typically receive.⁷ Among women, Latina workers experience particularly large financial benefits from union membership.⁸ And while the gender wage gap persists even when women are unionized, women in unions are consistently paid wages that are not just higher but also more equal to men's wages.⁹ One reason for the smaller gender wage gap among women who are members of unions is that unions help to

¹ See, e.g., Rani Molla, How Unions Are Winning Again, in 4 Charts, VOX (Aug. 30, 2022), <https://www.vox.com/recode/2022/8/30/23326654/2022-union-charts-elections-wins-strikes>.

² Justin McCarthy, U.S. Approval of Labor Unions at Highest Point Since 1965, GALLUP (Aug. 30, 2022), <https://news.gallup.com/poll/398303/approval-labor-unions-highest-point>

³ Thomas A. Kochan et al., Worker Voice in America: Is There a Gap Between What Workers Expect and What They Experience?, 72 ILR REV. 3 (Jan. 2019), <https://doi.org/10.1177/0019793918806250>.

⁴ Workforce Diversity at Starbucks, STARBUCKS (Oct. 14, 2020), <https://stories.starbucks.com/stories/2020/workforce-diversity-at-starbucks/>.

⁵ Audrey Higgins, More Starbucks Stores Want to Unionize. These Women and Nonbinary Workers Are Leading the Push, WASH. POST (March 4, 2022), <https://www.washingtonpost.com/lifestyle/2022/03/04/starbucks-employees-unionizing/>.

⁶ See generally Amanda Fins, Sarah David Heydemann & Jasmine Tucker, Unions Are Good for Women, NAT'L WOMEN'S LAW CTR. (July 2021), <https://nwlc.org/wp-content/uploads/2021/07/Union-Factsheet-9.8.21.pdf>; Brief of the National Women's Law Center, The Leadership Conference on Civil and Human Rights and 85 Additional Organizations Committed to Civil Rights and Economic Opportunity as Amici Curiae in Support of Respondents, AFSCME Council 31, et al. (Jan. 19, 2018), <https://nwlc.org/press-releases/nwlc-and-the-leadership-conference-submit-amicus-brief-in-supreme-court-case-seeking-to-undermine-public-sector-unions/>.

⁷ Fins, Heydemann & Tucker, *supra* note 6.

⁸ Among full-time workers, unionized Latinas typically make 40 percent more per week (\$271 more) than Latina non-union workers. *Id.*

⁹ In 2020, unionized women overall typically made 88 cents for every dollar made by unionized men, while non-union women typically made just 82 cents for every dollar made by non-union men. *Id.*

ensure transparency around wages, including greater access to and control over information about salaries, and set pay scales.¹⁰

Unions also increase access to health and leave benefits that allow working people to weather changing family responsibilities or unexpected health crises, which often disproportionately affect women workers.¹¹ And unions can help prevent and address discrimination, including sexual harassment at work. Working people with a union are better able to raise and address harassment concerns because collective bargaining agreements provide more avenues for preventing, addressing, and reporting employer wrongdoing, and greater protection from firing and retaliation than are available to most non-union workers—and if harassment or retaliation does occur, individuals have more mechanisms to challenge unjust employer actions.¹²

Starbucks workers today are fighting for exactly such benefits: A fair, safe, and respectful workplace, with grievance procedures and protection from unjust discipline; a living wage with reliable work hours and transparent scheduling practices; and the right to organize free from fear, intimidation, or coercion from Starbucks.

Unfortunately, Starbucks has responded to its workers' historic organizing drive with an unprecedented anti-union campaign. NLRB judges have found at least 127 violations of Federal labor law, with over 1,000 more alleged violations still in the process of being adjudicated, for, among other things, threatening, intimidating, and firing hundreds of worker leaders. Starbucks management has targeted Black union leaders in retaliation for their organizing; rolled out sick leave improvements,¹³ wage increases,¹⁴ and student loan repayment tools¹⁵ only for non-unionized employees; and threatened to cutoff access to health care—including gender affirming care for trans workers¹⁶ and coverage for abortion travel costs¹⁷—for workers who unionize. In New York City, baristas have had their hours reduced without just cause and experienced other violations of the city's Fair Workweek Law in retaliation for organizing.⁴⁸ And in a recent decision resolving a case that combined 33 unfair labor practices charges from 21 stores in the Buffalo area, Judge Michael A. Rosas ruled that Starbucks committed "egregious and widespread" violations of Federal labor law while trying to stop union campaigns, including promising improved pay and benefits if workers renounced the union; surveilling union-supporting employees onsite; refusing to hire prospective employees who supported the union; and relocating union organizers to different stores to thwart the group's activity.¹⁹

