

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: November 17, 2015

Pages: 1 through 104

Volume: 1

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Tuesday, November 17, 2015, at 11:05 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-1 (a) through GC-1 (w)	10	10

1 P R O C E E D I N G S

2 JUDGE THOMPSON: We are on the record in the consolidated
3 case of Trump Ruffin Commercial, LLC, doing business as Trump
4 International Hotel Las Vegas and the Local Joint Executive
5 Board of Las Vegas affiliated with Unite Here International
6 Union, case numbers 28-CA-149979, 28-CA-150529, 28-CA-155072,
7 28-CA-156304, 28-CA-156719, and 28-CA-157883.

8 Today is Tuesday, November 17, 2015. My name is Lisa
9 Thompson and I'm an Administrative Law Judge with the National
10 Labor Relations Board, San Francisco Division of Judges
11 presiding over this case. Good morning, everyone.

12 Will the parties please state their appearances including
13 your name and address for the record? And I'm going to start
14 with the General Counsel. Good morning, Ms. Davila.

15 MS. DAVILA: Good morning, Your Honor. My name is Judith
16 Davila --

17 JUDGE THOMPSON: Davila, Davila, Davila. Got it.

18 MS. DAVILA: -- appearing for the General Counsel. My
19 address is 2600 North Central Avenue, Suite 1400, Phoenix,
20 Arizona.

21 JUDGE THOMPSON: Thank you. And you have your party
22 representative joining you this morning.

23 MS. DAVILA: Yes, my -- no, I have no party
24 representative.

25 JUDGE THOMPSON: Okay. But you have at least co-counsel

1 assisting you.

2 MS. DAVILA: I have co-counsel with the General Counsel.

3 JUDGE THOMPSON: Good morning.

4 MS. OVIEDO: Good morning, Your Honor. Also appearing for
5 counsel for the General Counsel is Elise Oviedo. My address is
6 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, Nevada
7 89101.

8 JUDGE THOMPSON: Great. Thank you. And for the
9 Respondent. Good afternoon, counsel.

10 MR. DRITSAS: Good morning, Your Honor.

11 JUDGE THOMPSON: Or good morning. Seems like afternoon.

12 MR. DRITSAS: Thank you for your indulgence while we tried
13 to work things out on some parts of the case. This is Bill
14 Draitsas. I am Counsel for Respondent, Trump Ruffin Commercial,
15 LLC. My address is 560 Mission Street, Suite 3100, San
16 Francisco, California 94105. Draitsas is D-R-I-T-S-A-S.

17 JUDGE THOMPSON: Thank you, Mr. Draitsas. And you also
18 have some friends joining you as well.

19 MR. DRITSAS: My partner, Ron Kramer, from Seyfarth Shaw
20 also.

21 MR. KRAMER: Good morning, Your Honor.

22 JUDGE THOMPSON: Good morning.

23 MR. KRAMER: I'm in a different office. It's 131 South
24 Dearborn Street, Suite 2400, Chicago, Illinois 60603.

25 JUDGE THOMPSON: Great. And you also have one other

1 individual joining you.

2 MR. KRAMER: It's our client representative.

3 JUDGE THOMPSON: Good morning.

4 MR. PETERSON: Good morning. My name is Jeff Peterson.

5 My address is 2000 Fashion Show Drive, Las Vegas, Nevada 89109.

6 JUDGE THOMPSON: Good morning, Mr. Peterson.

7 Richard McCracken was representing or is representative
8 the Charging Party, Union, in this case, but he does not appear
9 at this time.

10 Let me address some preliminary matters before we begin
11 some procedural issues and talk about some off the record
12 discussions that have occurred. I'd just like to remind
13 everyone to please turn off their cell phones or place them in
14 silent mode so that they do not disrupt the hearing at this
15 time. We are recording the proceedings and the phones will be
16 heard in the recording, so we appreciate if you could put them
17 on silent at this time.

18 Second, any communications that need to occur after the
19 close of this hearing including requests for extensions of time
20 should be directed to the Associate Chief Judge who is Gerald
21 Etchingham, the Associate Chief Judge of the San Francisco
22 Division of Judges. And I'll provide that information at the
23 end of the hearing for the parties.

24 The schedule of the day will generally be we will begin
25 the hearing at 9:00 or as close to 9:00 a.m. as we can. I

1 typically take one 10 to 15 minute break in the morning, have
2 about an hour to an hour and 15 lunch break, and then have one
3 10 to 15 minute afternoon break. And that's typically how the
4 day will go consecutively until the hearing concludes.

5 Closing statements should be contained in the parties'
6 post hearing briefs unless you feel strongly about giving oral
7 closing statements. And we can talk about that at the end of
8 the trial.

9 To the extent that the parties would like to file post
10 hearing briefs, those would be due within 45 days after the
11 close of this hearing. And again we will or I will discuss
12 that date with the parties at the end of the hearing.

13 Finally, all witnesses other than the parties'
14 representatives should be sequestered and that's because I
15 would like the witnesses to testify based on their own personal
16 knowledge and not based upon what they hear other witnesses say
17 in the trial.

18 So, to that end, I would love to entertain a motion at the
19 appropriate time from either party to sequester the witnesses
20 and sequester means separate out from this courtroom. To the
21 extent that Counsel would like to call their party
22 representatives or client representatives as witnesses, they
23 are entitled to sit in the courtroom during the pendency of the
24 trial.

25 I would just ask if there are issues that counsel know

1 that a party representative would be testifying to that an
2 opposing representative -- I'm sorry -- an opposing witness
3 would testify that they could be excluded from the room during
4 that testimony so that I don't have to make credibility
5 findings regarding a witness hearing another witness' testimony
6 for which they are going to testify. But I will leave it up to
7 counsel to police their witnesses or their party witnesses.

8 Okay. To that end, first, I'd like to have Ms. Davila to
9 introduce the formal papers at this time after which I believe
10 that the parties have had some off the record settlement
11 discussions that they'd like to advise me on. Thereafter, I
12 will entertain any pretrial motions. I believe there is a
13 motion or petition to revoke that was filed by Respondent that
14 I need to address. Thereafter, I would love to entertain a
15 motion to sequester the witnesses and then I'll ask the parties
16 with respect to any stipulated facts.

17 Okay. Ms. Davila, would you please introduce the formal
18 papers at this time?

19 MS. DAVILA: Yes, Your Honor. The General Counsel offers
20 what's been marked as General Counsel Exhibits 1(a) through
21 1(v) with 1V being an index and description of the documents,
22 into the evidence at this time.

23 JUDGE THOMPSON: 1(a) through 1 --

24 MS. DAVILA: V, as in Victor.

25 JUDGE THOMPSON: V, as in Victor, got it.

1 MS. OVIEDO: And a copy has been provided to Respondent.

2 JUDGE THOMPSON: Okay.

3 MR. DRITSAS: The only thing I'll note, Your Honor, is the
4 petition to revoke is not in those papers.

5 JUDGE THOMPSON: Okay.

6 MR. DRITSAS: And the motion to strike also, although
7 you'll hear later I think that will be taken care of, motion to
8 strike.

9 JUDGE THOMPSON: Okay.

10 MR. DRITSAS: But the petition to revoke is obviously
11 live.

12 JUDGE THOMPSON: Okay. We can -- if you'd like, we can
13 move for the petition to revoke to be entered into the record
14 and I don't have a problem with that, but do you have any
15 objections, Counsel, to the formal papers as marked as GC-1(a)
16 through 1(v), as in Victor?

17 MR. DRITSAS: No, we do not, Your Honor.

18 MS. OVIEDO: And maybe what we could do is even just admit
19 that as 1(w).

20 JUDGE THOMPSON: I don't have a problem with that.

21 MR. DRITSAS: That would be fine.

22 MS. OVIEDO: Or not (w).

23 MR. DRITSAS: (x)?

24 MS. OVIEDO: (w), (w).

25 JUDGE THOMPSON: Yeah, (x).

1 MS. OVIEDO: I was looking at --

2 MR. DRITSAS: No, (w), (w). Yeah, you're right.

3 MS. OVIEDO: Okay.

4 JUDGE THOMPSON: You know, the alphabet is just -- it's
5 overrated. So we've got 1(x).

6 MR. DRITSAS: (w).

7 JUDGE THOMPSON: (w).

8 MS. OVIEDO: (w). It won't be in the index, but --

9 JUDGE THOMPSON: But we know it's there.

10 MS. OVIEDO: -- it'll just be considered as present.

11 JUDGE THOMPSON: Any objection, Counsel?

12 MR. DRITSAS: No objection.

13 JUDGE THOMPSON: Hearing no objection, I will admit the
14 amended formal papers marked as GC 1(a) through 1(w), as in
15 water, at this time.

16 **(General Counsel Exhibit Number 1(a) through 1(w) Received into**
17 **Evidence)**

18 JUDGE THOMPSON: Okay. Now, with respect to outstanding
19 discussions, I believe the parties have had, prior to going on
20 the record, the parties engaged in some settlement
21 negotiations, and I believe that those negotiations have been
22 fruitful. So if --

23 MS. OVIEDO: If I may --

24 JUDGE THOMPSON: -- counsel, please.

25 MS. OVIEDO: -- Your Honor, and correct me if I'm wrong,

1 but we've agreed to settle out all of the bad rules that have
2 been alleged with the exception of the non-solicitation policy,
3 and that will -- the settlement will include a 60-day notice
4 posting. And Respondent has agreed to either revoke or revise
5 the bad rules, again, with the exception of the
6 non-solicitation policy.

7 JUDGE THOMPSON: Okay. So --

8 MR. DRITSAS: The only thing I'd add to that, Your Honor,
9 is that with respect to the non-solicitation policy, there's
10 also an agreement that there's not a facial challenge to the
11 lawfulness policy, but the General Counsel may have evidence of
12 a disparate application.

13 JUDGE THOMPSON: Okay. So we're talking about the
14 confidentiality policy.

15 MR. DRITSAS: It's paragraph 5A(3) to 5B.

16 JUDGE THOMPSON: 5A(3) to 5B. Does that sound right,
17 counsel?

18 MS. DAVILA: So we're settling out 5A(1), 5A(3), 5B?
19 Yeah, 5B.

20 MR. DRITSAS: Yes, 5B also.

21 JUDGE THOMPSON: And I understand that perhaps there may
22 be an adjustment to 5 -- strike that. There might be -- with
23 the settlement, Respondent's motion to strike may be a moot
24 point. Am I understanding that --

25 MR. DRITSAS: I believe the General Counsel's motion to

1 amend would be moot, and therefore --

2 JUDGE THOMPSON: Your motion to strike would be moot. Is
3 that correct? And this involves 5P as in Paul.

4 MS. DAVILA: Yes, that's correct, Your Honor.

5 JUDGE THOMPSON: Okay.

6 MS. OVIEDO: We're settling.

7 MS. DAVILA: And so --

8 JUDGE THOMPSON: So that would include 5P as in Paul
9 you're settling as well?

10 MS. DAVILA: Correct.

11 JUDGE THOMPSON: Okay. All right, got it. So pending the
12 formalized agreement, we will not be taking testimony over
13 those particular allegations in paragraphs 5A(1), 5(3), 5B and
14 5P. To that end, I believe that the General Counsel's motion
15 to amend the second consolidated complaint is now moot.

16 MS. DAVILA: That's correct, Your Honor.

17 JUDGE THOMPSON: Okay. So we'll do that. And then that
18 also moots Respondent's motion to strike the amended complaint,
19 or the amendment, okay?

20 MR. DRITSAS: That's right.

21 JUDGE THOMPSON: Great. All right. But it does not moot
22 the Respondent's petition to revoke.

23 MS. DAVILA: Your Honor, before we delve into the petition
24 to revoke, may we exclude any other witnesses that aren't from
25 the --

1 JUDGE THOMPSON: Certainly.

2 MS. DAVILA: Yeah.

3 JUDGE THOMPSON: Certainly.

4 MR. DRITSAS: So can we go off the record for a quick
5 second?

6 JUDGE THOMPSON: Certainly. Off the record.

7 (Off the record at 11:19 a.m.)

8 JUDGE THOMPSON: We are back on the record. Okay.

9 Let's address Respondent's petition to revoke.

10 Essentially, I've reviewed as much of it as I could have
11 reviewed, and Respondent has moved to quash almost all of the
12 General Counsel's document requests in subpoena B-1-OZVHGX.

13 Okay.

14 With regard to -- I'm just going to go through these as
15 quickly as I can. Ms. Davila, with regard to request number
16 one, which asks for organizational charts that shows
17 Respondent's managerial structure, its hierarchy chain of
18 command, why is that relevant to this case?

19 MS. DAVILA: Your Honor, Respondent challenges three of
20 our alleged supervisors, so we would like to see where they
21 fall in the chain of command.

22 JUDGE THOMPSON: Okay. And the supervisors, I assume,
23 are -- or the alleged supervisors I assume are Ms. Keeran,
24 Ms. Green and Mr. Slovak?

25 MS. DAVILA: Correct.

1 JUDGE THOMPSON: Okay. And in addition, there are several
2 other subpoena requests, particularly requests numbers two,
3 three through eight, nine, that I believe, although their
4 requests are different, I believe they generally go to the
5 issue that Respondent denied that Ms. Keeran, Ms. Green and
6 Mr. Slovak are supervisors of the Respondent.

7 MS. DAVILA: Or agent.

8 JUDGE THOMPSON: Or -- now, they admitted they were
9 agents.

10 MR. DRITSAS: No, Your Honor.

11 JUDGE THOMPSON: You did not?

12 MR. DRITSAS: No.

13 JUDGE THOMPSON: Okay. Agents or supervisors.
14 Respondent, this could be resolved if we stipulated to either
15 supervisory status or agency status, then we don't have to go
16 through -- because that's the relevancy of most of those
17 requests. They're trying to prove that those individuals are
18 supervisors and/or agents of your organization, and it's
19 relevant. So can we stipulate to that, or is there some reason
20 why we cannot?

21 MR. KRAMER: Your Honor, we can't stipulate that because
22 they were not supervisors, and they're not agents. And I don't
23 even think that General Counsel is arguing that it's two
24 security officers or supervisors, and yet they're asking for
25 all the information as if they were supervisors.

1 And as indicated in the motion, I mean, it's very
2 overbroad. I mean, you know, if they want a job, we'll prepare
3 it and we have here -- we have six boxes of documents for them.
4 I mean, we have the, you know, the organizational charts.
5 Frankly, when you get down to security officers you're not
6 going to see any names down there. These are just, you know,
7 it's at the bottom of the chart.

8 So we believe it's overbroad, and, you know, they're
9 asking us to, you know, pull a lot of documents that are going
10 to have no relevance for this case. You know, again, I mean,
11 they've subpoenaed Ms. Keeran, they've subpoenaed Ms. Green. I
12 mean, they're going to have the opportunity to provide
13 testimony as to what they do and don't do. I don't know why we
14 need to, you know, spend all this time pulling documents.

15 As it is I have a flash drive full of security reports
16 since, you know, security officers put their names on it,
17 security reports, because technically, the request is so broad
18 it includes it. We didn't have time to print it all up because
19 it's just too much.

20 JUDGE THOMPSON: Well, unfortunately, even though you're
21 going to call -- or the General Counsel has subpoenaed the
22 individuals in question, she also gets to request documents.
23 And since you're contesting supervisory and agency status, it's
24 relevant for her case in chief.

25 So I'm going to deny the petition to revoke with regard to

1 request number one and ask that Respondent produce those
2 documents. With respect to --

3 MR. KRAMER: Your Honor, if I may, just one question. I
4 mean, one of the issues here is also the scope. They're asking
5 to go back to January of 2013 on charges that --

6 JUDGE THOMPSON: Yes. You mean 2013.

7 MR. KRAMER: Huh?

8 JUDGE THOMPSON: You mean 2013.

9 MR. KRAMER: Yeah.

10 JUDGE THOMPSON: Yes, because you said '15.

11 MR. KRAMER: I'm sorry.

12 JUDGE THOMPSON: That's okay.

13 MR. KRAMER: I'd like them to go back no more than
14 January 2015, but, yeah, they're asking to go back to
15 January 2013. I don't know even if, to the extent you find
16 that there's relevance, what the relevance is of an
17 organizational chart from January of 2013.

18 Or, for that matter, you know, it's one thing to produce
19 organizational charts. They're asking for anything that shows
20 chain of command, which theoretically, if they put their name
21 on a document and a title in an e-mail, I mean, it's so broad
22 it's kind of hard to say what we even have to produce. It's
23 one thing to produce organizational charts and job
24 descriptions. That's not been the issue that we've had. It's
25 the way it's written where they want all documents that show

1 the structure, hierarchy or chain of command. How are we
2 supposed to know what that is?

3 JUDGE THOMPSON: Ms. Davila, what specifically are you
4 looking for?

5 MS. DAVILA: As far as organizational charts?

6 JUDGE THOMPSON: Yes.

7 MS. DAVILA: If there's been any changes in title, changes
8 in duty to the alleged supervisors and agents. We believe the
9 time frame would give us a good idea if there's been a shift,
10 an organizational shift as far as these people receiving more
11 or less duties.

12 MR. DRITSAS: But, Your Honor, I guess the point is, if
13 there are allegations made that certain individuals were
14 supervisors and did unlawful activities, who cares what they
15 were a year ago?

16 MR. KRAMER: Or two years ago.

17 MR. DRITSAS: Or two years ago. The only issue is, what
18 was her status at the time of the alleged unlawful activity.

19 JUDGE THOMPSON: The allegation is from what date of the
20 alleged unlawful activity?

21 MR. DRITSAS: Well, there are three people that they can
22 identify. So if you look at the complaint, you can see in
23 paragraph 5C they allege conduct by Christina Keeran, who the
24 General Counsel alleges is a supervisor; 5D, they allege
25 conduct on February 28th, 2015, by Olivia Green, a security

1 officer; and there's 5M, there's an allegation about Danny
2 Slovak, another security officer, conduct that allegedly took
3 place on June 20, 2015.

4 JUDGE THOMPSON: I guess the issue with limiting it in
5 this manner is, they may not be supervisors as of February of
6 2015, but they may have been or they may have been demoted,
7 or -- I guess General Counsel, and correct me if I'm wrong, are
8 trying to determine if they had been supervisors or at least
9 considered supervisors slash agents, which is somewhat of a
10 fluid term under Board law, even past or prior to the dates
11 alleged in this complaint.

12 Because if it looks like that for whatever reason they
13 weren't, but, I mean, their titles don't show that they were,
14 but if they were or are treated as such, then we've got an
15 issue of whether they were or weren't supervisors, and I
16 believe that's what counsel's trying to determine. Because
17 positions ebb and flow, so I've got to go back at least in some
18 period of time to see what their job duties were at, you know,
19 prior to the issues in question.

20 MR. DRITSAS: But even -- even given that parameter, then
21 it seems to me that anything before January of 2015 is wholly
22 irrelevant. And it gives them the 2015 time period to take a
23 look and see if there's an ebb and flow, as you put it.

24 JUDGE THOMPSON: Well, I generally understand that the
25 Board looks back at least three years, two to three years, at

1 least in terms of background. That's why I believe that
2 General Counsel went back to 2000 --

3 MS. DAVILA: Your Honor, if I may interrupt for a second,
4 sorry. Just to give it some context, the organizing campaign
5 started in May 2014. So we're trying to determine if something
6 before that, if there were shifts in the structure as well,
7 because there could have been in response to the campaign.

8 JUDGE THOMPSON: I understand that Miss -- the problem is
9 is that that's not really what you've alleged in your
10 complaint. I know there was some references in the charge to
11 that fact, but you're complaint alleges specific actions that
12 have occurred really since October of 2014, and then there are
13 instances in 2015 that have occurred. I understand this may
14 have all arisen from a campaign, but that's not really what
15 you've alleged.

16 You've alleged sort of some series of events that have
17 happened starting in 2014, and moving through into 2015. And
18 some of that may have been resolved, because they involved --
19 well, the no-solicitation is still on the table. So that's
20 when you started.

21 So I don't know when the Union campaign may have started,
22 but you didn't -- that's not really what you've alleged. And
23 maybe you are alleging that, and that just isn't flowing
24 through in this complaint.

25 But how I read the complaint is, you're alleging that

1 there are specific things that have occurred to various and
2 sundry employees by Ms. Keeran, Ms. Green and Mr. Slovak,
3 starting in or around the beginning of 2015. And I understand
4 your need to want to go back prior to that to see whether they
5 were supervisors. And you said the Union campaign started
6 when?

7 MS. DAVILA: May 2014.

8 JUDGE THOMPSON: I'm going to allow you to go back to that
9 date and come up. But I'm going to agree with Respondent
10 counsel that prior to that may not be relevant, prior to May of
11 2014 may not be relevant with regard to whether these
12 individuals or what their statuses were at -- prior to May of
13 2014.

14 So I'm going to ask that Respondent provide the
15 organizational charts, the manager -- that show its managerial
16 structure hierarchy or chain of command of Respondent's
17 facility in question with respect to the three individuals,
18 Mr. Slovak, Ms. Green and Ms. Keeran, from May of 2014 through
19 the present.

20 MR. KRAMER: And, Your Honor, just for clarification,
21 organizational charts or pages that look like organizational
22 charts, but if, you know, if Ms. Keeran sent an e-mail and her
23 name and title is at the bottom of it, we don't need to pull
24 every e-mail that has her name and title because it shows what
25 her title is, right? I mean --

1 JUDGE THOMPSON: That's correct.

2 MR. KRAMER: Okay. Okay. Thank you.

3 JUDGE THOMPSON: Number two talks about job description --
4 documents that include job descriptions, appraisals, bulletins,
5 memoranda that show the job titles, duties, authority,
6 responsibility, wages, hours, et cetera, work schedules, with
7 respect to Ms. Keeran, Ms. Green and Mr. Slovak. Respondent
8 objects on the grounds of being overbroad, unduly burdensome,
9 vague, ambiguous.

10 Respondent has admitted to these various individuals' job
11 titles in their answer to the second amended complaint, so that
12 would not necessarily be needed. But Ms. Davila, the job
13 descriptions, appraisals, I assume you want these documents,
14 again, to show their duties and go toward the status of
15 supervisor slash agent.

16 MS. DAVILA: That's correct, Your Honor.

17 JUDGE THOMPSON: Okay.

18 MR. KRAMER: Your Honor, can we maybe just --

19 JUDGE THOMPSON: Please.

20 MR. KRAMER: -- because we have, and without waiving our
21 objections, we have produced and we will provide to General
22 Counsel -- well, they've asked for personnel files. We have
23 objections because of the way they did it, but we are providing
24 the personnel files of these employees, but we've redacted out
25 personal information like addresses and stuff. That

1 includes -- well, it will include their performance appraisals.

2 We're also providing the job descriptions and the
3 schedules, the work schedules going back to February of 2015,
4 and their performance -- their performance action forms --
5 personnel action forms in the job -- personnel files that
6 include the pay for each of the employees as well as change in
7 titles. I mean, we're okay with that.

8 Our issue is, you know, what else, you know, is it -- the
9 breadth of this could include a lot of other documents that we
10 don't see the relevance of them and we believe is burdensome to
11 produce. But we're not -- we're happy to produce those
12 documents. I mean that's -- I think the issue is is, is there
13 anything really beyond that we should be obligated to produce.

14 JUDGE THOMPSON: Ms. Da -- Da --

15 MS. DAVILA: Davila.

16 JUDGE THOMPSON: Davila.

17 MS. DAVILA: No, Davila.

18 JUDGE THOMPSON: Davila. I'm going to get it right.

19 MS. DAVILA: The accent on the A --

20 JUDGE THOMPSON: Perfect. Davila. What else are you
21 looking for in terms of -- I mean, this request is with respect
22 to the three alleged supervisors in your organization. What
23 else are you looking for in terms of -- I mean, I can see job
24 descriptions, title they already admitted, duties, authority,
25 responsibilities. I could see work scheduled. Why do I need

1 to know what their wages and salaries and fringe benefits are?

2 MS. DAVILA: Your Honor, because that -- the General
3 Counsel believes that that would also go to the agency and
4 supervisory status as those type of folks tend to make a higher
5 grade in comparison to the employees that we do know their
6 salaries and their wages.

7 MR. KRAMER: And, Your Honor, again, in the personnel
8 files, it will show their wages. I mean, we're not producing
9 payroll records, I mean, because we don't see the relevance of
10 that.

11 JUDGE THOMPSON: I understand.

12 MR. KRAMER: And all the employees received the same
13 benefits pursuant to the employee handbook, which we're
14 producing pursuant to another request here, so.

15 JUDGE THOMPSON: So, Mr. Kramer, tell me again, what is it
16 that you're really taking issue with.

17 MR. KRAMER: Well, Your Honor, my concern is just that the
18 way it's worded, it's including but not limited to, you know,
19 anything showing authority, responsibilities, hourly wage
20 rates, salary. Well, that could include every payroll record,
21 which we don't see the relevance of because we're providing
22 that.

23 And, I mean, you know, authority and responsibilities, I
24 mean, I don't know. I mean, like I said, we have and will
25 produce because they have had, I mean, the security logs, I

1 mean, for these, you know, for every officer, it's one rolling
2 log of what happens, you know, going back to February of 2015.
3 But, you know, the issue is is that the breadth of it, they're
4 not saying, give us these things where we can say okay, there.
5 It's, we have to think of what --

6 JUDGE THOMPSON: I gotcha.

7 MR. KRAMER: -- possibly it could be.

8 JUDGE THOMPSON: I understand.

9 MR. KRAMER: Yeah. And there's also the whole e-discovery
10 issue which is, you know, kind of inherent in here that we
11 don't want to be having to search electronically for things
12 when I think what they're looking for is provided by what we're
13 offering to provide them.