We agree with Judge Rosas's conclusion that Starbucks has demonstrated a "widespread union animus" and a "general disregard for . . . employees' funda-

¹⁰ See Salary Range Transparency Reduces Gender Wage Gaps, NAT'L WOMEN'S LAW CTR. (Sept. 2022), <https://nwlc.org/wp-content/uploads/2022/09/Salary-Transparency-FS-2021-9.20.22.pdf>.

¹¹ For example, unionized workplaces are 22 percent more likely than non-union workplaces to provide parental leave and are 12 percent more likely to allow women to take leave during pregnancy; when women in unions do take parental leave, their leave is 13 percent more likely to be paid than leave taken by non-union women workers. See Brief of the National Women's Law Center et al., supra note 6, at 23.

¹² See generally, e.g., Addressing Sexual Harassment in the Workplace: There Is Power in My Union, AFL-CIO (Feb. 2019), <https://aflcio.org/sites/default/files/2019-03/1907-SexHarassmentToolkit—eversion-0.pdf>.

¹³ Aimee Picchi, Starbucks Is Ending COVID-19 Sick Pay for Workers Next Month, CBS NEWS (Sept. 19, 2022), <https://www.cbsnews.com/news/starbucks-ending-covid-pay-for-workers-october/>.

¹⁴ Id.

¹⁵ Hilary Russ, Starbucks Adds Benefits for Non-Union U.S. Workers Ahead of Investor Day, REUTERS (Sept. 12, 2022), <https://www.reuters.com/markets/us/starbucks-adds-benefits-non-union-us-workers-ahead-investor-day-2022-09-12/>.

¹⁶ Josh Eidelson, Starbucks Threatens Trans Benefits in Anti-Union Push, Staff Say, BLOOMBERG (June 14, 2022), <https://www.bloomberg.com/news/articles/2022-14/starbucks-threatens-trans-benefits-in-anti-union-push-staff-say> leadSource=verify-percent20wall.

¹⁷ Katie Hawkinson, Unionized Starbucks Employees Fight for Abortion Care Benefits, MS. MAGAZINE (Aug. 31, 2022), <https://msmagazine.com/2022/08/31/starbucks-union-abortion/>.

¹⁸ Janon Fisher, NYC Starbucks Workers, 32Bj Union to Hit Coffee Giant for Fair Workweek Law Violations, NY DAILY NEWS (Feb. 14, 2023), <https://www.nydailynews.com/new-york/ny-union-starbucks-workers-united-32bj-seiu-howard-schultz-fair-workweek-law-20230214-ak5rp7fjgzezyd3gvy5uoxdd3m-story.html>. See also Department of Consumer and Worker Protection Files Lawsuit Against Starbucks Seeking Reinstatement of Wrongfully Terminated Employee, NYC.GOV (Sept. 2, 2022), <https://www.nyc.gov/site/dca/media/pr090222-DCWP-Files-Lawsuit-Against-Starbucks-for-Wrongful-Termination.page>.

¹⁹ Jacob Bogage, Starbucks Committed "Egregious" Violations in Battling Union, Judge Rules, WASH. POST (March 1, 2023), <https://www.washingtonpost.com/business/2023/03/01/starbucks-union-ruling-buffalo/>.

mental rights.”²⁰ In solidarity with the thousands of Starbucks workers fighting for their right to form a union, we call on Starbucks to cease its union-busting actions and listen to the demands of Starbucks Workers United.

We thank the Committee for providing a forum to raise these concerns. Please do not hesitate to contact Julie Vogtman at jvogtman@nwl.org if you have any questions.