14 JUDGE THOMPSON: Okay. I'm going to ask that the
15 Respondent give over the job descriptions, appraisals,
16 documents regarding -- and these may be duplicative -- these
17 three individuals' general and specific duties, authority and
18 responsibilities. Again, they may be already duplicative.

19 So I'm asking you to produce the job descriptions,
20 appraisals, documents that show their general and specific
21 duties. I believe that the authority and responsibilities may
22 be included in the job description. I believe you indicated
23 that the wages, hourly wage rates, salaries, fringe benefits
24 and work schedules would be encompassed in some other documents
25 that I believe you're --

1 MR. KRAMER: The work schedules are separate, but we've
2 pulled them pursuant to the request. And the wage rates are
3 listed on action -- personnel action forms that are in the
4 personnel files that we're producing pursuant to a later
5 request.

6 JUDGE THOMPSON: Okay. So for this request then, I'm
7 asking you to produce the job descriptions, appraisals,
8 documents that show the general and specific duties, and any
9 documents that show the changes, any changes in their duties,
10 these three individuals' duties between May of 2014 through the
11 present.

12 Okay. Three through eight ask for a variety of different
13 documents, but I believe they, in general, encompass at least
14 three and four. Okay.

15 General Counsel's looking for documents that describe
16 Ms. Keeran, Green and Mr. Slovak's authority to hire, transfer,
17 suspend, lay off, recall, promote, discharge, discipline
18 employees, which typically I would think would be encompassed
19 in request number two's personnel records. So I think,
20 Ms. Davila, what you're getting in number -- what you're asking
21 for in number three is included in number two. And -- but
22 specifically -- strike that.

23 And I actually believe that request is overbroad because
24 that could potentially encompass any document that, for
25 example, Ms. Keeran may have written. Say she sent an e-mail

1 to an employee about granting leave, and had her title under --
2 or granting sick leave, and had her title under -- I think what
3 you're getting at you're going to get through number two. So
4 I'm going to actually --

5 MS. OVIEDO: Your Honor --

6 JUDGE THOMPSON: Yeah.

7 MS. OVIEDO: If we may respond first.

8 JUDGE THOMPSON: Certainly.

9 MS. DAVILA: I just think it goes beyond, as you know, the
10 title. We're not -- I think we're all in agreement as to her
11 title. It's whether her recommendations to approve leave, for
12 example, are followed through by management, those kinds of
13 things, to go to supervisory agency status. Which is why we're
14 looking for those subtleties of where she's made communications
15 to Respondent's upper management, and they were followed
16 through with.

17 JUDGE THOMPSON: I understand that, but this is a whole --
18 this could be considered the whole universe of any type of
19 e-mail, letter, anything in the world that has her name on it
20 where she's granted a leave request to someone. You're asking
21 them to pull any document where she has put her title on and
22 has granted a request for leave for any employee in the
23 entirety of Respondent's organization. That is extremely
24 overbroad.

25 MS. OVIEDO: Your Honor --

1 JUDGE THOMPSON: I mean, that could be every single
2 document that Respondent has.

3 MS. OVIEDO: Your Honor, we limit it in time. But we
4 would agree that --

5 JUDGE THOMPSON: Three years.

6 MS. OVIEDO: We would agree that it's broad, but not
7 overly broad. And part of the reason too is, I mean, at the
8 end of the day, if we really, really narrow it -- if we don't,
9 you know, leave it broad, then what happens is, then Respondent
10 supplants their view of what is relevant or what is not
11 relevant. And so obviously, we can't let that happen.

12 So that's why we add, you know, a broad description. But
13 otherwise, you know, they may leave things out that we can't
14 get.

15 JUDGE THOMPSON: Well, I understand that, what you're
16 trying to get. I mean, I understand -- I understand what you
17 just said. But, counsel, that request is overly broad that
18 literally encompasses every single document that three
19 individuals could have issued, any letter, any handwritten
20 document, any report, any note, text messages, about a leave
21 request, approval of something, anything. It's -- I'm going to
22 have to grant the Respondent's petition on that particular
23 request. If there's a way you can narrow it such that you're
24 looking for specific information, but that is just overly broad
25 and it could literally encompass, and I believe it's unduly

1 burdensome for me to require Respondent to look for every
2 single document within a three year time that Ms. Keeran, Ms.
3 Green, and Mr. Slovak wrote to any employee. I don't know how
4 many employees Trump Hotel has but assuming that there are
5 hundreds of employees that could potentially be every document
6 that they ever produced. Every single document. And I
7 understand what you're trying to get at but that request is
8 overbroad in my opinion and it's overly burdensome.

9 MS. DAVILA: Your Honor, we'd be willing to limit it to
10 May 2014 as well.

11 JUDGE THOMPSON: I think it's still overbroad. I think if
12 you're looking at -- I mean you're going to have to narrow that
13 because you're talking about the universe of documents in a
14 one-and-a-half year time from three individuals that could be
15 literally tens of thousands, if not hundreds of thousands of
16 documents just to prove that these individuals are supervisors
17 and agents. It's just too overbroad.

18 MS. OVIEDO: But Your Honor if --

19 JUDGE THOMPSON: I'm going to -- I've got to grant the
20 motion or the petition on that one. I hear your argument, I
21 understand, but you're going to have to limit that even
22 further. I don't know -- I know -- I think I know what you're
23 trying to get at but I just don't believe that that's -- I
24 believe it's too overbroad and too unduly burdensome.

25 Number four; you want the personnel records which includes

1 a variety of different documents. Respondent, why do we have
2 an objection to number four?

3 MR. KRAMER: Your Honor, I mean, it's similar to number
4 three. It sounds like they're asking us to go through every
5 single employee personnel file in search of documents that may
6 or may not have been signed by these people. First of all,
7 security officers wouldn't be signing any of these documents,
8 and frankly neither would Ms. Keeran, but you know, that's what
9 they're asking us to do, is go on a, you know, a search for the
10 possibility that in a personnel file somewhere in their 700
11 current employees, approximately, and then you have several
12 hundred employees in the past three years that are former
13 employees, looking for these documents to see if any of them
14 have been signed.

15 The request also talks about not only signed, frankly, it
16 says, completed, reviewed, initial approved, you know, if the
17 housekeeping director gives a copy of the document to Ms.
18 Keeran to put in a file somewhere is that considered reviewed?
19 I mean, this is a very broad request. I mean they'd basically
20 like every personnel file that the hotel has so they can look
21 through it in hopes that they can see something that somehow or
22 another may have been initial signed or they claim approved by
23 any of these three individuals.

24 JUDGE THOMPSON: Well, we've got to come to a balancing
25 act, Counsel. Because you're denying supervisory status and

1 agency of these three individuals and Ms. Davila has a right to
2 try to prove that these individuals are supervisors and/or
3 agents of your organization. So I've got to give her
4 something, some leeway to investigate this since you're
5 disputing it and you're not agreeing to stipulate to it.

6 MR. DRITSAS: Your Honor, let me point out something here
7 for a second, just how broad this is. If you take a look at
8 the personnel records and it says assignment sheets. SO let's
9 say that a clerk prepares an assignment sheet, gives it to the
10 boss, the boss revises it and then the assignment sheet is
11 posted. That request right there under those circumstances
12 require the company to produce every schedule that is that had,
13 irrespective of the administerial job that's being involved.
14 And likewise, on hiring, a hiring notice, if someone else hires
15 somebody and then a clerk says, by the way, here's a new person
16 on the team, under this request, that would be produced also.
17 So you're going to have to go through virtually every file and
18 ever schedule.

19 It would seem to me that the General Counsel's case, they
20 can make their arguments. If you see one schedule has
21 someone's name on it they can make an argument there, but to
22 have us go through and look at everyone's file to find every
23 schedule, every hiring notice, that may just involve some
24 administerial task is -- I think is wholly unfair and
25 burdensome.

1 JUDGE THOMPSON: Ms. Davila, what exactly are you really
2 looking for? Because I understand why you -- I mean I
3 understand the general impetus for the request. But I think
4 that Mr. Dritsas.

5 MR. DRITSAS: Dritsas.

6 JUDGE THOMPSON: Dritsas, is correct. The way this is
7 worded it potentially encompasses every document, and I mean
8 three, four, five, six, seven, eight, and nine. I mean it
9 encompasses the entire universe of documents. So what are you
10 really looking for? What are you trying to -- what are you
11 really looking for?

12 MS. DAVILA: Your Honor, again, to establish the
13 supervisory status. As you know --

14 JUDGE THOMPSON: I understand that, but I mean, is there a
15 particular set of documents that you are looking for that will
16 assist you in establishing that? Because I agree with
17 Respondent, the way this is written, I mean, you're going to be
18 like delving into every single document for three years, just
19 anything. And I know that's not what you intend to do but
20 there's got to be a way that we can narrow this so that you can
21 get what you're really looking for, that's not so overbroad.
22 That's why I keep coming back and asking you what are you
23 really looking for in these requests?

24 MS. DAVILA: Your Honor, with all due respect, we don't
25 know how they keep their records. So it's very hard for us to

1 pinpoint exactly how to work that exactly. I mean we don't
2 know what documents they are in possession of. Of course, if
3 it doesn't exist we're not expecting it, but we need to make
4 our case as well as to the agency status and supervisory status
5 of these individuals. We're willing to limit the time, if you
6 feel that that's necessary, but as far as the breadth, I mean
7 we just don't know how Respondent keeps its records.

8 MR. KRAMER: Your Honor, it seems to me that the General
9 Counsel went to the complaint on this issue; they must have
10 some evidence of some supervisory functions they think these
11 people perform. It seems to me that if they, you know, if they
12 have evidence of it, a, they have evidence, but b, they should
13 be focusing on that and that would limit things. I mean, I
14 guess I'm assuming the charging party had some sort of evidence
15 that these people were supervisors or agents or we wouldn't be
16 sitting here today.

17 JUDGE THOMPSON: Well, I'm going to have to let Ms. Davila
18 determine how she wants to try her case, but I'm just trying to
19 come up with a way to limit this sufficiently.

20 MR. KRAMER: Your Honor?

21 JUDGE THOMPSON: Yes.

22 MR. KRAMER: Let me make a suggestion here. There's a
23 request at the end that we've objected to basically just
24 because we don't understand why they're trying to get it, but
25 they've asked for basically the personnel records, personnel

1 files is number 54, 11 employees I believe. At least with
2 regards to Ms. Keeran, and again, I still don't know, I don't
3 think anyone has ever made an allegation that the security
4 officers are supervisors instead of agents, but with regards to
5 Ms. Keeran who the Board has alleged as a supervisor, to the
6 extent that they think that, you know, if she's engaged in
7 supervisory activities, assuming we produce these files,
8 personnel files redacting out the personal information, I mean
9 they'll see all the forms that are generally used for
10 personnel, and you know, whether or not she signed them, didn't
11 sign them. They certainly can question the witnesses to what
12 role she had in them.

13 In addition they've already asked for all the schedules, I
14 believe of both housekeeping and security and we're producing
15 the schedules for housekeeping and security going back to
16 February of 2015. I mean, so it seems to me that, you know, if
17 they're trying to -- trying not to have us -- I mean they're
18 going to be given a lot of documents that will -- you know,
19 files that will show documents in there, discipline forms,
20 attendance forms, you know, personnel action forms and all
21 that. If -- they'll have those documents to do with as they
22 see fit. I'm not sure -- I mean, that may be sufficient for
23 them -- for their purposes to pursue their case without having
24 us theoretically go through every personnel file or do huge
25 electronic searches, searching things, for frankly, Your Honor,

1 that we don't believe are there.

2 JUDGE THOMPSON: Well, here's the problem I can foresee
3 Ms. Davila saying to me. She can say to me, well, Your Honor,
4 yeah they can produce the personnel files that involve the
5 individuals in number 54 and if Ms. Keeran hasn't signed
6 anything in this individuals personnel folders but may have
7 signed something for someone other than these individuals
8 listed in request 54 then they're still not getting at whether
9 she, in fact, is or is not a supervisor. So I can see them
10 making that argument that limiting just the personnel records
11 for the individuals listed in number 54 may not yield, you
12 know, perhaps Ms. Keeran didn't write anything on any of these
13 individuals in any of these individuals' personnel folders. So
14 -- but she may have written something in someone else's folder
15 that would prove she was a supervisor. That's why I can
16 foresee that being problematic just limiting it to these
17 individuals listed in number 54.

18 MR. DRITSAS: We're trying to provide, Your Honor, some
19 sampling at least, rather than go through hundreds and hundreds
20 of files and thousands and thousands of pages for frankly
21 something that we don't think is going to be there. But --

22 MR. KRAMER: And again, the Board as a general doesn't
23 take -- issues a complaint unless they have evidence from
24 someone claiming this person does supervisory work. If there's
25 an employee that says she was a supervisor to me, she did x, y,

1 and z, then there should be specific documents that we should
2 be able to pull, you know, if it's -- oh, well, pull the file
3 of this person because we think that there's evidence there
4 that she was doing this. But again, and I'm also assuming that
5 you know, I mean, is it the Board's position that she does each
6 of these supervisory criteria and that they have evidence that
7 she does and we need to be looking for every single thing?

8 You know, because again, you know, we shouldn't be here
9 litigating things if there isn't any basis to have it to begin
10 with, much less having to go through documents and pull
11 documents where frankly we're going to be looking for nothing,
12 but to go through that exercise simply because they're one of
13 the criteria when there's no evidence underlying, you know, the
14 basis of the complaint that this person did anything seems to
15 me to be really unnecessary and burdensome on my client.

16 MS. DAVILA: Your Honor, to reiterate our position, it's
17 not that we don't have reason to believe that she's not a
18 supervisor, or an agent it's not like we're going on a fishing
19 expedition. We just don't know how the hotel keeps their
20 records. So it's hard for us to ask for specific instances.
21 As far as her name being on schedules, she's the lead
22 dispatcher, that's what we've -- they've represented to us,
23 which means that she does make the schedule.

24 MR. KRAMER: And we're producing every single schedule
25 from February of 2015.

1 MS. DAVILA: That does nothing for us because we don't
2 know -- because according to them she does it by routine, she
3 does it, -- she follows somebody else's instructions. So we're
4 trying to delve into those subtitles to see if whether her --
5 she exercises independent judgment.

6 MR. KRAMER: But that's --

7 JUDGE THOMPSON: No, I get it. I understand exactly what
8 you're trying to do. The problem is the way that these
9 requests are worded you basically are trolling through every
10 document that Respondent has in order to find that out, and
11 what I'm trying to balance is your need to prove supervisory
12 status with the overbroad nature of these requests. So that I
13 can point Respondent and say, I need you to pull these
14 documents that will help -- you know, assist you with
15 potentially proving what you need to prove, but limited so that
16 we're not on a fishing expedition because I mean, I understand
17 what you're saying, Ms. Davila, but based on how these are
18 worded the example that Mister --

19 MR. DRITSAS: Dritsas.

20 JUDGE THOMPSON: Dritsas, I know I can hear you say it but
21 it can't come out of my mouth, Dritsas. The example that he
22 gave would be a document that would be relevant and producible
23 under this request and that's burdensome and overbroad to
24 require this respondent, despite its size, to have to pull for
25 every employee in its company all of these types of documents

1 and there just has to be some way to narrow this. I haven't
2 figured it out yet, but there's got to be some way to give you
3 a sampling of what you're requesting without having to go
4 through every single employee document because that is
5 overbroad and unduly burdensome in my opinion.

6 I've got to figure this out. Do you have without giving
7 me your entire theory or case, do you have at least some -- let
8 me ask you it this way, with respect to request number 54 does
9 the General Counsel arguing that either Ms. Keeran, Ms. Green,
10 or Mr. Slovak were the supervisors of any of these individuals?
11 Do you have reason to believe that they were?

12 MS. DAVILA: Do we have reason to believe -- we don't know
13 the job description, so we don't know the breadth of it, and --

14 JUDGE THOMPSON: But you --

15 MS. DAVILA: -- so obviously security officers we don't
16 assume them to be the supervisors of these --

17 JUDGE THOMPSON: But you put these individuals' names down
18 here for a reason. So --

19 MS. DAVILA: Correct.

20 JUDGE THOMPSON: Do you have reason to believe that these
21 individuals -- that any of the three individuals of request
22 number two, are their supervisors? It's either yes or no?

23 MS. DAVILA: No.

24 JUDGE THOMPSON: You don't have reason to believe that?

25 MS. DAVILA: But they're two --

1 JUDGE THOMPSON: I'm just --

2 MS. DAVILA: I just don't see the relevancy of 54 in this
3 discussion, because I just don't understand.

4 JUDGE THOMPSON: Well, I'm just asking. I don't --

5 MS. DAVILA: Okay.

6 JUDGE THOMPSON: I'm just asking, I'm just trying to kind
7 of get at something. You do not believe that Ms. Keeran,
8 Green, or Mr. Slovak were any of these individuals' supervisors
9 or a supervisor?

10 MS. DAVILA: I don't believe Olivia Green or Danny Slovak
11 are supervisors of these housekeepers, they're security
12 offices.

13 JUDGE THOMPSON: But you may have reason to believe that
14 Ms. Keeran is?

15 MS. DAVILA: Yes.

16 JUDGE THOMPSON: All right. Okay. Respondent, I'm going
17 to have you -- I'm going to kind of dovetail this. I would
18 like for you to produce all the personnel records which would
19 include the -- which would include the documents that are
20 listed in request 54. As well as, and this may be encompassed
21 in the personnel records, the hiring notices, assignment
22 sheets, training records, any grievance settlements, employee
23 evaluations, leave or vacation requests, all other disciplinary
24 documents to include the verbal warnings, written warnings,
25 suspension notices, termination notices, et cetera, for all the

1 individuals listed in request number 54.

2 MR. KRAMER: Your Honor, may we redact out personal
3 information of these employees?

4 JUDGE THOMPSON: Yes.

5 MR. KRAMER: Thank you. And Your Honor?

6 JUDGE THOMPSON: Yes?

7 MR. KRAMER: How far back do we need to go on things like
8 assignment sheets or training?

9 JUDGE THOMPSON: I need you to go back to May of 2014, and
10 that's essentially going to narrow requests three, four --
11 sorry, four, five, six, seven, that's sort of a compilation of
12 four, five, six and seven.

13 Number eight, I assume you have the same objections that
14 you did for four, five, six, and seven to this request?

15 MR. KRAMER: Yes, Your Honor.

16 JUDGE THOMPSON: Although it asks for slightly different
17 information, slightly.

18 MR. DRITSAS: We can say, Your Honor, just to streamline
19 it, there are no responsive documents to 8a, just to make it --

20 JUDGE THOMPSON: Okay.

21 MR. DRITSAS: So that's a little different from the other
22 request but there are no responsive documents.

23 MR. KRAMER: In fact we don't -- honestly, Your Honor,
24 believe there are really any responsive documents to any of
25 this other that just us having to go through every single file

1 trying to look for it.

2 JUDGE THOMPSON: With respect to number eight, I mean I
3 have to compel 8b from May of 2014 to the present.

4 MR. KRAMER: Your Honor, with regards to 8b, decisions
5 effecting operations, I mean, can we get some sort of
6 clarification on what that's supposed to be?

7 JUDGE THOMPSON: If I know what -- I'm going to try to
8 pretend I can read Ms. Davila's mind. She's going to say we
9 don't know how Respondent runs its operation. So we can't
10 narrow the request because we're not clear what respondent
11 considers its operations. Does that sound about right?

12 MS. DAVILA: Yes, Your Honor.

13 MR. KRAMER: Well, you know, I mean, I hate to say it but
14 a security officer may decide that a guest is inebriated and
15 needs assistance. I mean, technically does that effect
16 operations? Yes, he may decide that guest needs an ambulance.
17 Does that effect your operations? Technically, yes. Does it
18 have anything to do with supervisory criteria or whether that
19 person is an agent with regards to the company for purposes of
20 employees? I don't see that, Your Honor. I mean, with regards
21 to supervisory status obviously there are criteria in the
22 statute in terms of what makes a supervisor a supervisor.
23 Hire, fire, discipline, what have you, which we believe is
24 being picked up by the other request. You know, operations,
25 you know, I'm not sure, you know, it's hard to say. I mean

1 obviously we can -- I can -- we can come back and say we don't
2 have anything because we don't know what it means but I don't
3 want to get into fights over whether or not we've complied with
4 a request when frankly we, you know, it's either we have
5 nothing or, you know, it's anything that they've ever done may
6 have an impact on Respondent's operations.

7 MS. DAVILA: Your Honor, with respect to -- I think we
8 should differentiate when we're talking about the security
9 officers and Christina Keeran.

10 JUDGE THOMPSON: Okay.

11 MS. DAVILA: When we're talking about the security
12 officers it's relevant if there is such a report because when
13 it comes to a security officer for them to be an agent of the
14 employer they could be the prosecutorial arm. So if they have
15 any kind of say in that reporting that to upper management that
16 would certainly make them an agent of the employer.

17 MR. DRITSAS: Well, just to be clear on that, because a
18 security officer will be called because there's a disturbance
19 in the lobby and he comes down and writes a report, I don't
20 understand how that -- I mean is that what you're looking for?
21 You're looking for every report that a security officer makes?
22 I mean I don't see why that's relevant to your case, but it
23 certainly is burdensome for us because there are dozens of
24 security officers, it's a thousand, plus room hotel and things
25 happen. And so as it is --

1 JUDGE THOMPSON: And --

2 MR. KRAMER: As it is we pull the daily activity reports,
3 which are several pages each day literally of everything a
4 security officer does and then we spent the entire weekend
5 trying to redact out guests names, because we certainly don't
6 want to be revealing guests names. I don't know what else
7 there would be on this. I mean we don't see the relevance of
8 that, but you know, the idea that we would then need to search
9 for additional documents and then do additional redacting every
10 time -- every time a guests key becomes deactivated and they
11 have to have a security card come up, I mean that's recorded.

12 JUDGE THOMPSON: Well, I don't think that's what General
13 Counsel is looking for. When I read Respondents operation I'm
14 reading that effects -- that they're making some decisions that
15 affect your business operation. Some sort of policy type
16 decision that effects your operation, not reading -- you know
17 writing a report, because you know, somebody's key was disabled
18 and a security officer had to go based on what you just
19 described. That's -- when I read that that's what I --

20 MR. KRAMER: So are they writing -- basically are they
21 writing policy? Is that the request?

22 MS. DAVILA: No.

23 JUDGE THOMPSON: So then what do you mean by Respondent's
24 operations? Because I'm certainly not going to require
25 Respondent to turn over every report a security officer makes

1 when a guest loses their key.

2 MS. OVIEDO: That wouldn't affect their operations when
3 they lose their key. I mean, how does that have any sort of --

4 JUDGE THOMPSON: Well, but we don't know because we don't
5 know what you mean by Respondent's operations. That's the
6 basis of their objection. So what do you mean by Respondent's
7 operation? What type of decisions -- the types of documents --

8 MS. DAVILA: As far as security when they're looking out
9 for the interest of the hotel as a whole. When they're using
10 independent judgment and its carried out, that would affect
11 Respondent's operations.

12 MR. DRITSAS: That would cover every security report issue
13 because their job is to respond to disturbances or concerns.

14 MS. OVIEDO: Well, pursuant to McCarron United Aircraft
15 Corp. the mere fact that compliance with the subpoena may
16 require the production of bulky, voluminous or even numerous
17 documents, is insufficient to establish that it is burdensome
18 it's not served.

19 JUDGE THOMPSON: But it's got to be relevant, Counsel.

20 MS. OVIEDO: It says that the service is too --

21 JUDGE THOMPSON: It's got to be relevant. I don't care
22 about

23 MS. DAVILA: But they've denied status.

24 JUDGE THOMPSON: -- some security officer writing a report
25 about a guest's key being lost or that has not functioned.

1 That doesn't give me any information as to whether that person
2 is an agent of Respondent. That gives me nothing. All it
3 tells me is on X date so and so wrote a report saying that some
4 guest in room 1595 couldn't get in the room and they wrote a
5 report and gave it to someone else in the chain of command.
6 That's all that tells me. So that doesn't help. It's got to
7 be relevant. I mean it's got to be relevant.

8 MS. OVIEDO: Just --

9 JUDGE THOMPSON: So I need to know what documents you're
10 really after in the decisions made by any of the individuals
11 affecting their operations.

12 MS. OVIEDO: Just because one of the end products that
13 they may produce may not be, per se, relevant, the subpoena
14 request itself is relevant because it goes directly to an issue
15 that's in dispute that they're denying. It goes directly to
16 the allegations in the pleadings, the defenses, and the claims
17 of the case.

18 JUDGE THOMPSON: Well, I get that, but again --

19 MS. OVIEDO: I mean we can't cuss out every irrelevant
20 document that they may produce. I mean that's why these
21 subpoena requests have to be brought, again, because we can't
22 rely on what they determine is relevant or not. So, I mean --

23 JUDGE THOMPSON: And I'm not doing -- I'm not relying on
24 that, but there is the second balance of being unduly
25 burdensome.