Sincerely,

EMILY MARTIN,
*Vice President,
Education & Workplace Justice.*

JULIE VOGTMAN,
Director of Job Quality & Senior Counsel.

NATIONAL LABOR RELATIONS BOARD,
WASHINGTON, DC 20570,
March 21, 2023.

Hon. BILL CASSIDY, M.D., Ranking Member,
*U.S. Senate Committee on Health, Education, Labor, and Pensions,
428 Senate Dirksen Office Building,
Washington, DC 20510.*

Dear RANKING MEMBER CASSIDY:

I congratulate you on your selection as Ranking Member of the Committee on Health, Education, Labor, and Pensions. The National Labor Relations Board looks forward to a productive and respectful relationship with you and your staff during the 118th Congress. On behalf of the Agency, I am pleased to provide the following response to your March 7, 2023 letter regarding the Agency’s processing of representation and unfair labor practice cases.

First, I would like to provide further background on the Agency to ensure a shared understanding of its structure and processes as we engage on specific matters.

The National Labor Relations Board is committed to effectuating its congressional mandate under the National Labor Relations Act (NLRA) “by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.”¹ The Agency is composed of two separate and independent sides: the Board, which primarily acts as a quasi-judicial body in deciding cases on the basis of formal records in administrative proceedings, and the General Counsel, who is responsible for the investigation and prosecution of unfair labor practice cases and for the general supervision of the NLRB field offices in the processing of cases. The Board plays no part in the General Counsel’s investigative or prosecutorial functions. Board decisions are the product of deliberations by the Board Members and their staffs. Most Board decisions are issued by three-Member panels, and more than 80 percent of Board cases were decided unanimously in fiscal year 2022.

The Agency has no statutory authority to initiate cases on its own accord. The Agency’s 26 Regional Offices process only those representation election petitions and unfair labor practice charges filed by members of the public. Within this statutory framework, the Agency follows a robust set of rules and procedures to ensure that cases are processed fairly and that parties have the ability to file objections and otherwise raise any substantive and procedural issues in the processing of a case.

For representation cases, after a petition is filed with the Agency, the Regional Office seeks agreement between parties on holding an election. Absent an agreement, the Regional Director, through delegated authority from the Board, may hold a hearing on the petition and direct an election, if appropriate. The election is then conducted by NLRB employees in the Region. Parties may challenge ballots during an election and file objections after an election if they wish to challenge the results of the election on any grounds. A Regional Director resolves challenged ballots or objections before certifying the results of an election. At various points in this process, parties may request Board review of the Regional Director’s decisions.

²⁰ *Id.*

¹ 29 U.S.C. § 151

For unfair labor practices, the Agency operates on a charge-based system. As noted above, unlike other Federal regulatory bodies, it does not proactively investigate workplaces or choose which charges to investigate. Rather, it processes all unfair labor practice charges filed with its Regional Offices. Regional Offices, under the General Counsel's supervision, then litigate cases determined by their respective Regional Directors to have merit. About 60 percent of cases are dismissed or withdrawn. Of the remaining cases, about 95 percent end in settlement. For the remaining 5 percent of meritorious cases that require adjudication, NLRB attorneys in the Regions prosecute cases on behalf of the General Counsel. Once the General Counsel issues a complaint against a party, the party may file a motion for summary judgment or dismissal with the Board if the party believes the complaint lacks foundation. For cases that go forward, NLRB Administrative Law Judges hold hearings to consider arguments from all parties, as well as witness and any expert testimony, documentary evidence, and any other relevant evidence before issuing decisions. Parties may seek review of an Administrative Law Judge's decision by filing exceptions with the Board. The Board then issues its decision based on the formal record. Board decisions, however, are not self-enforcing. In the event of noncompliance, the General Counsel, on behalf of the Board, must seek enforcement in an appropriate Federal Circuit Court. At the same time, any party aggrieved by a decision in an unfair labor practice case may independently appeal to a Circuit Court and ultimately the U.S. Supreme Court. Parties may raise any substantive or procedural issues throughout the course of litigation.

With that background, please see answers to your specific questions below.

1. Processes and procedures to investigate allegations of NLRB employee misconduct or interference in representation elections

If there is an allegation that any NLRB employee engaged in misconduct, the Agency will investigate the allegations and take appropriate remedial or disciplinary action consistent with Federal law, internal processes, and applicable collective bargaining agreements.

Within the case handling process, a party in a representation case may raise concerns about issues affecting the outcome of a representation election, including allegations of Board employee misconduct or interference in an election, by filing a post-election objection. If an allegation concerns the conduct of a NLRB employee, the processing of the objection is transferred to a different Region, if appropriate. The assigned Regional Office investigates the allegations and determines whether a hearing is warranted. If so, a Hearing Officer in the assigned Region conducts a hearing and issues a Hearing Officer's Report that recommends findings and conclusions, which a party may contest. The Regional Director from the assigned Region reviews the Hearing Officer's Report and issues a decision. If the Regional Director's decision sustains an objection, that may result in setting aside election results and ordering a new election. A party may file a Request for Review (RFR) with the Board to appeal the Regional Director's decision.

Outside of the case handling process, anyone may file an allegation of employee misconduct with the NLRB's Office of the Inspector General (OIG). The OIG is an independent office established to prevent and detect fraud, waste, abuse, and mismanagement. The OIG operates a hotline for individuals to submit information, either with contact information or anonymously.² The OIG reviews each submission and makes an initial determination of what action is required. If the OIG determines that an investigation of potential misconduct is necessary, the OIG conducts the investigation and reports the results to appropriate Agency managers, who then determine whether to take corrective and/or disciplinary action. The Inspector General does not make recommendations on the disposition of any underlying representation or unfair labor practice case.

2. Allegations that NLRB employees interfered, or attempted to interfere, in representation elections since 2020

Per the process described above, the Board typically becomes aware of an alleged incident of employee misconduct affecting a representation election when a party files an RFR. Board staff conducted a search of representation cases that have come before the Board since 2020 that include allegations of NLRB employee interference in that particular election.³

² See <https://www.nlr.gov/guidance/fillable-forms/inspector-general-hotline>.

³ The search covered allegations of intentional interference or misconduct potentially affecting an election, not inadvertent errors.

Since 2020, the Board decided ten cases concerning allegations of interference in the election at issue. (The NLRB conducted more than 3,500 elections during that period.) The Board found that the party seeking review did not substantiate the allegations of objectionable misconduct in any of those cases.⁴ Nine of the ten were decided unanimously. The cases are listed below, and the public case dockets are available on the NLRB website.

Employer	Case No.	Decision Date	Panel ⁵
Planned Lifestyles Services, affiliated with and related to Planned Companies	22-RC-255558	7/29/2020	RKE
MHN Government Services, LLC (MHNGS)	19-RC-242915	7/31/2020	RKE
PromoWest Productions, Inc	09-RC-261089	11/25/2020	RKMc
Longmont United Hospital	27-RC-275868	3/24/2022	McKW
GHG Management, LLC d/b/a Windy City Cannabis	13-RC-271360	4/21/2022	WP, K dissent
3067 Orange Ave, LLC d/b/a Anaheim Crest Nursing Center	21-RC-264740	6/13/2022	McKP
Starbucks Corporation	28-RC-291280	7/13/2022	McKR
Recology Auburn Placer	20-RC-296708	9/8/2022	RWP
Starbucks Corporation	19-RC-295849	12/23/2022	McKW
Starbucks Corporation	14-RC-295709	2/3/2023	McWP

⁵ All relevant cases were decided by three-Member panels. The Board Members who served during this period were John F. Ring (R), Marvin E. Kaplan (K), William J. Emanuel (E), Lauren McFerran (Mc), Gwynne A. Wilcox (W), and David M. Prouty (P).

Four RFRs with allegations of employee interference are currently pending before the Boards.