1 MS. OVIEDO: But Respondent is available --

2 JUDGE THOMPSON: And that's what you're asking. I mean if
3 you're talking about the universe of documents, I mean you're
4 looking for something. And I understand that the universe of
5 documents may require Respondent to look through a lot of
6 stuff, but their argument isn't -- it is that, which that's not
7 the part that I'm agreeing on. The part I'm agreeing with them
8 on is the broadness of the request. That would essentially
9 mean that a report by a security officer in the circumstance
10 that's described would be relevant in this request. And --

11 MS. OVIEDO: But here Respondent has failed to show that
12 compliance with the subpoena would in any way threaten the
13 normal operations of its business and it hasn't offered any
14 affidavits to support its conclusory assertions that it's
15 overly broad and overly burdensome. I mean in cases the Board
16 has held that even spending thousands of dollars in weeks prior
17 to the trial, that that isn't alone, you know, sufficient to
18 prove that it's overly broad or over burdensome. So for them
19 to just search, I mean they're not even saying that they're
20 producing. You know, some of these, they're not even saying
21 that they're producing documents. They're just saying, "Oh, we
22 have to go look for them." And that in itself is overly broad
23 or overly burdensome, which it's not. I mean I'm assuming that
24 you guys have electric files these days, some way of searching
25 through it.

1 MR. KRAMER: Some files are electronic that --

2 MS. OVIEDO: Especially emails you can search easily.

3 MR. KRAMER: No. It's not easy when you're talking about
4 the volume of documents you're talking about.

5 MS. OVIEDO: I mean you have an IT team though, right?

6 JUDGE THOMPSON: Well, let me just stop you. I'm going to
7 ask if Respondent will produce documents responsive to 8B, but
8 with respect to decisions made by any of them affecting
9 Respondent's operations, I'm going to ask that you search and
10 provide any documents where Ms. Karen, Ms. Green, or Ms.
11 Slovak --

12 MR. KRAMER: Mister.

13 JUDGE THOMPSON: Mister, thank you -- have made any
14 decisions regarding Respondent's policy, business policy,
15 business practices. With respect to C, D, E, F, and G, I'm
16 going to have to compel production from May of 2014 to the
17 present. And I believe some of these may be duplicative of
18 other requests that you're producing.

19 MR. KRAMER: Okay.

20 JUDGE THOMPSON: With respect to number 9 --

21 MR. KRAMER: Your Honor, I mean maybe we could shorten
22 that. We wouldn't have any documents responsive to that.

23 JUDGE THOMPSON: With respect to number 10, I'm going to
24 ask if Respondent would produce documents in response to that
25 request.

1 MR. KRAMER: Your Honor.

2 JUDGE THOMPSON: Yes.

3 MR. KRAMER: I mean I think there's two sets of issues
4 with regards to Respondent's Exhibit Number 10. And besides
5 the fact that I'm questioning the relevance of this, I mean to
6 the extent, I mean there was -- just a little background here.
7 The Union did file a petition to represent certain employees at
8 the hotel. There was an election scheduled for the end of
9 June. These charges were used to block that election literally
10 before the day of the election.

11 You know, did the hotel issue communications to employees
12 generally regarding, you know, the Union campaign? Yes. Are
13 those communications part of this charge? No. And is there
14 any relevance to producing those communications that these
15 people received just like everyone else? Your Honor, we don't
16 see the relevance of that, you know, or why that would need to
17 be produced or how that could lead to anything relevant.

18 The second part of this appears to be, you know, if they
19 received communications directly regarding Union activity
20 specific to their job or something to that effect, which again
21 we don't really see the relevance of purpose for determining
22 whether or not they're a supervisory agent, but I could
23 understand. I think there's two different buckets here that
24 you need to look at differently because I think there are
25 different issues with regard to each from our side and likely

1 from yours.

2 JUDGE THOMPSON: What I'm reading is that they're asking
3 for documents showing any type of instructions or directions or
4 communications that someone may have given Ms. Karen, Ms.
5 Green, and Mr. Slovak with regard to activities of the Union,
6 facility, activities of the Union. So they're looking for what
7 instructions or communications that upper management may have
8 given to those individual regarding --

9 MR. KRAMER: Okay. As opposed to campaign communications
10 generally given to everyone else. We don't have an objection
11 to that, Your Honor.

12 JUDGE THOMPSON: That's how -- I mean that's how I'm
13 reading that. And I think it's relevant because it goes to
14 some of the other issues that they're alleging. Let me see.
15 Specifically, for example, what they're alleging in paragraph
16 five.

17 MS. OVIEDO: Just to clarify, as we all --

18 JUDGE THOMPSON: Hold on. Hold on. Hold on. 5C, D, E,
19 F, G, those allegations, for example. So they're looking for
20 what you may have communicated to the three individuals in
21 question about how to handle activities of the Union at your
22 facility. And I think that's narrowly -- I mean it's relevant
23 and it's sufficiently tailored such that you're not like
24 looking for the whole universe of every document in the world.

25 MR. KRAMER: Okay, Your Honor.

1 JUDGE THOMPSON: Go ahead, Ms.

2 MS. OVIEDO: I withdraw the question.

3 JUDGE THOMPSON: Okay. So I'm going to ask you to produce
4 that, the documents responsive to number 10. And in the same
5 vein, number 11. These may be encompassed in 10 as well with
6 respect to those three individuals. And we're talking from May
7 of 2014 through the present.

8 I don't know that -- we may have already dealt with
9 request number 12, but I'm going to ask that you produce those
10 documents. And I believe that may have been encompassed in
11 what I asked you to produce in response to, I think, 4, 5, 6,
12 and 7.

13 MR. KRAMER: Yes, Your Honor. I mean we will -- we have
14 here for production, again, the redacted personnel files. And
15 again, like they say, traditionally maintained. These are the
16 things that our client traditionally maintains. You know, I
17 don't know what necessarily the General Counsel is thinking of,
18 but yes, we'll produce those.

19 JUDGE THOMPSON: Okay. All right. Ms. Davila, 13, 14,
20 what are you looking for? Why are these documents relevant?

21 MS. DAVILA: They're generally relevant because they go to
22 the organizing campaign and Respondent's response to it as well
23 as animus.

24 JUDGE THOMPSON: This isn't about the organizing campaign.
25 I mean I know it's somewhat related because things sort of gave

1 rise after that, but you're not alleging anything with regard
2 to the organizing campaign, so I'm going to have to grant
3 the --

4 MS. DAVILA: Your Honor --

5 JUDGE THOMPSON: Yeah, go ahead.

6 MS. DAVILA: Sorry, Your Honor. We are just in that it
7 was in the context of this organizing campaign.

8 JUDGE THOMPSON: I understand that, but you're arguing --
9 but you're asking for -- I mean I understand it's in the
10 context of it, but you don't have any allegations that they
11 violated the act because of it. You're arguing that they
12 violated the act by surveilling certain employees allegedly,
13 creating the impression of surveillance, preventing them from
14 engaging in various and sundry Union activities. So what does
15 whatever communication that Respondent may have had with the
16 labor relations consultant have to do with surveilling,
17 allegedly surveilling, or creating the impression of
18 surveillance of employees?

19 MS. DAVILA: It goes to their anti-Union animus and how
20 they responded to it, the culture of anti-Union activity that
21 they created in their workplace.

22 JUDGE THOMPSON: You're going to have to get at it some
23 other way, Counsel, because that just isn't relevant to me in
24 no shape, or form. And similarly with number 14. I don't find
25 whatever they may have filed with the Department of Labor

1 relevant to what you've alleged in the complaint. So I'm going
2 to grant the Respondent's request to number 13 and 14.

3 MS. DAVILA: Your Honor, I'd still say that it goes to the
4 discharge. There was a termination here of a woman because she
5 engaged in Union activity. It also goes to the unlawful
6 application of some of the rules that we've discussed.

7 JUDGE THOMPSON: I understand that, but those documents
8 aren't going to get you -- I mean you'd have to present some
9 testimony in order for me to understand how you're connecting
10 the relevance here, but short of now hearing any testimony, I
11 just don't find those documents relevant to what you've alleged
12 in the complaint.

13 Number 15, again, I mean some of the information with
14 respect to what may have occurred may have happened as a result
15 of the Union's organizing drive, but that's not what you
16 alleged. I mean it's generally related only because the events
17 in question arose out of that, but now you're wanting to delve
18 into the organizing campaign and that's not what this is about.
19 So I don't want to go down that road because that's not what
20 you've alleged.

21 MS. DAVILA: Your Honor, certainly we don't fight the
22 organizing campaign in the complaint, but there is context to
23 that unlawful activity, those ULPs that we're addressing.

24 JUDGE THOMPSON: And you can --

25 MS. DAVILA: And that context is the organizing campaign.

1 JUDGE THOMPSON: And that's fine and you can provide that
2 through testimony, but I'm not -- I don't find documents
3 relating to the organizing campaign relevant to what ultimately
4 you're trying to prove which is that the Respondent, you know,
5 surveilled and created and interrogated employees as a result
6 of that organizing campaign. So whatever they may have said
7 during the organizing campaign in terms of documents to other
8 entities, that's not relevant. I mean I understand that it's
9 relevant to the -- because all of this occurred as a result of
10 an organizing campaign.

11 MS. DAVILA: Your Honor --

12 JUDGE THOMPSON: But you're asking for documents that
13 would show communications, agreements, contracts that the
14 Respondent may have had with third parties. That has no
15 bearing whatsoever on what you're trying to prove.

16 MS. DAVILA: Your Honor, under Wright Line, we have a
17 burden to show animus and there is a discharge here and we have
18 only a certain limited way of proving that. And if we can't
19 show, like I said, this anti-Union culture at this company,
20 that goes to our burden.

21 JUDGE THOMPSON: I know. I understand that, Counsel.
22 What I'm saying is you're asking for documents including but
23 not limited to contracts or agreements as will show the name,
24 addresses, and contact information for any consultants,
25 advisors, specialists, or persuaders which Respondent has

1 hired, used, or relied on in any way to assist Respondent to
2 present its views to employees or to otherwise advise
3 Respondent with respect to the Union's organizing drive.

4 You're asking for sort of what they did to say, "We don't
5 want the Union here." That's not -- I mean, it may be
6 considered anti-Union animus in the Government's view, but
7 there are other ways to produce or to try to get at the animus
8 that you're trying to get at. You're saying that one of the
9 employees, because she participated in the Union drive, was
10 terminated as a result of that. The fact that they may have
11 produced documents to say, "Don't vote for the Union," doesn't
12 necessarily go to show that there was animus there.

13 MS. DAVILA: Well, Your Honor, if it was the timing right
14 before the termination, you could say that it is very directly
15 relevant. If they sign a contract with an anti-Union
16 consultant, a week later they terminate a newly organizing, a
17 new employee new to the organizing campaign, of course it's
18 directly related.

19 MR. DRITSAS: Well, Your --

20 JUDGE THOMPSON: Ms. Davila, short of some testimony, I'm
21 going to have to allow you to try to connect that. So I'm
22 going to grant the petition to revoke at this time, but I'll
23 revisit it once you provide me with some testimony.

24 Number 17 is similar.

25 MR. DRITSAS: 16, Your Honor.

1 JUDGE THOMPSON: Okay. I'm sorry. I'm granting your
2 petition with respect to 13, 14, 15, 16.

3 MR. DRITSAS: Thank you, Your Honor.

4 JUDGE THOMPSON: 17, again, it's I'm going to need some
5 more testimony, Ms. Davila, in order to see how you're
6 connecting that. So I'm going to grant the Respondent's
7 petition on 17. Same with 18. I'm granting the Respondent's
8 petition.

9 MS. DAVILA: Your Honor, if I may give you an example of
10 how these would all connect. Say we have one of our LH81
11 supervisors making these threats, these interrogations, and
12 they were also present at the meeting that occurred that same
13 week.

14 JUDGE THOMPSON: Uh-huh.

15 MS. DAVILA: How can we -- how is that not directly
16 related to the allegations in the complaint?

17 JUDGE THOMPSON: Say that again, Ms. Davila.

18 MS. DAVILA: So let's say we have a supervisor who makes
19 these -- that has an interrogation, interrogates one of our
20 employees --

21 JUDGE THOMPSON: Uh-huh.

22 MS. DAVILA: -- for organizing or threatens them or stands
23 next to them in the employee dining room for an extended period
24 of time and that person also happened to be in the meeting that
25 was held that morning that said that the Company had a stance

1 that was anti-Union. This person spoke at the meeting and
2 then, you know, at the end of that day, she was also
3 surveilling employees.

4 JUDGE THOMPSON: I got that. And you could present that
5 testimony and I could believe that witness and Respondent would
6 present their witnesses that say, "I didn't do that. That
7 wasn't what happened. It was about this, that, or the other.
8 I said this and not that." And that's fine, but you're
9 specifically asking for documents that talk about the
10 organizing campaign itself. And short of -- I just don't think
11 that -- I think you're going to be ending up going down a road
12 that isn't at issue in the case.

13 I understand it arose out of an organizing campaign, but
14 you're asking for documents that Respondent may have provided
15 to other third party entities that although related to the
16 Union organizing drive, aren't really the subject of it. So I
17 just don't find that that's particularly relevant because I
18 could just believe the witnesses without any of this
19 information and there you would have your animus. So I'm still
20 going to stand on granting the petition with regard to number
21 18.

22 Number 19 is a little different. Respondent, tell me why
23 you object to 19.

24 MR. KRAMER: Well, Your Honor, again, I mean for the first
25 part of this, I mean, they're asking about internal -- I mean,

1 this request is broad enough that it includes internal
2 communications within the client not dealing with bargaining
3 unit employees directly. So, you know, regarding basically
4 Union organizing, which we don't see is a part of this case, so
5 there's an issue there.

6 There's the issue, the burdensome issue of this is trying
7 to go through all emails trying to find any one of these terms,
8 especially when you're talking about pay rates and wages.
9 Searches on that come up with a ridiculous number of amounts.

10 And on top of that, Your Honor, you know, we believe that
11 there is or should be a privilege with regards to internal
12 communications regarding Union organizing campaign is no
13 different than the Board has recognized privilege with regards
14 to bargaining strategy discussions. It all goes towards labor
15 strategy and that is not information that is at issue in this
16 case.

17 And, you know, just as I would suspect the Union would
18 have, you know, would not be too thrilled if we asked them for
19 all their communications about their plans with regards to how
20 they intend to organize my client. You know, we should also be
21 similarly protected and be able to communicate with each other
22 about how we are going to do a campaign.

23 Right now, Your Honor, we're in the middle of a campaign.
24 The Union has asked to have the election held again. And, you
25 know, for them, for the Board and the Union through the Board

1 to get access to our thoughts in terms of how best to
2 communicate to employees and what issues employees may have for
3 purposes of addressing the Union campaign, we think would be a
4 violation of our privacy and frankly interfere with our right
5 as an employer under HC to communicate with employees and
6 determine how to communicate with employees.

7 So we believe this is completely overbroad. It doesn't
8 have anything to do with these charges. And it simply is
9 getting an attempt to basically see how, you know, what the
10 Employer is thinking in terms of how it's going to respond to a
11 Union organizing drive.

12 JUDGE THOMPSON: Mr. Kramer, I understand and can agree
13 with you except for E. That, I --

14 MR. KRAMER: Yeah. I think the only question there, Your
15 Honor, is how do we produce and what. I mean if you do a
16 search, I mean we can look through files and see if anyone is
17 aware of any particular complaints that were in writing
18 regarding pay rates and wages. If you search our email
19 database for pay or wage, you come up with, you know, well over
20 100,000 documents. I mean if there's specific employees tied
21 to it. I mean part of this here is how do we do it.

22 You know, if you're looking for electronic documents, why
23 don't we search for it in a way that's going to produce a
24 manageable number of documents not only for us to review, Your
25 Honor, but then, you know, then to produce? That would be the

1 concern with E, not necessarily the subject matter, although I
2 don't know. I'll be honest, Your Honor. There's nowhere
3 really -- I'm not quite sure 100 percent how that issue is tied
4 to the complaint, but, you know, how do we produce or what is
5 it that we're actually producing here.

6 I mean, I suppose, Your Honor, we could do a search for
7 complaint and wage and pay rate together in some sort of email
8 to try and limit that, but.

9 JUDGE THOMPSON: I'm going to be honest with you, Mr.
10 Kramer. I believe I thought I saw something in that realm in
11 some of the documents related to like some of the charges that
12 were filed where that issue may have arisen.

13 MR. KRAMER: I know there were, I think, allegations about
14 promotions. I'm not sure if there was an allegations regarding
15 pay rates and wages. I'll defer General Counsel to their
16 complaint if they can point to a paragraph that addresses that
17 issue.

18 JUDGE THOMPSON: Well, I believe that it's relevant to
19 part of what's going on in this case from what I read. In
20 terms of the universe of documents, although I was agreeing
21 with Respondent on some of the earlier requests, because I find
22 that this is sufficiently narrow in terms of emails, text
23 messages, and notes regarding employees complaints to
24 management, now I'm going to have to revert back to what Ms. --

25 MS. OVIEDO: Oviedo.

1 JUDGE THOMPSON: -- Oviedo pointed out earlier when she
2 was arguing General Counsel's position and she was citing cases
3 about, you know, it's not sufficient that it involves the
4 universe of documents. My issue with some of the other
5 document requests is that it wasn't sufficiently narrowly
6 tailored such that it did involve the universe of documents. I
7 mean it potentially involved every single document that you
8 ever produce. This one involves a large amount of documents,
9 but not every single document. It's narrow to employee
10 complaints to management about pay rates and wages.

11 So I can't go along with you with regard to the universe
12 of documents and that it's going to be burdensome to go --
13 strike that. I can't go along with you, Mr. Kramer, with
14 regard to it will be burdensome to look through documents
15 because it's sufficiently tailored.

16 MR. KRAMER: Uh-huh.

17 JUDGE THOMPSON: So for this one, I'm going to ask you to
18 produce the documents including emails, text messages, notes,
19 meeting minutes, and or investigative reports, if any, that
20 will show any and all or any discussions that Respondent may
21 have had regarding employees' complaints to management about
22 their pay rates and wages from May 2014 to the present.

23 MR. KRAMER: Okay, Your Honor.

24 JUDGE THOMPSON: The remaining A, B, C, and D, I find are
25 overbroad and invade the Respondent's privacy with respect to

1 their discussions about their thoughts about the Union and
2 unionization. I understand why you asked it because I know
3 what you're trying to get at, Counsel, but similar to the
4 protections that are afforded to unions in the Berbiglia case,
5 I think the same would exist here, but not for the employees'
6 complaints to management about their pay rates and wages.

7 I think it's sufficiently narrowly tailored such that even
8 though there may be a lot of documents, it's not going to be
9 overly burdensome for Respondent to have to look through. So
10 I'm going to grant your request with respect to A, B, C, and D,
11 grant the petition, but I'm going to ask that you produce the
12 documents responsive to E. From May 2014 to the present.

13 Number 15, again --

14 MR. DRITSAS: Do you mean 20, Your Honor?

15 JUDGE THOMPSON: I'm sorry, 20. Again, I'm going to grant
16 the Respondent's petition because I just don't find these
17 documents relevant to any of the issues involved. Although the
18 case involves or arose out of some union organizing, I --
19 that's just not -- the request as written isn't relevant. So
20 I'm going to grant the Respondent's request on number 20.

21 Number 21, I'm going to have to ask that Respondent
22 produce those documents because they're asking for
23 communications between and among Respondent and employees -- so
24 that's a little different from Respondent in itself, Respondent
25 and third parties -- from May of 2014 to the present. So, I'm

1 going to ask if Respondent will produce any responsive
2 documents to 21.

3 I'm not certain -- counsel, do you have an objection to
4 22? They may already be produced.

5 MR. KRAMER: Your Honor, yeah, we did not have an
6 objection to 22. We're providing the handbook with the
7 document production we have here today.

8 JUDGE THOMPSON: Okay.

9 MR. KRAMER: Now, I will say, Your Honor, the -- yeah.
10 Yeah, Your Honor.

11 JUDGE THOMPSON: Okay. 23, 24, 25, 26, have they been
12 mooted?

13 MR. DRITSAS: We believe so, Your Honor.

14 JUDGE THOMPSON: Oh, wait a minute. Wait a minute. Maybe
15 not the first part of 23, but 24, 25, 26, have they been
16 mooted?

17 MR. DRITSAS: And our position is yes, we've got
18 settlement that resolves --

19 JUDGE THOMPSON: Okay.

20 MR. DRITSAS: -- those issues. And with regards to 23,
21 the issue is the application of the policy here, not the policy
22 itself. So I think they're all mooted.

23 MS. DAVILA: Just one minute, Your Honor. I'm sorry.

24 JUDGE THOMPSON: Certainly.

25 MS. DAVILA: Okay, yeah. 23 through 26 are mooted.

1 JUDGE THOMPSON: Okay. Got it. 27, Ms. Davila, why is
2 27 -- or what does 27, how is it relevant to the issues
3 remaining in this case? And 28, too, if you can -- I'd kind of
4 like to keep them -- read them together.

5 MS. DAVILA: I think they go to the -- or, they go to the
6 claims and defenses of this case --

7 MS. OVIEDO: That are in dispute.

8 MS. DAVILA: -- especially the termination.

9 JUDGE THOMPSON: Okay. But you're, again, asking for --
10 okay, I understand the termination. Then we need to be talking
11 about the individual who was terminated's skills, abilities,
12 certification requirements, job performance, discipline,
13 violations, et cetera, et cetera. You're requesting, as I read
14 this request, Respondent's policies and procedures related to
15 all their employees, all their skills and abilities,
16 certification requirements. If you're talking that it goes to
17 the terminated employee, then I need that information.

18 MS. DAVILA: We would be willing to limit 27 and 28 to
19 housekeepers --

20 JUDGE THOMPSON: Okay. Okay.

21 MS. DAVILA: -- as they classified them.

22 JUDGE THOMPSON: Okay. Now, go ahead, Mr. Kramer.

23 MR. KRAMER: Your Honor, and I appreciate the limitation.
24 I guess, here's the thing on 27 and 28.

25 Documents, again, that will show policies and procedures

1 related to employees, employees' skills and abilities,
2 certification requirements, job requirements, discipline --
3 now, we are -- we're producing the performance -- standard
4 performance evaluation form, we have a separate transfer
5 policy, you know, we have leave request forms. I mean,
6 everything else is pretty much the personnel manual.

7 It sounds as if the -- this is written broad enough,
8 especially 27, do they want every performance appraisal for the
9 last three years from every housekeeper? Do they want every
10 certification that might be in the housekeeper's personnel
11 file?

12 Currently, we have over 300 housekeepers that are active
13 employees. When you throw in the people that are former
14 employees, you're talking about 500 files. And discipline on
15 everything? Your Honor, the employee here in question was
16 terminated for an attendance policy.

17 MR. DRITSAS: So I think if we narrow this to the policies
18 regarding some of those, that that's the more manageable
19 universe.

20 JUDGE THOMPSON: Well -- well -- you all right?

21 MS. DAVILA: That wasn't me.

22 JUDGE THOMPSON: Well, the way I read the General
23 Counsel's request, she's asking for your policies and
24 procedures, she's not asking for, like, the universe of -- and
25 with the limitation on housekeeping. So the way that I read

1 this, she's asking for documents that relate, show your
2 policies and procedures relating to Respondent's housekeeping
3 employees, their skills and abilities, their certification
4 requirements, their job performance --

5 MR. KRAMER: All right. So they're not asking for us to
6 go through -- they're looking for the general policies
7 addressing these issues. So not necessarily the pulling every
8 performance evaluation or every discipline ever given any
9 housekeeping employee in the last three years. Okay. I think
10 we -- we don't have an objection to that, Your Honor.

11 JUDGE THOMPSON: Let me read this again. That's how I
12 read this. Documents that will show Respondent's policy and/or
13 procedures relating to Respondents as Ms. Davila just amended:
14 Housekeeping employees, and those employees' skills and
15 abilities, certification requirements, job performance,
16 discipline, violations of non-compliance of any such policies
17 including but not limited to copies of Respondent's employee
18 handbook and personnel reference manuals.

19 MR. KRAMER: All right.

20 JUDGE THOMPSON: So you're -- I believe you say you don't
21 have an objection.

22 MR. KRAMER: With that understanding --

23 JUDGE THOMPSON: Okay.

24 MR. KRAMER: -- and that limitation to housekeeping, we
25 have no objection, Your Honor.

1 JUDGE THOMPSON: Okay. Okay. And with regard to 28,
2 Ms. Davila, again they're talk -- I believe they're talking
3 about your rules, regulations, I mean, it's similar to 27 with
4 respect to these issues.

5 MR. KRAMER: Okay.

6 JUDGE THOMPSON: A, B, C, D and E, F and G. So I find
7 those relevant.

8 MR. KRAMER: Again, back to May 2014, Your Honor?

9 JUDGE THOMPSON: Yes. Okay. I think twenty -- wait a
10 minute. Okay, counsel, Mr. Kramer, I believe I know what your
11 objection to 29 is.

12 MR. KRAMER: Yes, Your Honor.

13 JUDGE THOMPSON: But for the record, you can state it.

14 MR. KRAMER: Certainly. We -- first of all, it's going
15 beyond, we think, the scope of the complaint because the
16 termination is really only related to a housekeeper. But more
17 importantly, this asks for any communications or correspondence
18 involving anyone at the hotel regarding basically any of the
19 policies in 28, including every incident, enforcement or
20 violation of such policy.

21 So this would require us, literally, to go through every
22 personnel file, even if it's limited to housekeeping, every
23 personnel file in housekeeping and pull any discipline for any
24 policy that's listed in there, and also do searches in any
25 communications whatever regarding performance. Your Honor, we

1 do performance evaluations every year.

2 MR. DRITSAS: It's not just discipline. It's layoff,
3 recall, transfer --

4 MR. KRAMER: Yeah.

5 MR. DRITSAS: -- I mean, it's -- and the way it's framed,
6 which is every instance of enforcement, would mean every
7 personnel transaction.

8 MR. KRAMER: This would basically require us to produce
9 every personnel file and in addition, go through and find any
10 other -- any e-mail, any time referencing an employee being
11 moved from -- promoted from one position to another or
12 transferred from one position to another, or basically
13 everything, Your Honor.

14 JUDGE THOMPSON: Ms. Davila, are you particularly
15 interested in this information vis-a-vis the terminated
16 employee?

17 MS. DAVILA: Yes, Your Honor. It directly goes to
18 disparate treatment, and again, I'm willing to limit it to
19 housekeepers.

20 JUDGE THOMPSON: And I --

21 MS. DAVILA: We can take away the transfer policy
22 enforcement because she wasn't transferred, she was terminated.

23 JUDGE THOMPSON: Okay. So, well, you're asking, however,
24 what about the staffing policies, the layoff, recall -- well, I
25 understand why you want the recall.

1 MS. DAVILA: Your Honor, without getting into the theory
2 of our case yet, we do think there's been an inconsistent
3 application of these policies.

4 JUDGE THOMPSON: I understand that. Which ones were you
5 willing to exclude out of the list of A through G for number
6 29? Because you said something about --

7 MS. DAVILA: D, transfers policy or procedures, staffing
8 policy or procedures. I think the rest is relevant.

9 MR. KRAMER: Your Honor, Ms. Guzman was not laid off, she
10 was not recalled. She was terminated as, you know, it's in the
11 termination, she was terminated for her attendance violations.

12 I mean, any other violation has no relevance at all in
13 this case. And the hotel has a -- has an attendance policy
14 they specifically addressed, I mean, to the extent, you know,
15 General Counsel has issues with regards to disparate treatment.

16 Later they requested, and we're prepared to produce, the
17 attendance discipline of every housekeeping employee from
18 February of 2014, which is the date that the current
19 housekeeping director became housekeeping director through, you
20 know, through when we pulled them after we got the subpoena.
21 We believe that that is more than sufficient for them to look
22 for evidence of disparate treatment.

23 But whether, you know, a housekeeping employee was
24 disciplined for not cleaning a room properly we don't see has
25 any relevance at all to the termination of an employee for

1 attendance related issues. So we really have, you know,
2 concerns about, you know, the scope of this and the relevance
3 of this.

4 And it will be unduly burdensome to go through and try to
5 do that and then pull out any e-mail ever referencing any of
6 these things, even with the narrowing of the scope of this that
7 the General Counsel has provided.

8 JUDGE THOMPSON: Ms. Davila, is there any al -- strike
9 that. Do you have reason to believe that there have been
10 housekeepers who were terminated, say for example, for
11 attendance violation, for example, who were recalled to work,
12 returned to work, who were allowed to transfer to another
13 position, et cetera?

14 MS. DAVILA: So a recall and a transfer?

15 JUDGE THOMPSON: I'm sorry, who were recalled back to
16 their job? Do you have reason to believe that there were
17 hypothetically a housekeeper who was terminated, for example,
18 attendance violations who was recalled back to their position?

19 MS. DAVILA: Yes.

20 JUDGE THOMPSON: Do you have reason to believe, counsel,
21 that there may have been a housekeeping employee who had
22 attendance violations, for example, who was not terminated or
23 given some other level of discipline?

24 MS. DAVILA: Absolutely, yes.

25 MR. KRAMER: And, Your Honor, just for further

1 clarification, they have asked, and we will be producing today,
2 all the attendance related discipline, whether terminated or
3 not, of all housekeeping employees since February of 2014, the
4 date that Alejandra Magana became housekeeping director.

5 Now, if any employee, and I don't have any reason to
6 believe any employee terminated for attendance came back, but,
7 you know, it's the employee's personnel file. So if there was
8 a termination and a reinstatement, it would be in those files.

9 I mean, it would -- so, in that respect, I mean, to the
10 extent that there's concern about disparate treatment and about
11 employees terminated or not with regards to attendance in the
12 housekeeping department, we are producing what we believe to be
13 the relevant documents in the form of the discipline that's
14 taken out of their personnel files and the attendance logs that
15 are kept separately by the housekeeping department. We don't
16 believe that there's any need to produce anything else or that
17 anything else would have any relevance, other than forcing us
18 to go through lots of documents for basically little gain, if
19 any.

20 JUDGE THOMPSON: I'm sure somewhere in here, Mr. Kramer,
21 that request is in here, what you just alluded to. Counsel,
22 however, is looking for communications among your supervisors,
23 officers and agents, and incidents of, you know, how they
24 decided who got what discipline. That's what I'm gleaning from
25 Ms. Davila. And that is relevant.

1 In addition to what you have said that you're producing,
2 she's getting at what communications and what, you know, how
3 you arrived at the decision to, you know, give this person
4 hypothetically a suspension for attendance issues versus this
5 person's discharge for attendance issues. And that's very
6 relevant to General Counsel's claim of disparate treatment
7 based on Union activities.

8 So while I agree with you that it is relevant, what you're
9 producing, they're actually asking for communications amongst
10 your upper management. But with the following caveat, I'm
11 going to ask that you produce the documents that relate or show
12 any communication or correspondence between or among
13 Respondents and its officers, supervisors and/or agents.

14 With regard to any housekeeping employee, how can I word
15 this, who was disciplined for attendance issues from February
16 of 2014 through the present, and I -- that is going to get at
17 some of the, quote, policy and procedure issues that counsel is
18 requesting. Because in the discussion, there's -- assuming
19 there's documents responsive to this, there's going to be --
20 there may not be, but in there there may be some discussion as
21 to how your management officials arrived at whatever discipline
22 they arrived at. And there may not be any documents responsive
23 to that.

24 MR. KRAMER: Yeah, Your Honor. I'm just -- I'm, honestly,
25 I'm not sure. We have not tried -- I mean, we've been doing a

1 lot of stuff.

2 I mean, the question I'm going to have, and maybe we just
3 need to address it or I could address it with counsel later,
4 is, you know, if we do a search through our e-mails on the word
5 "attendance," that could come up with a lot. I mean, we could
6 limit it to attendance and discipline, and also limit it to the
7 managers in housekeeping during that period of time, and anyone
8 the Board -- the General Counsel claims is an agent. I'm just
9 not sure how many hits that will come up with.

10 The unfortunate thing is that, with a point-based
11 attendance system, many employees often receive, you know,
12 discipline, whether low levels or whatever. So it's not -- I
13 don't think it's going to be possible to figure out every
14 single employee who was disciplined then and then do a search
15 for all of them. So we would have to go broader and hopefully
16 come up with a narrower scope.

17 But we will certainly try to comply, and if it, you know,
18 and we'll let you know or we'll let the General Counsel know if
19 we're having a problem. Because I don't, you know, I don't
20 think the General Counsel wants us to be going through a whole
21 lot of documents for nothing or having them review those
22 documents, but we'll see what we can do.

23 JUDGE THOMPSON: Well, that's sort of the request, so --

24 MR. KRAMER: And I understand. I'm just letting you know
25 that I'm not sure -- I mean, I would argue that it's unduly

1 burdensome, but I don't know at the moment. You know, I think
2 I'm -- we may just have to revisit that after we see what we
3 can pull and how manageable that's going to be.

4 JUDGE THOMPSON: That's fine. Number 30, I don't know --
5 let me refer back to your request. I don't know --

6 MR. DRITSAS: I don't think we have any more objections --

7 JUDGE THOMPSON: -- if we had an objection --

8 MR. DRITSAS: -- Your Honor, until number 44.

9 JUDGE THOMPSON: 44, and skip down. Okay.

10 MR. KRAMER: And just, the short answer on 44, and it was
11 a general request to these requests where they talk about
12 traditionally kept in a personnel file. It's just that, you
13 know, we can't presume to get into General Counsel's mind to as
14 to what they want.

15 We have a personnel file, that's what we keep there
16 traditionally, subject to redaction, which Your Honor has
17 already allowed us to do. We have that personnel file, we're
18 happy to produce it. It was simply more of a, if there's
19 something else that's not in the personnel file that someone
20 else keeps, we don't want to be accused of violating, you know,
21 the subpoena. That's all, Your Honor.

22 JUDGE THOMPSON: Okay. I presume that Ms. Davila is
23 asking for exactly what it states, documents that would be
24 maintained in the personnel file or its equivalent. And I
25 assume by that, you mean, like, if there was any, like, a

1 supervisor, like, set aside file that some supervisor may have
2 had for Ms. Guzman. Oft times, there's a personnel file that
3 the company has and then the supervisor may have some
4 additional documents in, like, a, quote, supervisory file for
5 an employee, and --

6 MS. OVIEDO: Correct. Sometimes employers also have,
7 like, logs, like, employee log notes that, you know, eventually
8 get put in the personnel record, and --

9 JUDGE THOMPSON: That's what I assumed --

10 MS. OVIEDO: Yeah.

11 JUDGE THOMPSON: -- that you were talking about. So
12 they're asking for the general -- these documents that were in
13 the personnel file or if a supervisor for Ms. Guzman had some
14 documents, that's all they're asking for.

15 MR. KRAMER: Okay. We can sure concede that.

16 I guess the only one other qualification on this
17 redaction, I understand that some of the medical documents are
18 going to be relevant in this case, and we won't redact those.
19 But to the extent that there are other things in Ms. Guzman's
20 medical file that have nothing to do with discipline, we would
21 like not to have to produce those, just given the sensitive
22 nature of those things.

23 JUDGE THOMPSON: I -- counsel, do you have any objection
24 to redacting unnecessary --

25 MS. OVIEDO: Could you explain that again --

1 JUDGE THOMPSON: -- medical information?

2 MS. OVIEDO: -- that --

3 MR. KRAMER: Sure. I don't consider -- you know,
4 employees have to keep a separate medical file.

5 MS. OVIEDO: Right.

6 MR. KRAMER: I'm not assuming this request includes this.
7 I understand that medical, doctor's notes and all that, may be
8 a part of this case given her attendance issues. And to the
9 extent that we have doctor's notes, we don't have any problem
10 producing them even without redaction because we think it's
11 relevant.

12 But the rest of the medical file, we don't see any
13 relevance to in the sense that -- and we think it's highly
14 confidential for this particular employee. We don't really
15 believe we should be producing that because it has no relevance
16 to the case at all, and it's the employee's medical
17 information.

18 JUDGE THOMPSON: Well, if it's a separate medical file,
19 they're not asking for that.

20 MS. OVIEDO: But, Your Honor, I mean, I don't really think
21 the Employer has standing with regard to Guzman's personnel
22 file. I mean, let Guzman make that objection.

23 JUDGE THOMPSON: Well, but I'm not -- I mean, there are
24 HIPAA requirements. We can't just --

25 MS. OVIEDO: But HIPAA only applies to medical providers

1 and their affiliates, and Respondent is neither a medical
2 provider or affiliate.

3 JUDGE THOMPSON: Well, I don't want Ms. Guzman's medical
4 information as part of this record that, on appeal, could be
5 made public. I'm not going to -- I'm not going to expose her
6 medical information in this case except to the extent that it's
7 relevant to her --

8 MR. KRAMER: Her attendance issues.

9 JUDGE THOMPSON: -- attendance issues. So, for example,
10 if she was pregnant, I don't need to know that and I don't
11 think anybody else needs to know that. If she has, and I'm not
12 saying she does, if she has HIV, no one needs to know that
13 information. And --

14 MS. DAVILA: Your Honor --

15 JUDGE THOMPSON: -- I mean, counsel, I don't know that you
16 need that information for what you are trying to prove. I
17 think that's where Mr. Kramer's going.

18 MS. DAVILA: I think it's directly relevant to the
19 attendance in that her attendance record is directly related to
20 her medical history, and the Respondent has acknowledged that
21 they know of her medical history and how it relates to her
22 attendance issues.

23 JUDGE THOMPSON: That's not what Mr. Kramer's arguing. He
24 didn't have a problem with that. He's arguing additional
25 medical information that's not the subject of her attendance

1 issues. He's objecting to if that is contained in her
2 medical -- her personnel file, that that be redacted, that's
3 what he's asking.

4 MS. OVIEDO: But, Your Honor, I mean, if it isn't
5 relevant, we're not going to introduce it into the record. It
6 would still be confidential, and Guzman is a named
7 discriminatee in this case, and so it's certainly relevant.

8 MS. DAVILA: It's her case.

9 MS. OVIEDO: It's her case, so it's certainly relevant for
10 our reasons in establishing our burden. But --

11 JUDGE THOMPSON: I don't think it's going to be an issue,
12 Mr. Kramer. But I think you, counsel, can agree. I would
13 produce everything, but redact, as we talked, redact the
14 necessary information to the extent that there is additional
15 medical information that is contained in the personnel file.
16 They are not asking you to produce her medical file.

17 MR. KRAMER: Okay.

18 JUDGE THOMPSON: So let's say there's some additional
19 information in the -- additional medical information in
20 Ms. Guzman's personnel file or a supervisor's personnel file --

21 MR. KRAMER: Produce that, but just not the medical file.

22 JUDGE THOMPSON: Correct.

23 MR. KRAMER: Got it. Thank you, Your Honor.

24 JUDGE THOMPSON: I think that's what they're saying, they
25 want what's in the personnel file, they don't want something

1 that's in a medical file somewhere.

2 MR. KRAMER: All right. Thank you.

3 JUDGE THOMPSON: Because they haven't asked for it. So
4 with respect to 44 through -- okay. Let me just go through.

5 45 is essentially, I assume, what you're going to get out
6 of 44. I mean, essentially, they're asking for the personnel
7 information, the personnel records for Ms. Guzman. I think we
8 resolved this, Mr. Kramer, because the issue was, what does --

9 MR. KRAMER: Yes, Your Honor.

10 JUDGE THOMPSON: -- what would be traditionally -- so I
11 think --

12 MR. KRAMER: Yeah, Your Honor, I don't think we have
13 objections through 49, no.

14 JUDGE THOMPSON: Okay. Then we'll move on to 50.

15 MR. KRAMER: And, Your Honor, this is -- again, I mean,
16 just to sort of clarify here.

17 JUDGE THOMPSON: Yeah.

18 MR. KRAMER: We have produced, or we will -- are
19 producing, once they want their boxes, the attendance calendars
20 of all the housekeeping employees since February of 2014 when
21 Miss -- when the director of housekeeping became the director
22 of housekeeping. We don't believe there's any relevance to any
23 other employees of the hotel. I don't know what other
24 documents mean, so I'm not quite sure what that is.

25 But the attendance calendar is what the hotel uses to

1 track attendance points for purposes of determining whether or
2 not employees should be issued discipline. So we believe that
3 that -- the attendance calendars of the housekeeping employees
4 from February 2014 to present should be responsive. We object
5 to anything else beyond that as being overbroad, and unduly
6 burdensome and not relevant to the case.

7 JUDGE THOMPSON: Well, and I'm going to again try to speak
8 for Miss --

9 MS. DAVILA: Davila.

10 JUDGE THOMPSON: -- Davila. She doesn't know the
11 documents that you used to record attendance, so I believe
12 that's the reason why the request for, and other documents used
13 to record information about attendance. She doesn't know if
14 Respondent just uses attendance calendars or if there's some
15 other mechanism that you use to record attendance for
16 employees. So, I think that's --

17 MR. DRITSAS: But, Your Honor, the breadth, though -- if
18 you think about it for a second, if you have a time clock,
19 every time you punch in, you are making some reference to
20 attendance. And so, the scope -- we don't see the need to go
21 through and produce thousands of pages of time clock punches
22 for people.

23 So, I mean, an attendance calendar or an e-mail if someone
24 doesn't come in, that's one thing. We can produce those
25 things. But to have to produce everyone's personal time clock

1 punches or everyone's payroll statements that reflect when they
2 worked is overbroad, and we think is within the scope of what
3 they have asked for her.

4 JUDGE THOMPSON: First of all, Ms. Davila, are you
5 specifically looking for attendance information on the
6 housekeepers?

7 MS. DAVILA: Not in this instance, Your Honor. We want
8 all of the employees, because we want to know if employees with
9 comparable attendance records were disciplined, investigated,
10 terminated.

11 MR. DRITSAS: Well, I mean, that --

12 MS. DAVILA: And as far as check ins and check outs, we're
13 fine with omitting that if that's not how -- if that won't give
14 us an idea of --

15 JUDGE THOMPSON: So you want the -- more specifically, you
16 want the attendance calendars.

17 MS. DAVILA: The attendance calendars of all employees.

18 JUDGE THOMPSON: Okay.

19 MS. DAVILA: But on that point, I mean, we're dealing with
20 the housekeeping department, which is a pretty big animal,
21 you're going to find out, on its own. What -- and the decision
22 makers involved in the termination were limited to housekeeping
23 employees --

24 MR. KRAMER: And human resources.

25 MR. DRITSAS: -- with the human resource support. Who

1 cares what happened in the maintenance department or in the
2 food and beverage department where there are different decision
3 makers. I mean, this is --

4 MS. OVIEDO: Does your policy handbook apply to all the
5 employees, or just GRAs?

6 MR. DRITSAS: It applies to all employees --

7 MS. OVIEDO: Okay. So then it's --

8 MR. DRITSAS: -- but the decision --

9 MS. OVIEDO: -- going to be relevant to see how the
10 Employer treats all of its employees, not just GRAs.

11 MR. DRITSAS: -- the decision maker for the housekeeping
12 department is the relevant piece. Who -- what the director of
13 finance does or what the director of, you know, food and
14 beverage department does is not relevant at all.

15 MS. OVIEDO: It's relevant --

16 MS. DAVILA: Well, the complaint isn't against these
17 individual decision makers, it's against the hotel. And we do
18 think it's relevant because the decision maker reports to
19 somebody else, who also makes decisions.

20 MR. KRAMER: Well, no. I mean, that's not the case. And
21 the fact of the matter is here, I mean, you know, to the extent
22 one department has a heavy hand in attendance and the other
23 department doesn't care has nothing to do with your case. The
24 issue is whether the people that were making the decisions
25 here applied it in a consistent and non-discriminatory manner.

1 And then --

2 MS. DAVILA: My argument can be briefed after the trial,
3 Your Honor.

4 JUDGE THOMPSON: Let me come back to that one, counsel,
5 because that can go both ways. Normally, I would limit it to
6 the decision makers in question, but I'm going to hold that one
7 in abeyance for just a moment. So I'm not going to rule either
8 way on that yet. Let me see. 53, okay.

9 MR. KRAMER: And these, you know, 51, 52, I mean, they're
10 similar again related to how far, the scope the General
11 Counsel's going to be allowed to have to dive into attendance
12 issues.

13 JUDGE THOMPSON: Ms. Davila, let me ask you a question.
14 With respect to the organizing campaign that was going on at
15 Respondent's facility, did it just involve the housekeepers?

16 MS. DAVILA: No, Your Honor. It's a 500-person unit that
17 also involves -- but I don't have the unit description with me
18 right now.

19 JUDGE THOMPSON: But it involves more than just the
20 housekeepers.

21 MS. DAVILA: Yes, Your Honor.

22 MR. KRAMER: Food and beverages and guest services
23 basically, Your Honor.

24 MS. DAVILA: Housekeeping, food and beverage and guest
25 services, including all pool employees.

1 MS. OVIEDO: Pool employees?

2 MR. KRAMER: A swimming pool. Although there is a pool
3 table at the hotel, but we don't know of any employees staffing
4 it.

5 JUDGE THOMPSON: Let me hold 51 and 53 in abeyance for the
6 moment. I need to just do a little due diligence. I
7 understand where General Counsel is going with these requests,
8 I just want to check one thing before I rule on the petition to
9 revoke. Number 54 --

10 MR. KRAMER: We'll produce --

11 JUDGE THOMPSON: -- I think we've -- okay.

12 MR. KRAMER: -- those redacted files, Your Honor.

13 JUDGE THOMPSON: Because we kind of went ahead, okay.

14 MR. KRAMER: Yeah.

15 JUDGE THOMPSON: Okay. Number 55, okay. Ms. Davila, do
16 you just want the position statements?

17 MS. DAVILA: The attachments, the exhibits for those
18 position statements.

19 JUDGE THOMPSON: Are you not looking for anything beyond
20 the actual position statement and the attachments?

21 MS. OVIEDO: In lieu of them providing it, if they were
22 willing to stipulate to the authenticity of the ones that we
23 currently have, obviously we would show it to Respondent first
24 so they could verify, but we don't need them to provide copies
25 of things that we already have. It's just a matter of

1 authenticity, you know.

2 JUDGE THOMPSON: Have any problem with that, counsel?

3 MR. DRITSAS: We can do that without agreeing, without
4 waiving the right to say they were irrelevant for the purposes
5 of the case.

6 JUDGE THOMPSON: Gotcha. Number -- so can you show them
7 the copies that you have and see if they will agree to
8 stipulate?

9 MS. DAVILA: Yeah, I don't have them --

10 MS. OVIEDO: We don't --

11 JUDGE THOMPSON: Okay. I'm not saying now, but at some
12 point. Okay. 56 and 57, I guess, Ms. Davila, what
13 specifically, other than attorney/client privilege and work
14 product, what are you looking for on 56 and 57? Just whatever
15 they were relying on to support their affirmative defenses and
16 what they -- and their denials in the answer?

17 MS. DAVILA: I guess it's just an opportunity for them to
18 tell us what's relevant in their eyes that we might have
19 missed.

20 JUDGE THOMPSON: They're not going to tell --

21 MS. DAVILA: -- if they didn't rely on it, then they don't
22 have to agree with it.

23 JUDGE THOMPSON: Well --

24 MR. KRAMER: That goes to our ability to present the case
25 as we see fit. I think that's a little broad and invades the

1 attorney work product doctrine.

2 MS. OVIEDO: I mean, the subpoena is written, though, that
3 you wouldn't be forced to produce work product, obviously --

4 JUDGE THOMPSON: Well, I mean, and that's why I said,
5 outside of those things, what documents are you looking for,
6 because that's -- I don't -- I mean, that's broad. What are
7 you looking for, specifically? I mean, if, for example -- hold
8 on, give me one second.

9 MS. DAVILA: I can think of an example. If there's a
10 dispute about a date in which a supervisor was on duty making
11 an interrogation, then they can produce a document that shows
12 that person was not on duty with verification.

13 MR. DRITSAS: But the scope of this request is so broad.
14 It's basically saying, tell me what you think is relevant to
15 your case. Give me your theories, give me what you want to
16 produce or what you think you may rely on. And that's -- that
17 invades the heart of the attorney work product doctrine.

18 I mean, we'll produce what they have specifically asked
19 for subject to Court -- your limitations. But to go beyond
20 that with some open-ended, give me everything that you think is
21 relevant is overbroad, not specific, and invades our work
22 product obligation.

23 JUDGE THOMPSON: That's why I'm asking the questions that
24 I'm asking, because I don't know what specifically you're
25 looking to -- I mean, I understand that example, counsel, but I

1 would presume that they could just stipulate, okay, it's
2 April 16th as opposed to April 15th.

3 So other than whatever would be considered work product
4 and/or protected by the attorney/client privilege, is there
5 something in general that you're looking for? Because I can't
6 see any documents that would be produced that isn't work
7 product or subject to the attorney/client privilege.

8 MS. OVIEDO: I mean, again, the example that Ms. Davila
9 gave, a vacation request form or vacation calendar would show
10 that that supervisor wasn't even present for two weeks,
11 three weeks, four weeks. I mean, obviously this was written in
12 mind of, if we missed something, we want to know so that we can
13 either amend the complaint, amend out of, you know, an
14 allegation, or settle something out.

15 JUDGE THOMPSON: Well, General Counsel, I can't help you
16 help your case by making them help you prove it. So, I'm going
17 to have to deny -- or grant the motion of the petition on 56
18 and 57. I mean, that was excellent, I wish life worked that
19 way for me. I really do. But, I can't force them to give over
20 documents to help you amend your complaint.

21 MS. OVIEDO: Well, I mean, it's --

22 JUDGE THOMPSON: I mean, I understand --

23 MS. OVIEDO: -- it's an issue in dispute. They've denied
24 it, it goes to their defense, and it goes to the claims of the
25 complaint. So, I mean, it's directly relevant to what the

1 allegations are and to what their defenses are. So that's why
2 it's relevant.

3 JUDGE THOMPSON: It's relevant, but again, I mean, that's
4 your job to figure out what, you know, allegations that you've
5 missed. And I think with all of the requests that you have
6 already asked, I can't imagine that you've missed anything
7 else. So, with all of the caveats that I've given, and I hope,
8 Mr. Kramer, that you've written some of this down, all of the
9 particular adjustments that I made to particularly 4, 5, 6, 7,
10 8, 10, 11, 12, I think you pretty much -- I think you have it,
11 what I've, sort of, adjusted.