Employer	Case No.	RFR filed
Starbucks Corporation	13-RC-296747	12/9/2022
Amazon.com Services LLC	29-RC-288020	12/9/2023
Starbucks Corporation	14-RC-292753	2/21/2023
Starbucks Corporation	06-RC-308635	3/3/2023

The Chairman and General Counsel also became aware of allegations of NLRB employee misconduct in *Starbucks Corp.*, Case No. 14-RC-289926, when they received a copy of correspondence from Starbucks Corporation to the NLRB Inspector General. In accordance with the Agency's standard procedures, an NLRB Hearing Officer conducted a hearing to take evidence on the allegations, the Hearing Officer issued a report making findings and recommendations, and this report is currently pending before the Regional Director overseeing the case. In these circumstances, the Board serves as an appellate body, and thus this case is not currently pending before it. It will review the case only if a party appeals the Regional Director's decision. Any inquiry regarding OIG investigations should be directed to that independent office.

⁴ In three additional cases, the Board also unanimously denied review of Regional Directors' overruling of generalized election objections from Starbucks Corporation that were based on allegations of NLRB employee misconduct in elections at other Starbucks locations.

3. Briefs concerning *Joy Silk Mills, Inc.*

Consistent with NLRB Rules and Regulations, the Board has received briefs referencing *Joy Silk Mills, Inc.* (85 NLRB 1263) from the General Counsel and other filers in pending cases. (Nonparties may file a motion for leave to file an amicus brief within 42 days after exceptions have been filed in a case.) Such briefs are incorporated into the public case docket and made available on the NLRB's website. The Board cannot discuss issues raised in pending cases outside of established processes, as that could interfere with the integrity of the Board's decisionmaking and compromise due process for the parties.

4. Pending petitions for nationwide cease-and-desist orders

Based on context, your letter's request for "all pending nationwide cease-and-desist petitions filed in all Regional Directorates" appears to refer to pending petitions for injunctive relief in Federal court. Upon the issuance of a complaint in a case, Section 10(j) of the NLRA authorizes the NLRB to petition a Federal district court to seek a temporary injunction for interim relief until the Board issues its decision. Such petitions for temporary injunctive relief may seek cease-and-desist orders across multiple locations if the Board determines such an order is necessary to protect the process of collective bargaining and the exercise of employee rights under the Act and to ensure that any subsequently issued Board remedial order will be meaningful. Potential cases in which injunctive relief may be appropriate are identified by Regional Offices and reviewed by the General Counsel, who must then seek authorization from the Board before filing in Federal district court.

As of today, the Board has authorized, and NLRB Regional Directors have filed, three Section 10(j) petitions currently pending in Federal courts that seek "nationwide" cease-and-desist orders covering operations across several states:

1. *Leslie v. Starbucks Corporation*, Western District of New York (Docket No. 1:22cv478), filed June 21, 2022
2. *Kerwin v. Starbucks Corporation*, Eastern District of Michigan (Docket No. 2:22cv12761), filed November 15, 2022⁶
3. *Poor v. Starbucks Corporation*, Eastern District of New York (Docket No. 1:22cv7255), filed November 30, 2022

Thank you for this opportunity to answer your questions regarding the Agency's case processing. If you have any additional questions, please contact me at (202) 701-9226 or matthew.hayward@nlrb.gov.

Sincerely,

MATT HAYWARD,
Office of Congressional and Public Affairs.

STARBUCKS WORKERS UNITED,
RIO GRANDE AND I-40 STORE,
ALBUQUERQUE, NM 87104,
July 11, 2022.

Hon. BEN RAY LUJÀN,
U.S. Senate Committee on Health, Education, Labor, and Pensions,
498 Russell Senate Office Building,
Washington, DC 20510.

To Howard Schultz,

We, the partners at the Rio Grande and I-40 store in Albuquerque, New Mexico, are expressing our position to unionize. We, like many stores across the country, are exhausted by the lack of accountability and commitment from the company's end. Starbucks refers to its employees as partners because as the company says, "we are all partners in shared success." But as yearly profits hit billions of dollars, the people who afford you those often record-breaking profits are faced with labor cuts, little to no job security, and a severely high turnover rate leading to understaffed shifts and unlivable pay.

⁶ The District Judge granted in part and denied in part the petition on February 23, 2023. The case was appealed to the 6th Circuit Court of Appeals on March 2, 2023 (*Elizabeth Kerwin v. Starbucks Corporation*, Docket No. 23-1187). Both the District Court and Circuit Court denied the employer's motions to stay the injunction while the appeal is pending.