12 MR. KRAMER: Yes, Your Honor.

13 JUDGE THOMPSON: And then, I've granted your motion with
14 respect to 13 through 19 except for 19E. Some of these you've
15 withdrawn because of the agreement --

16 MR. KRAMER: Yes.

17 JUDGE THOMPSON: -- and then I find that also 56, 57, and
18 then --

19 MR. DRITSAS: 20 also, Your Honor.

20 JUDGE THOMPSON: I'm sorry?

21 MR. DRITSAS: You also granted 20.

22 JUDGE THOMPSON: Let's see, did I have that? Yes. I'll
23 have to have Jacqui read it back if you need some specific --
24 the specific orders. But I think everyone -- I think we're all
25 clear. All right.

1 MR. KRAMER: And you'll get back to us on 50 --

2 JUDGE THOMPSON: I'm going to get back to you on 50
3 through 53. I just need one -- okay. All right.

4 That was pretty long, and normally I would have taken a
5 lunch break by now. So that I'm not prejudicing anyone, let's
6 stop here.

7 MS. OVIEDO: It's hot in here, too.

8 JUDGE THOMPSON: It is hot. And let's take just a minute
9 for a little recess, and then we'll come back. Are there --
10 before I go, are there any issues, any remaining pretrial
11 motion issues that we need to address at this time?

12 MR. DRITSAS: Your Honor, just -- and we have, and when we
13 take the recess, we will provide the documents that we have
14 already.

15 JUDGE THOMPSON: Please.

16 MR. DRITSAS: Obviously, there are some documents here we
17 have not been able to pull because we didn't know what would be
18 pulled or how to -- we will proceed to try and do that. It's
19 not going to be something we can turn over, obviously,
20 overnight when you're talking about electronic searches for
21 documents, but we will try to do it as expeditiously as
22 possible.

23 JUDGE THOMPSON: Okay. Well, here's the problem, and I
24 understand, you know, what you just said. But I remember
25 telling Respondent to make available all the documents

1 responsive because I didn't know what, you know, obviously I
2 hadn't had the petition to revoke.

3 So, this is the time to -- I mean, they're going to need
4 to review their documents, and that's the problems with
5 petitions to revoke that are filed at the last moment. I
6 understand you didn't get the subpoena, and this is a problem I
7 have not just with you, counsel, but just in general.

8 These subpoenas get issued at the last minute, you don't
9 have time to review. We get to the hearing, you don't know
10 what to bring, not bring, and then we've got to wait for you to
11 find all the documents. Not you, but Respondent.

12 So, you're going to have to do the best that you can,
13 because these documents are producible now. So, as soon as you
14 find them, send them. That's all I can say.

15 Let me go off the record for a second, Jacqui.

16 (Off the record at 1:34 p.m.)

17 JUDGE THOMPSON: We are back on the record. Let's take an
18 hour recess and return back at about 2:30, and then we'll
19 proceed with the case. Thank you, everybody. Off the record.

20 (Off the record at 1:35 p.m.)

21 JUDGE THOMPSON: We are back on the record after a brief
22 recess, continuing with the case of Trump Ruffin Commercial,
23 LLC, doing business as Trump International Hotel Las Vegas.

24 The parties are back in the courtroom. I believe we left
25 off with my rulings regarding the Respondent's petition to

1 revoke. And so, now let me return back to the procedures for
2 this hearing this afternoon.

3 Do I hear a motion from either party to sequester the
4 witnesses?

5 MS. DAVILA: Yes, Your Honor. We'd like to request a
6 sequestration of the witnesses.

7 JUDGE THOMPSON: Any objection?

8 MS. DAVILA: It's going to be overruled anyway.

9 JUDGE THOMPSON: I had to ask. Motion granted. I need to
10 read this order, so please sit tight.

11 Counsel has invoked a rule requiring that the witnesses be
12 separated or sequestered. This means that all persons who are
13 going to testify in this proceeding, with specific exceptions I
14 will tell you about, may be present in the courtroom only when
15 they are giving testimony.

16 The exception is each party may select one person to
17 remain in the courtroom and assist in the presentation of its
18 case. They may remain in the hearing room even if they are
19 going to testify or have testified.

20 The rule also means that from this point on, until the
21 hearing is finally closed, no witness may discuss with other
22 potential witnesses either the testimony that they have given
23 or that they intend to give. The best way to avoid any
24 problems is simply not to discuss the case with any other
25 potential witness until after the trial is completed.

1 Under this rule as applied by the Board, with one
2 exception, counsel for a party may not in any manner, including
3 by showing of transcripts, inform a witness about the content
4 of the testimony given by a preceding witness without the
5 express permission of the ALJ.

6 However, counsel for a party may inform the counsel's own
7 witness of the content of the testimony, including the showing
8 of transcripts, given by a witness for the opposing side to
9 prepare for a rebuttal testimony.

10 I expect counsel to police the rule and to bring any
11 violations of it to my attention immediately. It is the
12 obligation of counsel to inform potential witnesses who are not
13 now present in the courtroom of their obligations under this
14 rule.

15 Okay. Having said that, Ms. Davila, any stipulated facts,
16 stipulated documents that you would like to present at this
17 time?

18 MS. DAVILA: No, Your Honor.

19 JUDGE THOMPSON: Okay. Having said that, I believe we are
20 now ready to begin your case in chief. Would you like to give
21 an opening statement at this time?

22 MS. DAVILA: Yes, Your Honor. I just would like to check
23 that these aren't witnesses.

24 JUDGE THOMPSON: Oh, yes. Any witnesses?

25 UNIDENTIFIED SPEAKER: Yeah, just one.

1 JUDGE THOMPSON: If you wouldn't mind just stepping out.

2 UNIDENTIFIED SPEAKER: Can I leave the building, Your
3 Honor?

4 JUDGE THOMPSON: I would say yes, but I can't. So, no.

5 MR. DRITSAS: We're not going to call him as a witness --

6 JUDGE THOMPSON: You can leave the building.

7 UNIDENTIFIED SPEAKER: Thank you. I'll see you in the
8 morning.

9 JUDGE THOMPSON: Okay.

10 MR. DRITSAS: You can be released. Is Gustavo still
11 there? Have Gustavo go too.

12 UNIDENTIFIED SPEAKER: Gustavo's outside.

13 JUDGE THOMPSON: You can both go. See you tomorrow.
14 Okay. Ms. Davila?

15 MS. DAVILA: Good afternoon, Your Honor.

16 JUDGE THOMPSON: Good afternoon.

17 MS. DAVILA: We're here in the case of Trump Ruffin
18 Commercial doing business as Trump International Hotel. The
19 case numbers are listed.

20 The General Counsel is here on behalf of the Charging
21 Party, Local Joint Executive Board of Las Vegas, affiliated
22 with Unite Here International Union, aka the Culinary Workers
23 Union, Local 226.

24 The Union is currently working with employees to organize
25 an estimated 500-person unit consisting of, as we mentioned

1 before, all full-time, regular part-time and on-call employees
2 in housekeeping, food and beverage, including all swimming pool
3 employees and guest services employed by the Employer at the
4 Trump International Hotel here in Las Vegas.

5 The charge here involves exclusively housekeeping
6 employees. Respondent, as you know, is Trump Ruffin
7 Commercial. The Employer is a 64-story luxury hotel here in
8 Las Vegas. The hotel has over 1200 guest rooms.

9 I'm going to give, Your Honor, some background in the
10 organizing campaign. I know that you have expressed whether
11 that's relevant or not, but I think it is, especially in this
12 high profile organizing campaign.

13 JUDGE THOMPSON: Okay.

14 MS. DAVILA: We've had presidential candidates come visit
15 and rally with these workers. Hillary Clinton came on
16 October 13th, 2015. She held a rally outside Respondent's
17 hotels with the employees. Some of the employees had
18 volunteered as well Union members and allies.

19 She's not the only presidential candidate to come here, of
20 course. Martin O'Malley came August 19th. He also stood with
21 workers and stood with them in their fight here to form a union
22 at the Trump Hotel.

23 Obviously, Mr. Trump himself is affiliated with his hotel.
24 He's also talked about this publicly in the media. He's
25 mistakenly characterized it as employees loving him and

1 deciding not to go Union.

2 This case is obviously about the workers. These
3 presidential candidates wouldn't have the opportunity to
4 capitalize on these rallies had it not been for the decision of
5 five workers to unionize back in May 2014.

6 They courageously came together and approached Unite Here,
7 and they wore a Union button to work one day in June. They
8 were immediately sent home and suspended from work. After
9 filing charges with the Board, they were put back to work the
10 next day.

11 This case deals with Respondent's continued response since
12 the campaign initiated in 2014. We'll go over how Respondent
13 interfered with their attempt to organize and unionize ever
14 since 2014. We'll go into detail about charges filed in 2014
15 and this year. We'll discuss some intimidation tactics
16 Respondent has used against these employees who are simply
17 choosing -- they're seeking to choose Union representation, and
18 they're seeking to protect their right to express that choice
19 in their workplace.

20 And finally, we'll talk about the retaliation that
21 Respondent has taken against these employees, namely firing one
22 of its newest adherents to the campaign this year. As soon as
23 she started to wear a Union button, she was promptly
24 terminated.

25 Regarding interference, the complaint has one instance of

1 where Respondent confiscated Union literature from an
2 employee's hand. We talk -- sorry, that's pre-settlement.

3 It talks about some of the unlawful written rules and
4 separate agreements that Respondent has in its -- as part of
5 its HR procedures. And it also -- the complaint also talks
6 about three rules or directives orally propagated by
7 Respondent, all in violation of 81.

8 As far as intimidation, we have four instances where
9 Respondent created the impression of surveillance, two
10 instances where Respondent threatened its employees with
11 unspecified reprisals, two instances where Respondent
12 threatened employees with the loss of promotional opportunities
13 because of their Union activity, four instances where
14 Respondent interrogated employees, one instance where
15 Respondent threatened employees with a loss of hours if they
16 decided to support the Union, one instance where Respondent
17 threatened employees with physical shoving, and two instances
18 where Respondent surveilled employees. Again, all in violation
19 of 81.

20 Finally, we have the ultimate act in an organizing
21 campaign retaliation: termination. As the courts have noted,
22 such unlawful conduct, a termination during an organizing
23 campaign, goes to the heart of the Act. The likely result of
24 such action would be to reinforce the employees' fear that they
25 would lose employment if they persisted in Union activity.

1 The General Counsel intends to let you hear from employees
2 themselves and give them the maximum opportunity to speak for
3 themselves on these instances.

4 In interference, you'll hear from Eleuteria Blanco, who
5 will speak to an incident she experienced when she was trying
6 to distribute literature to her fellow co-workers outside of
7 Respondent's facility, and she was physically shoved by one of
8 Respondent's supervisors or agents.

9 You'll hear from Rodolfo Aleman, who was -- will speak to
10 some of the intimidation tactics employed by Respondent. He no
11 longer works for the hotel but is still very much part of the
12 campaign as he supports his fellow employees. He'll speak to
13 being one of those first employees to form a committee, and
14 being terminated the first day they wore the Union button to
15 work.

16 And then, you'll hear from Martha Guzman, who was the
17 employee who was terminated after she started to consistently
18 wear her Union button.

19 Respondent would have you believe, Your Honor, that in the
20 grand scheme of things, these ULPs are insignificant. They
21 will probably point to the fact that the Union just filed a
22 petition to move forward with the election.

23 But we would argue that no matter what these employees
24 experienced these ULPs during the organizing campaign, that
25 even if the hotel has a large number of employees, that these

1 isolated incidents happened in the housekeeping department
2 where they're all very close-knit and all show a majority of
3 support towards the Union.

4 Respondent would also have you believe that these actions
5 happened -- were carried out by low-level managers. The law
6 doesn't differentiate between a low-level manager and the
7 highest administration, even Donald Trump. We think that these
8 actions were taken directly against employees by people who
9 could intimidate them and carry out -- could carry out actions
10 against them.

11 Again, here we just have employees who sought to protect
12 their right to choose Union representation, employees who
13 sought the right to protect their rights to express that
14 choice, and how they were met with interference, intimidation,
15 and retaliation, all in violation of the National Labor
16 Relations Board Act.

17 Thanks.

18 JUDGE THOMPSON: Ms. Davila, if I could ask you, would you
19 mind going back to -- and I don't want you to regurgitate your
20 opening, I just need you to go back to the flight called
21 intimidation where you laid out four instances of this, two
22 instances of that.

23 MS. DAVILA: Yeah.

24 JUDGE THOMPSON: I would like to be able to look at that
25 one more time.

1 MS. DAVILA: You wanted --

2 JUDGE THOMPSON: It was intimidation.

3 MS. DAVILA: Right.

4 JUDGE THOMPSON: Was there one after threatening employees
5 with loss of hours? Got it. Thank you.

6 For the Respondent, I have a choice for you. Would you
7 care to give your opening statement now or reserve it for the
8 beginning of your case in chief.

9 MR. DRITSAS: I'll give it now, Your Honor.

10 JUDGE THOMPSON: Okay, certainly.

11 MR. DRITSAS: Your Honor, this case involves allegations
12 of several isolated incidents that the General Counsel has
13 pointed out that are articulated in a complaint in paragraph C,
14 D, 1 through many. And you'll hear -- a couple of important
15 things to point out.

16 Number one, there's one employee who's identified at least
17 once, specified in paragraph C, 5C, Christina Keeran.

18 Ms. Keeran is identified as a supervisor. The evidence will
19 show that Ms. Keeran is a -- what's referred to as a lead
20 status clerk. Her job is administrative, administerial.

21 She will testify that the principle part of her job
22 involves putting numbers together and feeding numbers into
23 computer programs that spit out schedules, and otherwise
24 administrative processing. You will hear that she has little
25 to no independent judgment or discretion, not to minimize her

1 tasks, her tasks are important. But they are in no way
2 reflective of any supervisory status. She will testify plainly
3 she has no responsibility for hiring, firing, supervising,
4 adjusting grievances or any of the other minutiae of section
5 211 supervision.

6 Likewise, there are two other individuals from the
7 security department, Olivia Green and Slovak. I can't remember
8 Mr. Slovak's first name.

9 JUDGE THOMPSON: Danny.

10 MR. DRITSAS: Danny Slovak, thank you. These are rank and
11 file, hourly paid security officers. By the way, Ms. Keeran
12 also is an hourly paid employee. She wears a uniform, like the
13 other status clerks.

14 Mr. Slovak and Ms. Green wear security uniforms. They
15 have zero indicia of supervisory status. And I suspect that
16 the General Counsel didn't really intend to allege them as
17 supervisors, but the case will show that.

18 I think more particularly they're focused on whether they
19 have agency status for purposes of binding the Employer. And I
20 think the testimony you'll hear from them is the very isolated
21 incidents they're involved with, they were doing their jobs,
22 noticing unusual things. To the extent that it was discovered
23 that someone was involved in Union activity, they backed off.

24 There was absolutely no pushing or shoving or any other of
25 the allegations that were raised in that regard. And in any

1 event, they did not have any authority, apparent or otherwise,
2 to effect in any way the terms and conditions of employment of
3 any of the housekeeping employees.

4 There are claims that -- there's just going to be some
5 he-said, she-said or she-said, he-said in this case.
6 Someone's going to say, apparently, that they said that, you
7 know, you may not get a promotion, and we're going to present
8 testimony that that's not the case.

9 So you'll find, without detailing each of those people
10 right now, there's going to be a lot of issues for you to
11 resolve, credibility issues, but you'll hear testimony from our
12 witnesses denying most, if not all, the conduct alleged.

13 The substantial part of the case that General Counsel's
14 bringing is, as she referred to it as the core part, involving
15 an employee by the name of Martha Guzman. And Ms. Guzman was a
16 housekeeper, or referred to as a guest room attendant.

17 And regarding Ms. Guzman, she had a long history of
18 attendance problems. She had -- and you'll hear the testimony,
19 it will be mind-numbing at times, about some 20- or 30-odd
20 times over two years that she did not report to work, and that
21 she had a lot of points under the Company's attendance policy.

22 The director of housekeeping, Alejandra Magana, came on to
23 the scene on or about February, March of 2014. And once she
24 kind of got her arms around it, she was quickly confronted with
25 the attendance problems for Ms. Guzman. And you'll hear from

1 Ms. Magana that she tried to kind of build a rapport, she spent
2 countless hours over the period of two years trying to work
3 with Ms. Guzman.

4 But regrettably -- including forgiving many of her
5 incidents, which otherwise, under a clear part of the plan, the
6 policy, would result in her termination. So you'll hear that
7 at some point, the director of housekeeping just was at her
8 wits' end, she no longer could give exceptions, she was
9 concerned about the morale of other people who were not being
10 treated as forgivingly. She told Ms. Guzman this on several
11 occasions, and, you know, Ms. Guzman, her -- one day just got
12 the number of points, and that led to her termination.

13 You will hear that there were a number -- Ms. Guzman wore
14 a Union button. You know, we'll find out exactly when, but
15 you'll hear that she in no way was any -- as best we can tell,
16 any activist or part of the Union committee. And in fact, the
17 people who were active in the Union committee by and large were
18 not disciplined, and by and large had attendance records that
19 didn't rise to the level of requiring any disciplinary actions.

20 So you'll hear that it -- and see, to the extent there was
21 any motive to go after people because of Union activity, we
22 didn't pick the right person if that's where the Company was
23 going. There were five or six people that were very active on
24 behalf of the Union, as is their right. But they were not
25 disciplined.

1 So Ms. Guzman's conduct was solely because of her failure
2 to conform to one of the most basic rules that any employer
3 has, which is, you need to come to work. Especially when it
4 burdens the housekeeping department.

5 Finally, I think I should just address, you'll hear
6 objections from me to the extent that we tried to re-up charges
7 that were brought in 2014. All those charges were resolved one
8 way or the other, many dismissed, some resolved by settlement.
9 And we don't believe that this form should be an opportunity
10 for General Counsel to try to bring in information, which was
11 already resolved over a year ago.

12 Thank you.

13 JUDGE THOMPSON: Thank you. Before we conclude for the
14 day, I just want to give just a couple more instructions.

15 I understand counsel have co-counsel here, but my general
16 policy is, one person asking the questions, one opposing
17 counsel doing the objecting, and vice versa. Although we had
18 sort of a free-for-all during the petition to revoke, I allowed
19 that because it assisted me in understanding the parties'
20 positions with regard to the subpoena.

21 But when we get to the testimony, one questioner and
22 that -- and one objector on the other side, and vice versa. I
23 don't -- it doesn't matter who it is, and it -- for example,
24 Ms. Davila is the questioner on direct, and Mr. Kaiser (sic) is
25 the objector -- or the person who's doing any objections. I

1 don't know that you would make any, but let's assume that you
2 would. And then if Mr. -- on redirect -- on cross, Mr. --

3 MR. DRITSAS: Dritisas.

4 JUDGE THOMPSON: -- Dritisas -- Dritisas, got it. -- is the
5 one doing the cross, I don't mind that. If you're the
6 objector, you don't have to be the cross-examiner, too.

7 MR. DRITSAS: Okay.

8 JUDGE THOMPSON: I just need one person, that's all.

9 MR. DRITSAS: The only other thing I want to clarify, I'm
10 fine with that, but I can do a witness, Mr. Kramer can do a
11 witness --

12 JUDGE THOMPSON: Correct. That's what I'm saying.

13 Mr. Kramer can do a witness, you can do a witness. Ms. --

14 MS. DAVILA: Davila --

15 JUDGE THOMPSON: -- Davila can do a witness --

16 MS. OVIEDO: Oviedo.

17 JUDGE THOMPSON: -- Oviedo can do a witness. I'm going to
18 have these names down so tight. But I don't want both of you,
19 like, sort of everybody doing a free-for-all so that you're
20 ganging up on each other. That's all I'm saying.

21 Having said that, we will reconvene tomorrow at 9:00 a.m.
22 Ms. Davila, for your first witness or General Counsel's first
23 witness -- I won't presume that you're doing the direct -- but
24 for General Counsel's first witness at 9:00 a.m. tomorrow.

25 Thank you all so very much. We're adjourned for the day.

1 Off the record.

2 **(Whereupon, the hearing in the above-entitled matter was**
3 **recessed at 3:06 p.m. until Wednesday, November 18, 2015 at**
4 **9:00 a.m.)**

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

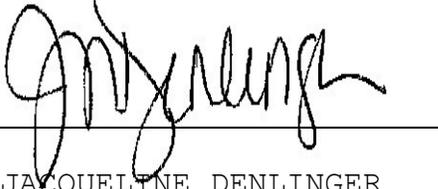
24

25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Tuesday, November 17, 2015, at 11:05 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: November 18, 2015

Pages: 105 through 349

Volume: 2

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Wednesday, November 18, 2015, at 9:04 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Brian Baudreau	116	176			
Gustavo Acosta	182	230	264		243/253
Olivia Green	271	287	301		
Jose Pineda	309	330	346		

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-2 through GC-6	137	137
GC-7	140	140
GC-8	141	141
GC-9	142	142
GC-11	156	156
GC-14	229	229
Respondent:		
R-1	239	239
R-2	240	240
R-3	245	245
R-4	245	245
R-5	246	246
R-6	253	253
R-7	253	253
R-8	253	253
R-9	257	257
R-10	263	263
R-11	263	263

1 P R O C E E D I N G S

2 JUDGE THOMPSON: We are back on the record in the
3 consolidated case of Trump Ruffin Commercial LLC doing business
4 as Trump International Hotel Las Vegas and the Local Joint
5 Executive Board of Las Vegas affiliated with Unite Here
6 International Union. Today is Wednesday, November 18, 2015,
7 and this is day two of our hearing, located in Region 28 in
8 Las Vegas, Nevada. My name is Judge Thompson.

9 Good morning everyone.

10 MR. DRITSAS: Good morning.

11 MR. KRAMER: Good morning.

12 JUDGE THOMPSON: Good morning. All of the parties are
13 present. On behalf of General Counsel, Judith Davila and Elise
14 Oviedo, and for Respondent, William Dritsas and Ronald Kramer.
15 I practiced all night long.

16 MR. DRITSAS: It's been a slow night, Your Honor.

17 JUDGE THOMPSON: Good morning everyone. Let me just clean
18 up some housekeeping that I left in abeyance from yesterday,
19 regarding Respondent's petition to revoke. I held in abeyance
20 a couple of items, specifically, subpoena requests number 50
21 through 53, which involve various documents and attendant
22 records related to allegedly similarly situated individuals as
23 our Charging Party Martha Guzman.

24 Mr. Dritsas, let me ask you one question. Within the
25 housekeeping department, who made the decision to terminate

1 Ms. Guzman?

2 MR. DRITSAS: Alejandra Magana and Gustavo Acosta, who is
3 in the human resources department.

4 JUDGE THOMPSON: Ms. Magana --

5 MR. DRITSAS: Magana.

6 JUDGE THOMPSON: Magana. Thank you. Is she the decision
7 maker for all of the housekeeping employees with Respondent in
8 terms of discipline, any disciplinary action?

9 MR. DRITSAS: She is ultimately responsible. She has
10 direct reports and assistant director of housekeeping, who on
11 occasion for lesser discipline has issued discipline. But when
12 it comes to something along the lines of a termination,
13 Ms. Magana would handle.

14 JUDGE THOMPSON: Okay. With that information, Counsel, I
15 have reviewed the various document requests, and in terms of
16 document 50, I believe the relevant inquiry would be the
17 attendance calendars for all housekeeping employees employed by
18 Respondent from February of 2014, through the present. The
19 reason that I'm limiting it, is because the relevant inquiry
20 would need to be similarly situated individuals within
21 housekeeping, where Ms. Magana would have been the ultimate
22 decision maker with regard to any discipline. Any other
23 employees who may have been supervised by other supervisors
24 would not be the comparable -- would not be comparable to
25 Ms. Guzman. So to the extent that the request is limited, I'm

1 going to ask -- limited as I've just indicated, I would ask the
2 Respondent to produce those documents.

3 Similarly, with number 51 and 52, I'm going to put the
4 same limitation. I would need all the documents, including but
5 not limited to the documents listed in number 51, of all
6 individuals in the housekeeping department for excessive
7 absenteeism, habitual tardiness etcetera, from February 2014,
8 through the present.

9 MS. OVIEDO: Your Honor, just for the record, GC would
10 like to object on the basis of the attendance policy applies
11 across the board to all of Respondent's employees.

12 JUDGE THOMPSON: I understand.

13 MS. OVIEDO: And so the ones who would be similarly
14 situated would be ones who engage in Union activity or have the
15 same attendance issues -- similar or the same attendance
16 issues. So --

17 MS. DAVILA: As I said yesterday --

18 MS. OVIEDO: -- irrespectively --

19 MS. DAVILA: -- the unit includes more than just
20 housekeeping, so this activity has been taken against them as
21 well.

22 JUDGE THOMPSON: I understand, and the objection is noted.
23 However, I'm going to stand on my ruling, but I do note it for
24 the record. And thank you, Counsel.

25 Number 52 would be the same limitation.

1 MR. KRAMER: Your Honor.

2 JUDGE THOMPSON: Yes.

3 MR. KRAMER: If I just may. I mean, this is basically,
4 they're asking for personnel files of anyone who was
5 investigated, disciplined, suspended and/or discharged for
6 absenteeism. With 400 and -- 300 active employees, some 500-
7 and-some active and former employees, I would suspect that
8 could be upwards of 250 to 300 files, personnel files.

9 JUDGE THOMPSON: And you're talking about?

10 MR. KRAMER: 52. The issue is limited to housekeeping.

11 JUDGE THOMPSON: 52, I'm limiting it to housekeeping.

12 MR. KRAMER: Yeah. No. Housekeeping files, Your Honor.

13 JUDGE THOMPSON: That's going to be an occupational
14 hazard, Counsel, but it's relevant. So I'm going to have to
15 ask that you produce the documents from February 2014, to the
16 present.

17 MR. KRAMER: Can we perhaps -- and I don't know if this --
18 the Board can do this. But in the interest of time, could we
19 get an agreement from the Board that, to the extent that there
20 is personal information, employee addresses, phone numbers and
21 all that, that if we could produce these, but to the extent
22 that they want to use them as exhibits, that they will redact
23 out that personal information? Because otherwise, I mean, it's
24 going -- as it is, it's going to take a lot of time to pull
25 those files and copy them. But if we also have to go through

1 and redact out Social Security numbers, phone numbers, medical
2 information, you know, all that stuff, it's going to take even
3 longer. And I don't know to the extent -- you know. And,
4 again, my answer is, I trust the Board not to produce this
5 stuff. You know, I trust them with the documents. I just
6 don't want this getting out to the public. And I realize that
7 we don't represent those employees, but they are our employees,
8 and we have an interest in making sure that their information
9 remains confidential. So if we can get that agreement from the
10 Board, then I think we can get this easier than if we have to
11 then go through every single personnel file.

12 The other thing, Your Honor, is frankly we don't -- well,
13 we started keeping a log in late -- earlier this year. We
14 don't have necessarily a log tracking all discipline for every
15 employee. So we do have to go through every file to find
16 discipline and copy the files, so --

17 JUDGE THOMPSON: Let me see if I can strike this balance,
18 Counsel.

19 MS. OVIEDO: Your Honor, I just want to say that's fine,
20 because that way we can look through the ones -- find the ones
21 that are relevant. It may be only a handful. And then, you
22 know, redact from there.

23 JUDGE THOMPSON: That was the balance --

24 MR. KRAMER: Okay.

25 JUDGE THOMPSON: -- I was going to draw.

1 MS. OVIEDO: Perfect.

2 MR. KRAMER: Well, then, what I was trying to do -- Your
3 Honor, when I take a break I'll relay that, and then what we
4 may just do is just copy all the files and send them to you,
5 because that's --

6 MS. OVIEDO: And, of course, we'd show you the exhibit,
7 too, before it was entered into evidence. So if we miss
8 something and you catch it, we can redact it --

9 MR. KRAMER: Okay.

10 MS. OVIEDO: -- before it's entered into the record.

11 MR. KRAMER: Thank you.

12 JUDGE THOMPSON: Perfect. And the same for 53, Counsel.
13 Some of these documents may be duplicative, based on the
14 request, i.e., they may be -- when you pull this information,
15 you may be satisfying multiple requests just in pulling the
16 information. But the same limitations as I've given for 51
17 thru -- I'm sorry, 50 through 52, apply on 53, limiting it to
18 housekeeping employees from February 2014, through the present.

19 MR. KRAMER: All right.

20 JUDGE THOMPSON: But at the end, they may be encompassed
21 in 52 as well.

22 MR. KRAMER: Okay. Thank you, Your Honor.

23 MR. DRITSAS: Thank you, Your Honor.

24 JUDGE THOMPSON: Okay. Ms. Davila, I think we were
25 beginning the General Counsel's case in chief when we adjourned

1 yesterday. So at this time, would you like to call your first
2 witness?

3 MS. DAVILA: Yes, Your Honor. The General Counsel calls
4 Brian Baudreau.

5 JUDGE THOMPSON: Good morning. I introduced myself to you
6 earlier this morning. I'm Judge Thompson. I need to swear you
7 in. Would you please raise your right hand.

8 Whereupon,

9 **BRIAN BAUDREAU**

10 having been duly sworn, was called as a witness herein and was
11 examined and testified as follows:

12 JUDGE THOMPSON: Thank you. Could you state your name for
13 the record, please?

14 THE WITNESS: Brian Baudreau.

15 JUDGE THOMPSON: Mr. Baudreau, how do you spell your last
16 name?

17 THE WITNESS: B, like "boy," A-U-D like "David," R-E-A-U.

18 JUDGE THOMPSON: Thank you. Mr. Baudreau, let me give you
19 just a couple of instructions to remember as you give your
20 testimony today. As you can see, there is a microphone in
21 front of you. We are recording the proceedings. However, it's
22 difficult for the record to interpret, "Huh-uh" and "Uh-huh."
23 So we would ask if you would give us a verbal response to any
24 questions asked. We would appreciate that.

25 Second, if you don't understand a question that either

1 Counsel asks, would you stop and tell us, "I don't understand
2 your question," so that we can rephrase it or restate it as the
3 case may be. If you answer a question, we'll presume that you
4 understood it.

5 Third, if there is an objection that has been stated,
6 would you mind holding your response until I'm able address and
7 rule on the objection. And, finally, oftentimes we know where
8 parties may be headed in their question. Would you mind
9 holding your response until the whole question has been asked.
10 It helps to keep a really clean and accurate record.

11 Would you do those things for us?

12 THE WITNESS: Absolutely.

13 JUDGE THOMPSON: Thank you. Counsel, your witness.

14 MS. DAVILA: Good morning, sir. My name is Judith Davila,
15 with the General Counsel.

16 THE WITNESS: Good morning, Ms. Davila.

17 **DIRECT EXAMINATION**

18 Q BY MS. DAVILA: You stated your name. Can you please tell
19 us your occupation?

20 A I am the general manager of Trump International Hotel Las
21 Vegas.

22 Q Can you describe what that entails, what some of your
23 duties and responsibilities are?

24 A My duties are to ensure that the guest's experience is a
25 good experience at the hotel. That the -- I make the decisions

1 on a daily basis in managing the hotel.

2 Q Do you oversee all personnel?

3 MR. DRITSAS: Objection, vague.

4 Q BY MS. DAVILA: Do you oversee all employees at the
5 facility?

6 JUDGE THOMPSON: Based on that clarification, overruled.
7 You can answer the question.

8 THE WITNESS: Oversee as far as -- I don't understand the
9 question.

10 Q BY MS. DAVILA: You have the authority to hire, fire any
11 employee in the facilities?

12 A Yes.

13 MS. DAVILA: And, with that, Your Honor, I'd like to
14 proceed under 611(b).

15 Q BY MS. DAVILA: You oversee the housekeeping department,
16 correct?

17 A Well, there's direct managers that oversee it.

18 Q But you --

19 A But ultimately --

20 Q -- oversee the --

21 MR. DRITSAS: Your Honor --

22 Q BY MS. DAVILA: -- direct managers?

23 A -- they report to me.

24 MR. DRITSAS: -- I'm going to object, Your Honor. There's
25 been no foundation laid to call this person as an adverse

1 witness, at least as this point. He's only described himself
2 as the general manager of the hotel. So I think the General
3 Counsel needs to lay more foundation if she's going to proceed
4 through leading questions.

5 MS. DAVILA: Your Honor, he currently -- he established
6 that he can hire and fire anybody in the facility. He's
7 clearly an agent of the Employer and supervisor as well.

8 JUDGE THOMPSON: I'm going to overrule the objection and
9 allow Counsel to proceed.

10 Q BY MS. DAVILA: You oversee the housekeeping department,
11 correct?

12 A The housekeeping person on a daily basis reports to me.

13 Q But you have the overall management of the whole facility.
14 Thus you have the overall management of the housekeeping
15 department?

16 MR. DRITSAS: Objection, vague. I don't -- I'm not
17 speaking of direction, but "overall" is undefined. Is it day-
18 to-day walking down and saying, "What's happening," or is it
19 someone reports to him? So the question is vague.

20 MS. DAVILA: Are you ultimately responsible for the
21 actions of housekeepers.

22 JUDGE THOMPSON: With that clarification I'll overrule.
23 You can answer the question.

24 THE WITNESS: I'm not sure if I understand it though.

25 Q BY MS. DAVILA: Are you ultimately -- if something happens

1 in housekeeping, and it goes wrong, who has the ultimate
2 responsibility? Who bears the ultimate responsibility? Do you
3 report to somebody else?

4 MR. DRITSAS: Objection, two questions there.

5 JUDGE THOMPSON: Yeah, sustained.

6 Q BY MS. DAVILA: Do you have the ultimate responsibility
7 about what happens in housekeeping?

8 A It depends what happens I would imagine.

9 Q Who do you report to?

10 A To the executive vice president of operations.

11 Q Who is?

12 A Jeff Wagner.

13 Q And where is he located?

14 A In New York City.

15 Q Okay. And how often do you speak to Mr. Wagner?

16 MR. DRITSAS: Objection, irrelevant.

17 JUDGE THOMPSON: I'm going to allow it, you can answer the
18 question.

19 THE WITNESS: We have a call every two weeks, a GM call
20 that he's on.

21 Q BY MS. DAVILA: Okay. And how often do the housekeeping
22 department managers report to you?

23 A In what sense?

24 Q Well, how often do they give you a status report about
25 housekeeping?

1 A That's not clear, I don't know.

2 Q How often do you speak to the housekeeping managers?

3 A When I see them I speak to them.

4 Q Can you tell us who those housekeeping managers are?

5 A Alejandra Magana, let's see, Kelvin Kwon, just trying to

6 -- I'm just trying to remember. So what do you want me to do?

7 List all the managers?

8 Q Yes.

9 A Okay.

10 Q Who reports to you from housekeeping?

11 A Alejandra Magana reports to me.

12 Q Okay. How often do you see her?

13 A I see her during the day some days, some days I don't.

14 Q Do you have a routine, a meeting with all supervisors of

15 the hotel? Do you have a weekly meeting?

16 A Of managers?

17 Q Yes.

18 A Sometimes we do, sometimes we don't.

19 Q Can you explain the difference between managers and

20 supervisors at your facility?

21 MR. DRITSAS: Objection to the extent it calls for a legal

22 conclusion. If there's a title issue, but he's not prepared to

23 talk about 211 issues on that question.

24 JUDGE THOMPSON: I'll sustain it to the extent that it

25 calls for a legal conclusion, but I don't think that what she's

1 asking does. I think she's just asking his understanding of
2 the difference between managers and supervisors at the
3 facility. So you can answer the question.

4 THE WITNESS: I think the managers are exempt and some
5 supervisors --

6 Q BY MS. DAVILA: Exempt from what?

7 A Overtime.

8 Q Managers are exempt from overtime?

9 A Right.

10 Q You're the highest ranking official in the facility;
11 correct?

12 A That's correct.

13 Q How often do you meet with the managers of the facility?

14 A There's -- I believe there's on the calendar there's a
15 meeting either monthly or bi-monthly but a lot of times that
16 gets cancelled.

17 Q And when you say a lot of times would you say a lot of
18 times would you say more than two months in a row?

19 A Sometimes.

20 Q Okay. And how often do you meet with the supervisors of
21 the facility?

22 A I'm not sure the difference between the two.

23 Q As far as you know do you have -- do you have a title of
24 supervisor employed at your facility? Somebody that bears that
25 title?

1 A I'm not sure.

2 Q You're not sure?

3 A Uh-huh.

4 JUDGE THOMPSON: That was a yes? When you answered --

5 THE WITNESS: When she said I'm not sure, yes.

6 JUDGE THOMPSON: Okay.

7 THE WITNESS: Yes, sorry.

8 Q BY MS. DAVILA: How long have you been the general manager
9 at the Trump Hotel?

10 A I believe from January '09 to present.

11 Q And just to clarify you don't know if there's somebody
12 with a supervisor title at the facility?

13 A That's correct.

14 Q And do you know if there's somebody with manager in their
15 title in the facility?

16 A Yes.

17 Q Yes? Would you give me an example of somebody with a
18 manager title in the facility?

19 A Housekeeping manager.

20 Q Okay. And do you know who that person is?

21 A Morgan is our housekeeping manager, not sure of his last
22 name.

23 Q Do you know her last name?

24 A It's a male.

25 Q His last name?

1 A Not sure.

2 Q Okay. Do you know approximately how many managers you
3 have in housekeeping?

4 A Approximately five.

5 Q Five? Do you know how many supervisors you have in
6 housekeeping?

7 A I don't believe housekeeping has supervisors.

8 Q Okay. How many employees does the housekeeping department
9 have?

10 A Approximately about 300.

11 Q How many employees does the facility have?

12 A Approximately 700.

13 Q Seven hundred, and how many -- 300 housekeepers?

14 A Approximately.

15 Q How many rooms are there in the hotel?

16 A Twelve hundred-eighty-two.

17 Q And what is the occupancy rate this week?

18 MR. DRITSAS: Objection. The rate this week, it's
19 irrelevant, who cares?

20 JUDGE THOMPSON: Sustained -- well, before I sustain it,
21 Counsel, where are you headed with that information?

22 MS. DAVILA: Your Honor, if I may make an offer of proof.

23 JUDGE THOMPSON: Okay.

24 MS. DAVILA: I want to see if his general knowledge as to
25 the facilities operations.

1 MR. DRITSAS: He's the general manager, Your Honor.

2 MS. DAVILA: He's pretty unclear about how much he knows.

3 MR. DRITSAS: Well, he has a lot of responsibility. So
4 what does that have to do with -- I'm sure he can tell you the
5 room rates and he can tell you occupancy but that's irrelevant
6 to the case.

7 MS. DAVILA: I'm trying to establish his knowledge as to
8 the functioning of the hotel, which goes directly to
9 housekeeping, how many rooms are occupied.

10 JUDGE THOMPSON: I'll give you a little latitude, Counsel.
11 I'm going to overrule the objection, but let's not spend a lot
12 of time on it, proceed.

13 Q BY MS. DAVILA: So what's the occupancy rate this week?

14 A The occupancy rate this week?

15 Q Yes.

16 A It would probably be about 60 percent.

17 Q Sixty percent?

18 A Approximately.

19 Q Back to the housekeeping department, there are only --
20 there are no supervisors for those 300 employees?

21 A I don't believe so I believe they're all managers.

22 Q And there are only five managers, you said, for the 300
23 employees?

24 A No, I said approximately five managers.

25 Q Approximately five, so would it be less than ten?

1 A Yes.

2 Q Less than eight?

3 A I said approximately five.

4 Q Approximately five. Do you know of the efforts of the
5 Culinary Workers Union to unionize the employees at your hotel;
6 correct?

7 A Yes.

8 Q And you've seen employees wear pro-union buttons to work?

9 A Yes.

10 Q Okay. And the hotel is opposed to this unionization;
11 correct?

12 A Yes.

13 Q Okay. And you don't think it's a good idea for your
14 employees to form a union; correct?

15 A I don't think -- I personally don't have an opinion. I
16 don't think it's good for the hotel. I don't -- I don't think
17 we need it.

18 Q And you've expressed the fact that you don't need a union
19 at the hotel for your employees; correct?

20 A Yes.

21 Q And have you ever been a union member?

22 A Yes.

23 Q And have you told other employees about your experience as
24 a union member?

25 A Yes.

1 Q Okay. Do you know that the Culinary Workers filed an
2 unfair labor practice charge against your hotel last year;
3 correct?

4 A Which one?

5 MR. DRITSAS: Your Honor, I'm going to object. I
6 mentioned in my opening statement, I'm going to object to
7 bringing in charges that took place in mid-2014 as irrelevant.
8 There are no pending issues, they are issues that were
9 resolved, settled, some the General Counsel dismissed, some
10 that the client settled without an admission clause and if we
11 start going down this road then we're going to need to litigate
12 the issues, which is going to extend an already lengthy hearing
13 when we've got, in 2015, several charges pending.

14 JUDGE THOMPSON: Counsel, I know you haven't introduced
15 whatever you're planning to introduce, but in order for me to
16 rule on the objection is this charge that you're planning to
17 show the witness a prior charge or is it this kind of charge?

18 MS. DAVILA: It's a prior charge, Your Honor, but the case
19 law is clear that as an ALJ you may rule on the context using
20 animus of prior charges, and I believe it gives background to
21 the case in general and we're not offering it to prove that the
22 hotel is guilty of these ULP's. I'm just using it for context.

23 MR. DRITSAS: Well then if it's not being offered for
24 guilt it's being offered for the reverence of animus and you
25 can't keep the evidence of animus unless there's some

1 foundation whether there is merit --

2 MS. DAVILA: Again, Your Honor, we're trying to give
3 background --

4 JUDGE THOMPSON: Wait, wait.

5 MS. DAVILA: -- to the organizing campaigns.

6 JUDGE THOMPSON: Ms. Davila, go ahead. He allowed you to
7 speak. You have to respect him and allow him to speak. So
8 continue Mr. Dritsas.

9 MR. DRITSAS: Thank you, Your Honor. My point is if it's
10 being offered as evidence of animus for that to make any sense
11 it has to be more than just a piece of paper. There has to be
12 some foundation laid that there's actually some merit to the
13 claims and the fact that the claims were either dismissed by
14 the General Counsel or settled means to determine if there's
15 merit we have to have evidence as to the foundation for each of
16 those claims, which I believe, again, is irrelevant and goes
17 beyond the scope of this hearing.

18 JUDGE THOMPSON: Ms. Davila --

19 MS. DAVILA: Your Honor, I can cite three cases that could
20 -- use this precedent.

21 JUDGE THOMPSON: I understand what the case law is but I
22 don't want to go down the road of litigating or re-litigating
23 this -- that charge. To the extent that you're going to show
24 the witness the charge and ask him, are you aware of it, was it
25 settled, et cetera, that's -- I don't have a problem with that.

1 But if it's to the extent that you want to go into detail about
2 what happened, who said what, that I'm not going to allow.

3 MS. DAVILA: I will not go into detail, Your Honor.

4 JUDGE THOMPSON: With that caveat I'm going to overrule
5 the objection but I'm going to be very -- listening very
6 carefully to make sure that you stay in a proper lane, because
7 I think Mr. Dritsas's objection has some merit. So I'm going
8 to make certain that you stay real close to the vest. So
9 continue.

10 MS. DAVILA: Yes, Your Honor. I'm going to show the
11 witness what's marked as GC Exhibit 2. I've given it to
12 Respondent.

13 JUDGE THOMPSON: Thank you. Off the record for a second.
14 (Off the record at 9:30 a.m.)

15 JUDGE THOMPSON: Ms. Davila, continue.

16 Q BY MS. DAVILA: Sir, do you recognize this form?

17 A No.

18 Q It's an unfair labor practice charges filed against the
19 facility, who would know about it?

20 A Human resources.

21 Q You would never hear of an unfair labor practice charge
22 being filed?

23 A Yes, I would hear of it. You asked me if I recognized the
24 form, I said, no.

25 Q Okay. This is what an unfair labor practice form looks

1 like.

2 A Thank you.

3 Q Can you read the date on the top of this form?

4 A 7/30/14.

5 Q Can you read the name of the employer?

6 A Trump Las Vegas Corp.

7 Q And the address?

8 A 2000 Fashion Show Drive.

9 Q Is that the facility that you currently manage?

10 A Yes, but the employer name is not correct.

11 Q Okay. Where it says type of establishment it says hotel;
12 correct?

13 A Correct.

14 Q And you work at a hotel; right? You manage a hotel?

15 Okay. And you read the date correct on top of it?

16 A Yes.

17 Q Can you read the case number?

18 A 27-CA-133830.

19 Q Okay.

20 JUDGE THOMPSON: Are you moving this GC-2 into evidence,
21 Counsel?

22 MS. DAVILA: Yes, Your Honor, the GC moves exhibit GC-2
23 into evidence.

24 MR. DRITSAS: I object, Your Honor, it's irrelevant. It
25 hasn't proved anything pertinent to the case besides the fact

1 that a charge was filed.

2 MS. DAVILA: Your Honor, I think it goes to the context of
3 the case and like I said, I'm not introducing it to establish
4 guilt on behalf of the Employer. I'm introducing it to
5 establish context of the organizing campaign at issue.

6 MR. DRITSAS: Well, again, Your Honor, this right here
7 that I hold in my hand, about five inches of paper, these are
8 all statements of position that address the charges, and this
9 particular charge had six or seven allegations, some were
10 resolved, some were settled so I'd just renew my objection. I
11 don't know --

12 MS. DAVILA: Your Honor, I will go to the resolution of
13 these charges.

14 JUDGE THOMPSON: Before I agree to admit the document can
15 you -- because I still don't see the connect yet. So I'm going
16 to ask for a little more testimony.

17 MS. DAVILA: Okay. I'm going to show the witness now
18 what's marked as GC Exhibit 3.

19 Q BY MS. DAVILA: Sir, is that -- Box A, can you read the
20 name of the Employer?

21 A Trump Ruffin Commercial LLC.

22 Q Can you read the name of the date filed on the top right-
23 hand corner?

24 A 10/24/14.

25 Q And can you read the case number, please?

1 A 27-CA-133830.

2 Q Okay. Now, is that the same charge --

3 MR. DRITSAS: Excuse me.

4 JUDGE THOMPSON: Are you objecting?

5 MR. DRITSAS: No, I'm just saying -- I'm just noting I
6 think this is part of the General Counsel's charging
7 allegations exhibit already. So --

8 JUDGE THOMPSON: Well, I'm going to -- before I move on
9 what you're saying I need to allow General Counsel to describe
10 what she needs to describe and connect the dots. So we can
11 come back to what you're saying, Mr. Dritsas. Continue,
12 Counsel.

13 Q BY MS. DAVILA: Turning back to GC Exhibit 2, sir.

14 A Yes.

15 Q The first form I gave you.

16 A Yes.

17 Q Does the case number on the top of the GC Exhibit 2; match
18 the case number on top of GC Exhibit 3?

19 A Yes.

20 MR. DRITSAS: Your Honor, excuse me, I misspoke. This is
21 2014.

22 JUDGE THOMPSON: Okay.

23 MR. DRITSAS: I apologize.

24 JUDGE THOMPSON: That's okay. Continue.

25 MS. DAVILA: I'm going to show the witness now what's

1 marked as GC -- I also move to admit this into evidence, I
2 understand Your Honor will reserve her prior ruling.

3 MR. DRITSAS: Same objection.

4 MS. DAVILA: I'm going to show the witness what's marked
5 as GC Exhibit 4.

6 JUDGE THOMPSON: I need one, Counsel. Thank you.

7 Q BY MS. DAVILA: Sir, can you read what's -- the name of
8 the Employer in Box A?

9 A Trump Las Vegas Corp.

10 Q And can you read the address in Box D?

11 A 2000 Fashion Show Drive.

12 Q And is that the facility you currently manage?

13 A Yes.

14 Q And can you read the date filed?

15 A Again, the Employer name is incorrect.

16 Q I will note that, thank you. The date filed in the top
17 right-hand corner?

18 A 6/9/14.

19 Q Can you read the case number, please?

20 A 27-CA-130526.

21 Q Okay.

22 MS. DAVILA: I also move this into evidence.

23 MR. DRITSAS: Same objection, Your Honor.

24 JUDGE THOMPSON: Is this the last one, Counsel?

25 MS. DAVILA: This is the amended charge for that one and

1 that's the last one.

2 JUDGE THOMPSON: Okay.

3 MS. DAVILA: I'm showing the witness what's marked as GC
4 Exhibit 5.

5 Q BY MS. DAVILA: Can you read the name of the Employer in
6 Box A, please?

7 A Trump Ruffin Commercial, LLC.

8 Q Can you read the date filed on the top right-hand corner?

9 A 10/23/14.

10 Q Can you read the case number, please?

11 A 27-CA-130526.

12 Q And it says first amended charge against Employer;
13 correct?

14 A Where does it say that?

15 Q Right under the United States of America?

16 A First amended charge against Employer, correct.

17 Q Okay. And do you know the resolution of these -- the
18 unfair labor practice charges that were filed against the hotel
19 last year?

20 A No, I wouldn't know them, no.

21 Q Do you know that there was -- that the hotel entered into
22 a settlement agreement?

23 A Yes.

24 Q With the National Labor Relations Board?

25 A Yes.

1 Q How do you know about the settlement agreement?

2 MR. DRITSAS: Objection, to the extent it calls for
3 attorney/client privilege information.

4 JUDGE THOMPSON: I'll sustain it to that extent but the
5 witness can answer the question without revealing any
6 attorney/client privileged information. Could you repeat the
7 question?

8 Q BY MS. DAVILA: How do you know --

9 A It was posted in the hotel.

10 Q Okay.

11 MS. DAVILA: I'm going to show the witness what's marked
12 as GC Exhibit 6.

13 Q BY MS. DAVILA: Sir, would you turn to page two of this
14 document?

15 A Yes.

16 Q Is that your signature at the bottom?

17 A Page two, page three, yes.

18 Q And can you describe what this document is?

19 A I have to read it. It's a settlement agreement.

20 Q And you signed it on the bottom of page two; correct?
21 That's your signature?

22 A Yes.

23 Q Can you read the date next to your signature?

24 A 12/23/14.

25 Q And can you describe what's on page three?

1 A In what sense?

2 Q This was posted to your employees; correct?

3 A Yes.

4 Q It was posted for a total of 60 days; correct?

5 A Correct.

6 Q It lists the names of current or former employees in the
7 text, the third line from the bottom?

8 A Yes.

9 Q Van you read those names, please?

10 A Are they the same names in each paragraph?

11 Q Yeah, just three lines from the bottom.

12 A Gisella Happe, Celia Vargas, Carmen Llarull, Ofelia Diaz
13 Cardenas, and Rodolfo Aleman.

14 Q Can you read the sentence that goes after that list of
15 names?

16 A We will not in any like or related manner interfere with
17 your rights under Section 7 of the Act.

18 Q And those names that you listed, those are housekeeping
19 employees; correct?

20 A I'm not 100 percent sure, but I'm 90 percent sure.

21 Q And is that your signature at the bottom of page three?

22 A Yes.

23 Q And the date next to your signature?

24 A 12/23/14.

25 MS. DAVILA: Your Honor, I move this settlement agreement

1 into evidence.