We fear that Starbucks as a whole has gone too far from the pillars it has set for itself, so much so that it has created an environment that is unviable for us, the partners. Earlier this year, you said that the company has to do better for its partners. But we are halfway through the year and have yet to see that come to fruition.

Our ambition to unionize is to bring back the true meaning of a partnership. A company that champions itself as progressive, while also boasting about its competitive benefits, shouldn't be afraid of its employees having the desire to use their constitutional right to unionize. We hope that you and Starbucks as a company will respect our decision and allow us a seat at the table.

Solidarity,

UNION ORGANIZING COMMITTEE AT RIO GRANDE AND I-40

Non-interference and Fair Election Principles for Partner Unionization

1. The right to organize a union is a fundamental civil right essential to our democracy.

2. If partners choose to unionize, there will be no negative repercussions from management.

3. Starbucks agrees not to make any implicit threats (lawful but unethical) or explicit threats (unlawful).

4. If Starbucks holds a meeting with partners on company time to discuss unionization, then the union may hold a meeting of equal length on company time. This holds true for one-on-one meetings or any discussions that Starbucks chooses to hold with partners during the union organizing effort.

5. If Starbucks posts any anti-union material on its premises, it will provide Starbucks partners equal space to post pro-union material.

6. Starbucks management must not bribe or threaten partners with higher or lower wages or benefits to gain support. Management will not make changes in wages and benefits that were not announced or decided upon prior to the commencement of the union campaign.

7. Principled disagreements are part of the campaign process but disparaging remarks about Workers United or the labor movement are not appropriate and not conducive to a spirit of mutual respect and harmony and should not be made. Additionally, ad hominem attacks against individuals are unacceptable.

8. If any partner feels they have been retaliated against in any manner due to their union activity, Starbucks will agree to resolve this immediately by a mutually agreed upon arbitrator. The partner would still have the right to go to the National Labor Relations Board.

9. A secret ballot election will be conducted by the NLRB or, if both parties agree, by an arbitrator or a neutral community organization. If at any time Starbucks Workers United secures a simple majority of authorization cards of the eligible partners within an appropriate bargaining unit, Starbucks and the union may instead have the option, if they both agree, to recognize Starbucks Workers United as the exclusive representative of such partners via a card check election.

QUESTIONS FOR THE RECORD

RESPONSE BY BRADLEY BYRNE TO QUESTIONS OF SENATOR SANDERS

SENATOR SANDERS

Question 1. Starbucks has embarked on the most ruthless anti-union campaign in decades, including by retaliating against workers for filing charges with the National Labor Relations Board (NLRB) and testifying at union election hearings. You testified about the subpoena your client received from the House Education and Workforce Committee and the NLRB documents your client produced in response. I have serious concerns about whether employees' personal identifiable information (PII) will be protected against unwanted disclosure and the possibility of future retaliation. Please provide answers to the following questions about your efforts related to the subpoena issued to your client:

Question 1(a). Did you, or others at your firm, take steps to determine whether documents provided by your client in response to the subpoena contained personal

identifiable information before transmitting them to the House Education and Workforce Committee?

Question 1(b). If so, did you, or others at your firm, take steps to redact that personal information?

Answer 1. Senator Sanders, Thank you for allowing me to testify before the Senate HELP Committee. I am hereby responding to the QFRs submitted to me on April 12.

My client, a Federal employee whistleblower, received a subpoena from the House Committee on Education and the Workforce. She consulted with me in the course of complying with the subpoena. My knowledge of her actions in preparing the documents to be provided to the House Committee comes only from communications I had with her as my client and are therefore covered by the attorney/client privilege. I have an obligation to protect my client's privilege under the Rules of Professional Conduct which bind me and all attorneys.

I can tell you that my client fully complied with the House Committee's subpoena to the letter, and within the protections afforded her by the Whistleblower Protection Act. I can further tell you that pursuant to the House Committee's instructions subsequent to the issuance of the subpoena, the documents were provided to the House Committee's Majority and Minority staffs.

[Whereupon, at 1:18 p.m., the hearing was adjourned.]