2 MR. DRITSAS: Again, Your Honor, I'm going to object. We
3 know from the first page of General Counsel Exhibit 6 there's a
4 non-admissions clause. This matter was resolved without the
5 admission of any guilt and there's been no finding that there
6 was any guilt by the Employer. The fact that an employer may
7 resolve something and not want to go through a lengthy
8 proceeding like this doesn't establish that there was any
9 wrongdoing. It doesn't establish animus. So --

10 MS. DAVILA: Your Honor, we're not offering --

11 JUDGE THOMPSON: Ms. Davila, you're going to have to wait
12 until Counsel finishes his objection before you respond. Go
13 ahead.

14 MR. DRITSAS: Thank you. My only point is, is that for me
15 to respond fairly for my client I will have to bring in
16 evidence and testimony to show that we didn't believe there was
17 merit to this or some of the other circumstances. So on their
18 own it's no different than a complaint that was filed.

19 MS. DAVILA: Again, Your Honor, we're not offering it to
20 prove that Respondent committed the ULP's. We're offering it
21 to establish knowledge of the employees as to the prior ULP's.

22 MR. DRITSAS: On that point there's only one of these
23 charges that has anyone's name on it. Okay? So several of the
24 initial ones have no relevance to the point that, Your Honor,
25 Counsel just made.

1 MS. DAVILA: Your Honor, the charges are the ones listed
2 in the settlement agreement, which is why I introduced them.
3 There were others I didn't.

4 JUDGE THOMPSON: I understand why you're attempting to
5 admit this information, Counsel. Mr. Dritsas, I don't think
6 you're going to have to litigate the merits of any of this
7 because we haven't gone into any specifics with regard to the
8 issues involving these prior charges. The documents speak for
9 themselves and I have to give them the appropriate weight in
10 terms of what General Counsel is purporting to show with them.
11 And to the extent she's offering them to attempt to show animus
12 on behalf of the Respondent that's a weight issue which I have
13 to make. And since she did not delve into the specifics of all
14 of these charges I got to overrule the objection and let the
15 documents in and allow them to speak for themselves.

16 So I'm going to receive General Counsel Exhibit 2 through
17 6 into evidence.

18 **(General Counsel Exhibit Numbers 2 through 6 Received into**
19 **Evidence)**

20 JUDGE THOMPSON: Proceed, Counsel.

21 Q BY MS. DAVILA: If employees were trying to form a union
22 at your hotel you would be notified; correct?

23 MR. DRITSAS: Objection. I'm sure there's a way to ask
24 the question but that question is phrased, it lacks foundation.
25 Someone may be trying to organize a hotel and doesn't tell

1 anybody. So maybe we can get a question that's more --

2 Q BY MS. DAVILA: You said you had --

3 MS. DAVILA: I'm sorry for interrupting.

4 MR. DRITSAS: Go ahead.

5 JUDGE THOMPSON: Go ahead.

6 Q BY MS. DAVILA: You had knowledge of your employees
7 organizing a union at your hotel; correct?

8 A Yes.

9 Q You said the employees wore union buttons to work;
10 correct?

11 A Yes.

12 Q Okay. Do you know that the employees filed a petition
13 with the National Labor Relations Board to hold an election for
14 a union this year; correct?

15 A Yes.

16 MS. DAVILA: Okay. I'm going to show the witness what's
17 marked as GC Exhibit 7.

18 Q BY MS. DAVILA: Have you ever seen this document before?

19 A I don't recall.

20 Q Can you read the name of -- I'm sorry, what's the name of
21 the name of the Employer listed in Box 2A?

22 A Trump International Hotel Las Vegas.

23 Q Can you read the name of the Employer representative on
24 Box 3A?

25 A Brian Baudreau.

- 1 Q Is that your name?
- 2 A Yes.
- 3 Q If this document came to your facility would it go to you?
- 4 A Most likely.
- 5 Q Okay. Is your e-mail on Box 3F?
- 6 A Yes.
- 7 Q And you've never seen this document?
- 8 A I don't recall seeing it. I didn't say I never saw it.
- 9 Q Okay. This is an election petition that was filed with
10 our office.
- 11 A Uh-huh.
- 12 Q Do you recognize the name in Box 13A?
- 13 A 13A, do I recognize the name?
- 14 Q Yes?
- 15 A I'm not sure.
- 16 Q Okay. Can you go to Box 11B, where it says election date?
- 17 A Okay.
- 18 Q Can you read that date, please?
- 19 A June 19.
- 20 Q What year?
- 21 A 2015.
- 22 Q Can you read the box 11D?
- 23 A 11D?
- 24 Q Uh-huh.
- 25 A "Employee dining room."

1 Q Do you know what date the election was scheduled for, to
2 take place this year?

3 A I'm not -- I'm not positive.

4 Q Was it sometime in February?

5 A No.

6 Q May?

7 A No.

8 Q June?

9 A I believe so.

10 MS. DAVILA: I'd like to move this into evidence, Your
11 Honor.

12 MR. DRITSAS: No objection.

13 JUDGE THOMPSON: Hearing no objection, I'll receive GC
14 Exhibit 7.

15 **(General Counsel Exhibit Number 7 Received into Evidence)**

16 MS. DAVILA: I'm going to show the witness what's marked
17 as GC Exhibit 8.

18 Q BY MS. DAVILA: Would you read the heading of the
19 document?

20 A "United States of America before the National Labor
21 Relations Board Region 28."

22 Q Can you read the name of the Employer, please?

23 A "Trump Ruffin Commercial LLC."

24 Q And that's the facility you manage, correct?

25 A Yes.

1 Q You know that there was an order postponing the Union
2 election this year, correct?

3 A Yes.

4 Q You know that that postponement was filed by the Union,
5 correct?

6 A Yes.

7 Q Do you know the reason that they filed for a postponement?

8 A That there were un -- that there were pending charges, I
9 believe.

10 Q Any charges with the National Labor Relations Board?

11 A I don't know who they made the charges with, but --

12 Q You don't know what pending charges of --

13 A Unfair labor practice charge or something.

14 MS. DAVILA: And I'd like to move this into evidence, Your
15 Honor.

16 MR. DRITSAS: No objection.

17 JUDGE THOMPSON: Hearing no objection, I'll receive
18 General Counsel Exhibit 8.

19 **(General Counsel Exhibit Number 8 Received into Evidence)**

20 MS. DAVILA: I'd like to show the witness what's been
21 marked as General Counsel's Exhibit 9.

22 Q BY MS. DAVILA: Do you know that -- you know that the
23 Union filed an election to proceed with the election about two
24 weeks ago, correct?

25 A Yes.

1 Q And do you see the name of the case on this form?

2 A "Trump International Hotel Las Vegas."

3 Q And that's the facility you manage, correct?

4 A Yes.

5 Q Can you read the date of this form?

6 A "November 6th, 2015."

7 Q Do you recognize the name of the signature next to that
8 date?

9 A I -- I might have seen it. I think I heard it yesterday
10 in this room.

11 Q How were you notified of the fact that the Union wanted to
12 proceed with the election?

13 A I think I got an email from the NLRB.

14 MS. DAVILA: I'd like to move this into evidence, Your
15 Honor.

16 MR. DRITSAS: I think it's irrelevant. Harmless, but it's
17 irrelevant.

18 MS. DAVILA: I'd like to move it into evidence.

19 JUDGE THOMPSON: Oh, if that had --

20 MR. DRITSAS: No objection.

21 MS. DAVILA: I'm glad he thinks so.

22 JUDGE THOMPSON: Hearing no objection, sort of, I'll
23 receive GC Exhibit 9.

24 **(General Counsel Exhibit Number 9 Received into Evidence)**

25 MS. DAVILA: I'm going to show the witness what's marked

1 as GC Exhibit 10.

2 Q BY MS. DAVILA: You know that a hearing was scheduled for
3 November 23rd, concerning the election, correct?

4 A No.

5 Q Can you read the name of the Employer on this document?

6 A "Trump Ruffin Commercial LLC."

7 Q Can you read the date on the back of this document, page
8 two on the bottom?

9 A "November 15th" -- oh, excuse me, "13th day of November,
10 2015."

11 Q Can you explain to us exactly what you do know about the
12 upcoming election?

13 MR. DRITSAS: Objection, irrelevant. And I don't see what
14 anything having to do with some hearing schedule that is no
15 longer scheduled in November of 2015, has to do with the
16 Charging Party's allegations in this case.

17 JUDGE THOMPSON: Counsel?

18 MS. DAVILA: Your Honor, Again, it goes to the context
19 that the ULP's, the organizing campaign, all that are tied to
20 the 81 allegations, and certainly the 83 discharge.

21 JUDGE THOMPSON: Yeah. But this definitely doesn't tell
22 me anything other than there was a hearing scheduled on the
23 23rd of -- or is a hearing scheduled on the 23rd of November,
24 2015.

25 MS. DAVILA: It gives some context to the order of the

1 proceedings in this matter as far as the election.

2 JUDGE THOMPSON: Why don't you just ask the witness the
3 questions that you're trying to get at? I don't know that this
4 particular document helps you get there.

5 MS. DAVILA: I'd like to move it into evidence.

6 JUDGE THOMPSON: I just don't think that it's relevant at
7 this point. Perhaps it may be at a later date, but to the
8 extent that you're trying to tie the organizing campaign to any
9 alleged animus that have taken place or the -- strike that. To
10 the extent that you're alleging Union animus that started from
11 the organizing campaign, and was the impetus for the adverse
12 actions that occurred in this case, I would just ask that, if
13 you could get to that. But this document just tells me -- I
14 mean, it speaks for itself. It just tells me that there was an
15 election that's going to be held. So --

16 MS. DAVILA: Your Honor, I'm just trying to establish a
17 timeline before we delve into the details.

18 MR. DRITSAS: Right. The only point is, it has to be a
19 relevant timeline. And what happens in November of 2015, has
20 nothing to do with the allegations involved in the charges in
21 May and June, July of 2015.

22 MS. DAVILA: It goes to the resolution of the petition.

23 JUDGE THOMPSON: Let me reserve it, counsel, until you can
24 give me some more testimony to connect the dot.

25 Q BY MS. DAVILA: Back to the election that was held -- that

1 was going to be held in June. The hotel hired an anti-Union
2 consultant in May or June of this year, correct?

3 A It hired -- there was a consultant hired. I don't know
4 necessarily if they're anti-Union.

5 Q Was the consultant named Juan Cruz?

6 A I believe he was part of the firm.

7 Q Did you ever attend a meeting with Juan Cruz present?

8 MR. DRITSAS: Objection. Based on our arguments
9 yesterday, Your Honor, I think if any labor consultant that was
10 brought in and discussion between management and labor
11 consultant goes to subject to our privilege and is irrelevant
12 for purposes of this proceeding.

13 JUDGE THOMPSON: Well, go ahead, finish your --

14 MR. DRITSAS: What may be said to employees, you know, I
15 could stop there. But the discussions that were held with
16 management, many of which were with Counsel, is irrelevant for
17 purposes of the proceedings here and would invade the privilege
18 that company has, just as it would invade the privilege to
19 bring Rich McCracken and say, "Let me see the strategy that you
20 have to organize this hotel." So based on the Berbiglia case
21 and others, we think that this is an improper inquiry.

22 MS. DAVILA: Your Honor, I wasn't asking about private
23 meetings between Respondent and his supervisor. I'm asking
24 about meetings attended by all department employees --

25 MR. DRITSAS: But that was --

1 MS. DAVILA: -- at which he was also present.

2 MR. DRITSAS: That wasn't the question, so.

3 JUDGE THOMPSON: It wasn't. So I'm going to have to
4 sustain the objection, but you can rephrase the question.

5 Q BY MS. DAVILA: Did you attend a meeting where Juan Cruz
6 spoke to the employees of your facility?

7 A To the employees of the facility?

8 Q Yes.

9 A I opened the meeting, but I didn't stay for the meeting.

10 Q How many meetings did you open for Juan Cruz to your
11 employees?

12 A I don't know.

13 Q More than five?

14 A I don't know.

15 Q Less than five?

16 A I don't know.

17 Q At least one?

18 A I'm sure there was one, yeah.

19 Q And it was this year?

20 A Yes.

21 Q Is Juan Cruz still employed by your facility?

22 MR. DRITSAS: Objection. Assumes facts not in evidence
23 that he was ever employed by this hotel.

24 Q BY MS. DAVILA: Have you seen Juan Cruz at your facility
25 in the last three months?

1 JUDGE THOMPSON: With that clarification, I'll overrule
2 the objection. You can answer the question.

3 THE WITNESS: To the best of my knowledge, no.

4 Q BY MS. DAVILA: No? You've only -- so to your knowledge,
5 you've only seen Juan Cruz once?

6 A No. I've seen Juan Cruz more than once.

7 Q Within the last two weeks, the hotel has displayed a
8 poster saying, "You don't need representation," correct?

9 A I don't know exactly what that poster said.

10 Q And, as manager of the facility, you've been to the
11 housekeeping department, correct?

12 A Yes.

13 Q Where is the housekeeping department located?

14 A In the back of the house.

15 Q How often would you say you go to the housekeeping
16 department in a week?

17 A I might not go inside the housekeeping department all
18 week. I go by it.

19 Q How many times would you go inside of it?

20 A Some weeks, not at all.

21 Q Do you ever go inside the employee dining room?

22 A Yes.

23 Q Do you go once a week?

24 A At least.

25 Q Twice a week?

- 1 A Sometimes.
- 2 Q More than five times a week?
- 3 A Possibly.
- 4 Q Is there only one employee dining room?
- 5 A Yes.
- 6 Q And this is the employee dining room used by all 500
7 employees?
- 8 A Yes.
- 9 Q And would all 300 housekeepers have access to this
10 employee dining room?
- 11 A If they're working.
- 12 Q And you know that there's been Union activity inside this
13 employee dining room, correct?
- 14 A Yes.
- 15 Q You know that there's been chanting going -- Union
16 chanting going on before shifts start, correct?
- 17 A I have not been there for that.
- 18 Q Have you seen Union -- pro-Union flyers inside the
19 employee dining room?
- 20 A I have not. Oh, pro-Union flyers?
- 21 Q Yes.
- 22 A Yes.
- 23 Q Do you know Juan Cruz's job title?
- 24 A No.
- 25 Q Were you involved in the hiring of Juan Cruz?

1 A No.

2 Q Did you ever interview him --

3 A No.

4 Q -- for the job? "No." How did you first meet Juan Cruz?

5 MR. DRITSAS: Objection, relevance.

6 JUDGE THOMPSON: I'm going to allow it, overruled.

7 THE WITNESS: He was -- he came to the property -- at the
8 property.

9 Q BY MS. DAVILA: And, as far as you know, what were his
10 responsibilities and duties?

11 A He was there with the firm that was hired to educate the
12 workforce about unionization and, you know, rights and
13 responsibilities of everyone.

14 Q And what did this education involve?

15 A Tips.

16 Q How did he carry out his duties?

17 A I'm not clear.

18 Q Did he have meetings?

19 A Yes.

20 Q Were these meetings mandatory?

21 A I don't believe so.

22 Q Were these meetings scheduled during shifts, working
23 shifts?

24 A Yes.

25 Q Were they held in the morning?

1 A They were held throughout the day, morning, afternoon.

2 Q And you've only attended one, right, that you can
3 remember?

4 A No. I opened other meetings, but not necessarily for Juan
5 Cruz.

6 Q Okay. And did you speak to employees at these meetings
7 about your own Union experience?

8 A I don't believe so, at those meetings.

9 Q You told them that you had been part of the Union and it
10 didn't work out very well for you, correct?

11 A No, no, not correct.

12 Q You told them about a strike that you had participated in
13 at a previous employer where you were a Union member, correct?

14 A Yes.

15 Q And you talked about how you had been promised a big check
16 for participating in the Union?

17 A Yes.

18 Q No.

19 Q "No." And you never told them that you never got that big
20 check that you had been promised?

21 A No.

22 Q "No." In these meetings with Juan Cruz, about how many
23 employees were present?

24 A I can't remember.

25 Q More than 100?

- 1 A No.
- 2 Q Was it all 500?
- 3 A No.
- 4 Q Less than 100?
- 5 A Yes.
- 6 Q More than 50?
- 7 A No.
- 8 Q Do you know what kind of employees were at this meeting?
- 9 A What kind of employees?
- 10 Q Housekeeping, pool employees, bartenders?
- 11 A A mixture.
- 12 Q Mixture? How can you tell what department an employee
- 13 works in?
- 14 A How can you tell? Well, some I know personally.
- 15 Q Do they all wear the same uniform?
- 16 A No.
- 17 Q No? Does the housekeeping employees wear the same uniform
- 18 as bartenders?
- 19 A No.
- 20 Q Do the bartenders wear the same uniform as front desk
- 21 people?
- 22 A No.
- 23 Q So when you were in these meetings, did you see a variety
- 24 of uniforms?
- 25 A Yes.

- 1 Q Okay. Did you see housekeeping uniforms in that meeting?
- 2 A In what meeting?
- 3 Q In the meetings with Juan Cruz.
- 4 A I couldn't tell you who was present at that meeting.
- 5 Q Where were the meetings held?
- 6 A In the hotel.
- 7 Q "In the hotel." In what facility?
- 8 A In the hotel.
- 9 Q In what property?
- 10 A In what property?
- 11 Q Yes. What was the name of the room?
- 12 A Oh, I'm not sure. One of the meeting rooms.
- 13 Q How many meeting rooms does your facility have?
- 14 A Let's see. That's a good question. One, two three. We
- 15 have some temporary meeting rooms that we use. With the
- 16 penthouse, I think eight.
- 17 Q "Eight." Do you usually meet with employees in the
- 18 meeting rooms?
- 19 A Yes.
- 20 Q Are there other locations where you meet with employees?
- 21 A That's kind of --
- 22 MR. DRITSAS: Objection, vague, as far as -- I mean --
- 23 Q BY MS. DAVILA: Is there another location --
- 24 MR. DRITSAS: -- for any purpose? I mean, there's no
- 25 context to that question.

1 JUDGE THOMPSON: I'm going to sustain. But can you
2 rephrase, Ms. Davila?

3 Q BY MS. DAVILA: Do you ever have employee meetings in the
4 employee dining room?

5 A Do I?

6 Q Do employee meetings occur in the employee dining room?

7 A Yes.

8 Q Do employee meetings occur in the employee dining room
9 every morning?

10 A Yes.

11 Q Are those employee meetings only for housekeepers?

12 A Well, the housekeeping department per se.

13 Q "Housekeeping department." Okay. And can you explain to
14 us what Trump talks are?

15 A That's when the housekeeping managers, every day in the
16 hotel. It's part of the culture, the -- you know, whose
17 birthday it is, what's going on in the hotel, what groups are
18 in the hotel. If there's any information they want to pass on,
19 it happens during that time.

20 Q Have you ever attended a Trump talk?

21 A Yes.

22 Q Do you usually go to the Trump talk?

23 A Where? There's many --

24 Q In the employee dining room?

25 A No.

1 Q Are there other Trump talks held outside the employee
2 dining room?

3 A In what context?

4 Q Do other departments receive Trump talks --

5 A Yes.

6 Q -- besides the housekeeping?

7 A Yes.

8 Q And where do those other meetings occur, those other Trump
9 talks?

10 A Various places in the hotel.

11 Q Could you give me an example of one?

12 A They would be held in the restaurant, the back of the
13 restaurant for food and beverage.

14 Q And who leads --

15 A Restaurant.

16 Q -- those meetings?

17 A The managers.

18 Q Do human resources employees have Trump talks every
19 morning?

20 A In the human resources department?

21 Q Yes.

22 A I'm not sure.

23 Q Do dispatchers attend Trump talks?

24 A I'm not sure.

25 Q Do lead dispatchers attend Trump talks?

1 A I'm not sure.

2 Q Do security officers attend Trump talks?

3 A In the security department.

4 Q Okay. So there's a Trump talk for the security
5 department?

6 A There should be a Trump talk for each department.

7 Q Okay. The hotel has shown employees a video with no audio
8 depicting a strike at the Cosmopolitan Hotel, correct?

9 A Yes.

10 Q Do you screen these films before they're shown to your
11 employees?

12 A I don't, personally.

13 Q And how do you know about this film that is being screened
14 to employees?

15 A That's attorney-client privilege.

16 MR. DRITSAS: I object on the grounds of attorney-client
17 privilege, Your Honor.

18 JUDGE THOMPSON: Well, you've got to tell me how that's
19 privileged.

20 MR. DRITSAS: Not the video, itself, but to the extent
21 we're talking about how he came into contact with the video.
22 That's my objection.

23 Q BY MS. DAVILA: Did you approve the screening of the --

24 JUDGE THOMPSON: I'll sustain the objection.

25 Q BY MS. DAVILA: Did you approve the screening of the

1 video?

2 A No.

3 Q The hotel has kept track of which employees are pro-Union,
4 correct?

5 A No.

6 MS. DAVILA: I'd like to show the witness what's been
7 marked as GC Exhibit 11.

8 Q BY MS. DAVILA: Do you recognize this?

9 A Yes.

10 Q How do you pronounce your last name? Sorry, sir.
11 Baudreau?

12 A Yeah, that's --

13 Q Okay. Sorry. Is this the employee handbook that your
14 employees receive?

15 A It looks like it.

16 MS. DAVILA: I'd like to move it into evidence, Your
17 Honor.

18 MR. DRITSAS: No objection.

19 JUDGE THOMPSON: Hearing no objection, I'll receive GC
20 Exhibit 11.

21 **(General Counsel Exhibit Number 11 Received into Evidence)**

22 Q BY MS. DAVILA: Do you know who Anthony Wandick is?

23 A Yes.

24 Q Who is he?

25 A He was a former employee.

1 Q What position did he hold?

2 A Housekeeping manager.

3 Q "Housekeeping manager." And what are some of the duties
4 that you -- that housekeeping managers have?

5 A They supervise the employees, direct employees, in
6 housekeeping.

7 Q Do they supervise a specific number of employees?

8 A No.

9 Q Okay. Who did Anthony Wandick report to?

10 A It would be Alejandra Magana.

11 Q And who does Alejandra Magana report to?

12 A Matthieu Vanderbilt.

13 Q And what's his title?

14 A Director of hotel operations.

15 Q And who does the director of hotel operations report to?

16 A Myself.

17 Q Do housekeeping managers have the authority to suspend
18 employees?

19 A "Do housekeeping managers have the authority to suspend
20 employees?" I believe so.

21 Q Do housekeeping managers have the authority to discipline
22 employees?

23 A I think it depends on the discipline.

24 Q Do housekeeping managers have the authority to sign any
25 written warnings or suspension notices?

1 A I'm not sure.

2 Q When an employee is disciplined, who issues that
3 discipline?

4 A It depends.

5 Q So in housekeeping, if a housekeeping employee is issued a
6 discipline --

7 A Right.

8 Q -- who would be the one issuing it?

9 A I'm not positive who would do that every time in every
10 instance.

11 Q So it's more than one person?

12 A I believe so.

13 Q Is Alejandra Magana one of those people?

14 A Yes.

15 Q Would Anthony Wandick be one of those people?

16 A I'm not sure.

17 MR. DRITSAS: Yes? That's the interpreter.

18 MS. DAVILA: Okay.

19 Q BY MS. DAVILA: Do you know who Imelda --

20 MR. DRITSAS: That's not ours.

21 Q BY MS. DAVILA: -- Cretin is? Imelda Cretin?

22 A No.

23 Q "No." Never heard of that name?

24 A No.

25 Q Okay.

1 MR. DRITSAS: I'm sorry, Counsel. I was distracted. Can
2 you tell me the name again?

3 MS. DAVILA: Imelda Cretin.

4 THE WITNESS: Oh, Imelda?

5 MS. DAVILA: Uh-huh.

6 THE WITNESS: Yes.

7 Q BY MS. DAVILA: "Yes." Do you know who she is?

8 A I didn't understand then, sorry.

9 Q Oh, sorry.

10 A Former housekeeping manager.

11 Q "Former housekeeping manager." Do you know when she
12 stopped working for the Trump Hotel?

13 A I couldn't give you the exact date, but months ago, I
14 believe.

15 Q Are you involved in the hiring of housekeeping managers?

16 A No.

17 Q You never interview them before they're made an offer?

18 A I haven't.

19 Q No. You haven't in the last year?

20 A I haven't been -- I've just given them all to Figetro
21 (phonetic). I can't remember being involved in the
22 housekeeping manager process personally, normally.

23 Q Who interviews managers before they're hired?

24 MR. DRITSAS: Objection, overbroad.

25 JUDGE THOMPSON: I don't think so. I'm going to overrule

1 the objection. You can answer the question.

2 THE WITNESS: Department heads, human resources.

3 Q BY MS. DAVILA: Do those department heads have names?

4 A If you tell me which department.

5 Q Housekeeping department. Who would interview the manager
6 before they're hired in the housekeeping department?

7 A Alejandra Magana.

8 Q She'd be the only person to interview a manager before
9 they're hired?

10 A To my knowledge.

11 Q You've never interviewed a housekeeping manager before
12 they're hired?

13 A Well, I interviewed Alejandra.

14 Q Okay. And her title is manager?

15 A Let's see. I think it's director of housekeeping.

16 Q Okay. Do you know who James Doucette is?

17 A Yes.

18 Q Can you give us his title?

19 A It's either restaurant manager or food and beverage
20 manager.

21 Q What does a restaurant or food and beverage manager do?

22 A They manage the restaurant or a food and beverage entity.

23 Q Do you only have one food and beverage entity at your
24 hotel?

25 A No.

1 Q How many do you have?

2 A Let's see. We have the restaurant, ISD. Three
3 operations.

4 Q And are those restaurants or food and beverage entities?
5 Since you made a distinction.

6 A Well, I didn't make a distinction. You asked me what his
7 title was, and I wasn't sure.

8 Q Okay. So there's three restaurants at your --

9 A No. There's a in-room service --

10 Q Okay.

11 A -- operation, which is room service. There is a
12 restaurant. There's a second restaurant on the pool level.
13 And there's a banquet operation that's within the food and
14 beverage.

15 Q And of those four entities or subdivisions, what was James
16 Doucette's role?

17 A He was in the restaurant.

18 Q "In the restaurant." And who is above him?

19 A Daniel Bausa.

20 Q And what was Daniel Bausa's title?

21 A Director of food and beverage.

22 Q Were you involved in the hiring of the director of food
23 and beverage?

24 A Yes.

25 Q Were you involved in the hiring of James Doucette?

- 1 A No.
- 2 Q Do you know who Olivia Green is?
- 3 A It's familiar. She's -- I think she's a security officer.
- 4 Q Does the facility have a security department?
- 5 A Yes.
- 6 Q How many people are employed by that department?
- 7 A I'm not sure.
- 8 Q More than 20?
- 9 A Somewhere around there, approximately. I would imagine 10
- 10 to 20.
- 11 Q "Ten to 20." And that would be security officers?
- 12 A Well, there's a mix. There's a director of security.
- 13 Q And below that?
- 14 A A manager of security.
- 15 Q And below that?
- 16 A Associates, officers.
- 17 Q How large is the facility?
- 18 A Large in what respect?
- 19 Q Size.
- 20 A Square feet or --
- 21 Q Square feet's fine.
- 22 A -- stories?
- 23 Q Square feet's fine, then we'll go to stories.
- 24 A It's approximately a million 900 thousand square feet.
- 25 Q And as we established earlier, you know the occupancy

1 rates this week, correct?

2 A Approximately.

3 Q And when you said 60 percent, how many people is that?

4 How many guests does that mean?

5 A Well, 60 percent of whatever available rooms there are.

6 Q How many available rooms do you have?

7 A I need a calculator.

8 Q Okay. How many rooms do you have total?

9 A Well, it's available rooms that the occupancy is based on.

10 Q If you had to estimate how many guests in number of people
11 are there right now, what would that be?

12 A If I had to guess?

13 Q Yes.

14 A You want me to guess?

15 Q Yes.

16 JUDGE THOMPSON: I don't want the witness to speculate.

17 Just -- Counsel, I appreciate where you're headed, but I would
18 appreciate if you could just get to whatever it is you're going
19 for. I don't know whether I care about how many rooms that the
20 Trump Hotel has, how many available rooms there are, how many
21 square feet the hotel is. I really want to know whatever it is
22 that you're trying to get at.

23 Q BY MS. DAVILA: So there's only -- there's less than 20
24 security officers for the whole facility?

25 A I'm not sure.

1 Q You're not sure. What are some of the duties of the
2 security officers?

3 A I know they make rounds through the hotel.

4 Q What do they do while they're making these rounds?

5 A Check for open doors, safety issues.

6 Q If there's a safety issue, what action do they take?

7 A They clear it themselves, and if they can't they would
8 call for assistance.

9 Q Can you give me an example of a security issue that they
10 might take care of themselves?

11 A Just a bag of garbage in the cart that someone could trip
12 over, they would pick that up, and bring it to the trash room.

13 Q Another example?

14 A Restate the question, please?

15 Q A security officer, what is a duty that they would handle
16 by themselves?

17 A Closing an unsecure door.

18 Q Can you give us another example?

19 MR. DRITSAS: Objection, Your Honor, what's the relevance
20 to this?

21 MS. DAVILA: The supervisor status is at issue, Your
22 Honor.

23 JUDGE THOMPSON: Okay. One more, but move along, counsel.
24 Because, we got a lot to cover.

25 THE WITNESS: Assist somebody who couldn't get in a room

1 possibly. You know, I'm just trying to think of what might
2 happen.

3 Q BY MS. DAVILA: Okay. And, in what situation would they
4 report to somebody else?

5 A You'd have to give me a situation. I don't know what you
6 mean.

7 JUDGE THOMPSON: She's asking you to give her a situation
8 of where a security officer would report to someone else.

9 THE WITNESS: When would they report to somebody else? If
10 somebody requested a supervisor, I guess.

11 Q BY MS. DAVILA: If they requested a supervisor --

12 A Yes --

13 Q -- you would report to somebody else?

14 A -- want to speak to somebody else, other than the officer.

15 Q Okay. Has the head of security ever come to you before
16 making a decision?

17 A Come to me before making a decision?

18 Q Yes.

19 A Offhand, I don't know.

20 Q In the last week, has a security officer or the head of
21 security asked you about making a decision?

22 A I can't recall one offhand.

23 Q Okay. How often do you meet with the head of security?

24 A Once a week.

25 Q What is the name of the head of security?

- 1 A Clyde Turner.
- 2 Q Clyde Turner? And, who is below him?
- 3 A Eric Delgado.
- 4 Q And, what's his title?
- 5 A Manager.
- 6 Q Manager? And, what duties does Clyde Turner have?
- 7 A His duties are the security of the building, safety in the
8 building, and workman's compensation.
- 9 Q Does Clyde Turner involved in disciplining the security
10 officers?
- 11 A Yes.
- 12 Q Does he have the authority to suspend a security officers?
- 13 A Yes.
- 14 Q Do you know who Christina Keeran is?
- 15 A Say it again.
- 16 Q Christina Keeran?
- 17 A Yes.
- 18 Q Keeran? What is her title?
- 19 A I'm not sure.
- 20 Q You're not sure? Do you know what --
- 21 A I know she's in status.
- 22 Q What does status mean?
- 23 A Status is the department -- that answers the phones, runs
24 housekeeping and everything, and --
- 25 Q Are they located in the housekeeping department?

- 1 A Yes, they are.
- 2 Q Are they considered housekeeping employees?
- 3 A Yes.
- 4 Q Who is the highest manager in status?
- 5 MR. DRITSAS: Objection, since --
- 6 THE WITNESS: Alejandra --
- 7 MS. DAVILA: What --
- 8 MR. DRITSAS: Okay, never mind. Withdrawn.
- 9 JUDGE THOMPSON: You can answer.
- 10 THE WITNESS: Alejandra Magana.
- 11 Q BY MS. DAVILA: And are status employees called
- 12 dispatchers?
- 13 A Yes.
- 14 Q Is there a lead dispatcher?
- 15 A That could be Christina's title, lead -- and, then I think
- 16 about lead dispatcher maybe.
- 17 Q And, what are the duties of dispatchers?
- 18 A They handle calls that come in from the GRAs, that they
- 19 need help or assistance, they coordinate that.
- 20 Q What's a GRA?
- 21 A A guestroom attendant.
- 22 Q Okay. And, those are housekeepers, correct?
- 23 A Yes.
- 24 Q Okay.
- 25 A Well, they're GRAs.

1 Q Well, just in laypersons terms. And, so does status or
2 dispatchers only handle employee phone calls?

3 A Well, I guess whoever is on the other end of the phone,
4 they pick it up.

5 Q Would a guest ever --

6 A I can't tell you --

7 Q -- call the dispatchers?

8 A No, the guests call the PBX, which is, you know, the
9 switchboard.

10 Q Okay.

11 A For laypersons terms.

12 Q So, there's a switchboard for hotel guests, or clients,
13 correct?

14 A Right.

15 Q And, then there's the status department or dispatchers for
16 employees?

17 A Right.

18 Q Do all employees call into this status, dispatcher or only
19 housekeeping employees?

20 A It's mainly for housekeeping.

21 Q Mainly? Exclusively, would you say?

22 A Well, I don't think anything's exclusive in a hotel.

23 Q Okay.

24 A In that matter. Somebody could pick up the phone and get
25 housekeeping, and so exclusive would be tough to say,

1 exclusively.

2 Q Okay. And, would an employee call in to status to say
3 that they were not coming in to work?

4 A I'm not sure if housekeeping has a call in sick line or
5 not.

6 Q As far as your -- do some of your departments have a call
7 in sick line?

8 A Yes.

9 Q Okay. But, you're not sure if housekeeping does?

10 A Well, I'm not -- I -- I'm not sure.

11 Q Do you know who's involved in the scheduling of
12 housekeepers?

13 A Status.

14 Q Status?

15 A And dispatch, yeah, status.

16 Q Okay, and dispatchers. And, do they produce the schedule
17 for housekeepers?

18 A I believe they do, yes.

19 Q Okay. I'm going to show you what --

20 MS. DAVILA: Oh, is it marked?

21 Q BY MS. DAVILA: What's marked as GC Exhibit 12.

22 A Okay.

23 Q Do you recognize this document?

24 A I don't recognize this document per se.

25 Q Do you -- can you read to us the title on the first part?

1 A The top line?

2 Q Yes.

3 A Guestroom attendant.

4 Q And, below that?

5 A Non-exempt.

6 Q And, below that?

7 A Reports to housekeeping manager.

8 Q Is that a position in your hotel, guestroom attendant?

9 A Yes, it is.

10 Q This is the job description for a guestroom attendant?

11 A Just give me a second. It looks that way.

12 MS. DAVILA: I'd like to move this into evidence, Your

13 Honor.

14 MR. DRITSAS: Well, I don't think she laid the foundation,

15 this witness has not identified that he's ever seen it before.

16 And, the document, it's unsigned, undated, and the witness

17 can't authenticate that he has knowledge of it, so I don't

18 think it's foundationally.

19 JUDGE THOMPSON: Unfortunately counsel, I have to agree.

20 I hope this way, you may be able to authenticate it through

21 another witness.

22 MS. DAVILA: Your Honor, it was produced by Respondent.

23 JUDGE THOMPSON: I understand, but if they're not agreeing

24 to or verifying the authenticity and this witness hasn't,

25 you'll have to get it through -- from -- through some other

1 witness that can definitively say that this is, in fact, the
2 position statement for a house -- for a guestroom attendant. I
3 mean, I understand what you're saying, this witness just hasn't
4 properly authenticated it.

5 MS. DAVILA: Your Honor, since it was produced by
6 Respondent, we'd ask that the custodian of records come in to
7 authenticate it.

8 MR. DRITSAS: Well, you subpoenaed the director of
9 housekeeping. She can identify if it's a current document or
10 not. I mean you're asking of a general manager about something
11 way down in the weave. I mean, he doesn't know. We'll have
12 the Ms. Magana come in today, since you've subpoenaed her, so I
13 don't know if we need another custodian. I mean, she may be
14 the custodian for all I know, but she'll be here, and she can
15 be asked questions about this, Your Honor.

16 JUDGE THOMPSON: Unfortunately, the General Counsel gets
17 to choose who they want to authenticate their documents. So,
18 short of possibly having another witness that you already have
19 called to authenticate it, I mean, I don't know if you have
20 another witness that you already have subpoenaed that could
21 authenticate this document?

22 MS. DAVILA: I'll just wait and see what happens with her.

23 JUDGE THOMPSON: Okay. But, I'll give you leave, counsel,
24 if you are unable to get someone to authenticate it. So, I'll
25 just put this -- I'll hold this in abeyance, I won't put it in

1 the rejected file until you can authenticate it.

2 MS. DAVILA: Thank you, Your Honor.

3 Q BY MS. DAVILA: I'm going to have you turn back to the
4 security officer's for a second. Can a security officer make
5 an independent decision to eject a guest, if there is --

6 A I'm not sure.

7 Q -- if there is a security breach? Can a security officer
8 make the independent decision to kick out that person?

9 A I'm not sure.

10 Q You don't know?

11 A I'm not sure about procedures of that.

12 Q Okay.

13 A Do you -- have you had a security situation this week?

14 A Not that I'm aware of.

15 Q Do you get reports about security every day?

16 A I do not.

17 Q You don't?

18 A No.

19 Q Do you get reports about security once a week?

20 A No.

21 Q Do you get report -- how do you know what's going on in
22 the security department?

23 A I meet with the security director.

24 Q How often do you meet with the security director?

25 A Sometimes daily, it depends. He'll come to me if there's

1 something that needs my attention.

2 Q Okay. Do you find out about the -- what the goings on of
3 the hotel through the security department?

4 A No. I'm aware, I walk around the hotel.

5 Q But, for the -- are you there every single day?

6 A I am not.

7 Q Okay. Does the security officer have the authority to
8 eject a person attempting to engage in illegal solicitation?

9 A You mean prostitution or?

10 Q That could be illegal solicitation.

11 JUDGE THOMPSON: But, it's not relevant to what we're
12 talking about. So, can you rephrase, counsel?

13 MS. DAVILA: Yes.

14 Q BY MS. DAVILA: If there is a non-employee on the
15 property, and distributing solicitation?

16 A Yeah. Again, I'm not sure what the policies and
17 procedures are of the security department.

18 Q Are you aware of the hotels attendance policy for the
19 employees?

20 A There is an attendance policy, yes.

21 Q Do you know the specifics of that attendance policy?

22 A It's a ten point base system, I believe.

23 Q And, what does that mean?

24 A That if you get to ten points -- I'm not exactly sure how
25 it works as far as suspension things or disciplines would go.

1 Q Okay. Do you know if managers have some discretion when
2 it comes to applying that ten point policy?

3 A I don't.

4 Q You don't? Have you ever authorized discretion in
5 applying that ten point attendance policy?

6 A No.

7 Q Do you know if all the employees who reach ten points are
8 terminated?

9 A I don't know.

10 Q You don't know? Who would know?

11 A The department heads, or human resource department.

12 Q Does the attendance policy apply to the food and beverage
13 department?

14 A Yes.

15 Q Does the attendance policy apply to the security officer's
16 department?

17 A Yes. I think it's company-wide -- hotel-wide.

18 Q It's company-wide?

19 A Hotel-wide.

20 Q Hotel-wide? So, all employees are subject to a ten point
21 attendance policy?

22 A I don't believe -- employees, what's the definition of
23 employees?

24 Q Non-management, non-supervisors.

25 A Non-management, non-supervisors? I'm not sure of the

1 scope of the attendance policy to be honest with you.

2 Q But, more than one department employs the --

3 A Yes.

4 Q -- attendance policy?

5 A Yes.

6 Q Correct. And, it's always the ten point attendance
7 policy? Is there a 12 point attendance policy?

8 A Not that I'm aware of.

9 Q Okay. Were you involved in the decision to terminate
10 housekeeper Martha Guzman?

11 A No.

12 Q Okay. Who was?

13 MR. DRITSAS: Objection, lack of foundation.

14 JUDGE THOMPSON: I'm going to overrule the objection. You
15 can answer the question if you know.

16 THE WITNESS: I -- housekeeping department or human
17 resources.

18 MS. DAVILA: Okay. No further questions, Your Honor.

19 JUDGE THOMPSON: Just one second.

20 MR. DRITSAS: Do you want to --

21 JUDGE THOMPSON: Counsel, can we --

22 MR. DRITSAS: -- take a break, Your Honor?

23 JUDGE THOMPSON: -- take a quick break?

24 MR. DRITSAS: Yes.

25 JUDGE THOMPSON: About ten minutes. So, can we come back

1 around a quarter to 11:00?

2 MS. DAVILA: Yes, Your Honor.

3 JUDGE THOMPSON: Mr. Baudreau, just remember, don't
4 discuss your testimony with anyone.

5 THE WITNESS: Okay.

6 JUDGE THOMPSON: Off the record.

7 (Off the record at 10:31 a.m.)

8 JUDGE THOMPSON: We are back on the record, after a brief
9 recess, for cross-exam, Mr. Dritisas.

10 MR. DRITSAS: Thank you, Your Honor.

11 JUDGE THOMPSON: Your witness.

12 MR. DRITSAS: Thank you.

13 **CROSS-EXAMINATION**

14 Q BY MR. DRITSAS: Just a few questions, Mr. Baudreau. So,
15 I think you told us there's multiple departments; approximately
16 how many departments are there at the hotel?

17 A Do you want me to try to count them up or?

18 Q Well, let me --

19 A Yeah.

20 Q -- go at it this way. Do you have a food and beverage
21 department?

22 A Correct.

23 Q You have a security department?

24 A Correct.

25 Q And, housekeeping department?

- 1 A Correct.
- 2 Q You have --
- 3 A Guest services department.
- 4 Q Guest services department.
- 5 A Right.
- 6 Q And, within those --
- 7 A Finance department.
- 8 Q Finance, accounting --
- 9 A Human resources department, reservations department.
- 10 Q Okay. And, all --
- 11 A Numerous --
- 12 Q -- these departments have department heads?
- 13 A Yes.
- 14 Q Okay. And, are the department heads responsible for the
- 15 operation of their department?
- 16 A Yes.
- 17 Q Okay. And, as a general manager, while you have ultimate
- 18 responsibility for the hotel; are you deeply involved in the
- 19 working operations of --
- 20 MS. OVIEDO: Objection.
- 21 MR. DRITSAS: -- each department?
- 22 MS. OVIEDO: I --
- 23 JUDGE THOMPSON: Wait, let him finish the question, and
- 24 then object. Go ahead, counsel.
- 25 Q BY MR. DRITSAS: Are you deeply involved in the working

1 operations of each department?

2 JUDGE THOMPSON: Now.

3 MS. OVIEDO: I've been giving him a little bit of a leash,
4 but these are all leading questions.

5 JUDGE THOMPSON: It's --

6 MR. DRITSAS: Is it important.

7 JUDGE THOMPSON: Well, it's an interesting dilemma,
8 because it's cross-exam, but it's a 611(c) witness, so I kind
9 of have to overrule the objection only because it's
10 cross-examination. So, can you proceed, counsel.

11 THE WITNESS: What was the last part of the question?

12 Q BY MR. DRITSAS: Are you deeply involved with the
13 day-to-day operations of any of the departments you've
14 mentioned?

15 A No.

16 Q Okay. And, there were questions about, that the General
17 Counsel asked you about the various duties of, I think you
18 were -- used the word associates, those would be the hourly
19 paid employees?

20 A Yes.

21 Q Okay. Do you follow them on a daily basis to see what
22 their duties are?

23 A Follow them? No.

24 Q Okay. There were questions that were asked about
25 scheduling, each department has its own scheduling; is that

1 right?

2 A I think the department heads -- someone's scheduling for
3 each department, yes.

4 Q Okay. And --

5 A There's not a hotel schedule.

6 Q Okay. And, are you aware of how any department actually
7 prepares it's schedules? You know, who's involved, and what
8 the process is?

9 MS. OVIEDO: Your Honor, objection, again. Under FRE
10 611(c), cross-examination, adverse witness whether he's --
11 permitted by Respondent's counsel of some client.

12 MR. DRITSAS: Well, the first -- I guess my response is, I
13 don't agree with that, but that wasn't a leading question. It
14 was an open-ended question.

15 JUDGE THOMPSON: I don't think it was a leading question,
16 counsel. So, I'm going to overrule the objection. Can you --

17 MR. DRITSAS: Sure.

18 JUDGE THOMPSON: -- repeat the question, counsel?

19 MR. DRITSAS: Yes, Your Honor.

20 Q BY MR. DRITSAS: Are you aware about how any individual
21 department conducts its scheduling operations?

22 A No.

23 Q Are you involved, in any way, in the administration of the
24 hotel's attendance policy?

25 A No.

1 Q Okay. I have no further questions, Mr. Baudreau.

2 JUDGE THOMPSON: Thank you. General Counsel, any
3 redirect?

4 MS. DAVILA: No, Your Honor.

5 JUDGE THOMPSON: Mr. Baudreau, thank you for your
6 testimony. Again, please don't discuss it with anyone. You
7 are excused from the stand.

8 THE WITNESS: Thank you.

9 JUDGE THOMPSON: Thank you, so much.

10 THE WITNESS: You're welcome.

11 JUDGE THOMPSON: Ms. Davila, would you like to call your
12 next witness?

13 MS. DAVILA: Your Honor, if I could ask for ten minutes to
14 get my new exhibits for the new witness?

15 JUDGE THOMPSON: Certainly, we'll come back around 11:05.

16 MS. DAVILA: Okay.

17 JUDGE THOMPSON: Off the record.

18 (Off the record at 10:52 a.m.)

19 JUDGE THOMPSON: We are back on the record with our next
20 witness, Ms. Davila?

21 MS. DAVILA: Yes, Your Honor, General Counsel calls
22 Gustavo Acosta.

23 JUDGE THOMPSON: Hi, good morning.

24 MR. ACOSTA: How are you?

25 JUDGE THOMPSON: I'm good.

1 MR. ACOSTA: That's good.

2 JUDGE THOMPSON: I am Judge Thompson, I'm the
3 Administrative Law Judge assigned to hear this case. You have
4 been called as a witness by the General Counsel. I need to
5 swear you in, would you please raise your right hand?
6 Whereupon,

7 **GUSTAVO ACOSTA**

8 having been duly sworn, was called as a witness herein and was
9 examined and testified as follows:

10 THE WITNESS: Yes.

11 JUDGE THOMPSON: Great, thank you.

12 THE WITNESS: Uh-huh.

13 JUDGE THOMPSON: Could you please state your name for the
14 record?

15 THE WITNESS: Gustavo Acosta.

16 JUDGE THOMPSON: Okay. Spell your first name?

17 THE WITNESS: G-U-S-T-A-V-O.

18 JUDGE THOMPSON: And, your last name?

19 THE WITNESS: Acosta, A-C-O-S-T-A.

20 JUDGE THOMPSON: Mr. Acosta, let me give you a few
21 instructions before you provide your testimony. First, as you
22 can see we are recording the proceedings, and there's a
23 microphone in front of you. Unfortunately, the transcript have
24 difficulty distinguishing between huh-uh and uh-huh, so if you
25 could give us a verbal response, we would appreciate it.

1 Second, if there is a question that counsel ask that you don't
2 understand what they mean, would you tell them so, so that they
3 will rephrase or restate the question. If you answer a
4 question, we're going to assume you understood it.

5 THE WITNESS: All right, thank you.

6 JUDGE THOMPSON: Third, if either counsel objects on -- to
7 a question, would you hold your response, until I can address
8 and rule on the objection. And, finally, sometimes you may
9 kind of know where counsel may be going on a question, and want
10 to jump in to answer, if you wouldn't mind holding your
11 response until counsel have finished their entire question. It
12 just helps keep the record clear, so we can get a full -- the
13 full question and then your full answer. If you would do those
14 things for us, please.

15 THE WITNESS: Perfect.

16 JUDGE THOMPSON: Great, thank you, so much. Ms. Davila --
17 or I'm sorry, counsel, your witness.

18 MS. DAVILA: Thank you, Your Honor.

19 **DIRECT EXAMINATION**

20 Q BY MS. DAVILA: Hi, Mr. Acosta, my name is Judith Davila.

21 A Good morning.

22 Q My co-counsel is Elise Oviedo, and we're with the
23 government, the General Counsel. Could you please give us your
24 job title?

25 A I'm an assistant HR director.

1 Q Assistant to human resources director?

2 A Correct.

3 Q Correct? And, what are some of your duties as a human
4 resources --

5 A Duties? Reviewing reviews, talking to associates, give
6 advice to associates or managers, just a regular routine HR
7 functions --

8 Q When you say you review reviews; could you describe what
9 that means?

10 A Performance reviews.

11 Q Performance reviews? And, who --

12 MR. DRITSAS: Can you keep your voice up, please?

13 THE WITNESS: Uh-huh.

14 Q BY MS. DAVILA: Who drafts these performance reviews?

15 A Managers.

16 Q Managers?

17 A Uh-huh.

18 Q Does each department have its own manager?

19 A Correct, yes.

20 Q Do you review the reviews for all departments?

21 A All departments, yes.

22 Q How many departments does the hotel have?

23 A Over eight departments or more.

24 Q Eight? And, you review all of them?

25 A Either myself or my director.

1 Q Who's the director of human resources?

2 A Jeff Peterson.

3 Q Jeff Peterson? How long have you been in your position?

4 A A year and two months.

5 Q What position did you hold before?

6 A HR manager, slash director for Renaissance.

7 Q Okay. And, do you have the authority to hire somebody?

8 A Yes. Well, our -- we interview the first phase, then we
9 move it to the food and beverage.

10 Q From that interview, do you make a recommendation?

11 A Yes.

12 Q Is that recommendation likely to be followed?

13 A Uh-huh, yes.

14 Q Okay.

15 MS. DAVILA: I'd like to proceed under 611(c), Your Honor.

16 JUDGE THOMPSON: Okay.

17 Q BY MS. DAVILA: Does part of your job --

18 MR. DRITSAS: Just for the record, I have the same
19 objection, Your Honor, he hasn't established that this witness
20 is adverse.

21 JUDGE THOMPSON: So noted.

22 Q BY MS. DAVILA: Do you, as part of your job duties,
23 are -- do you draft job descriptions?

24 A In not having done it with Trump.

25 Q For the hotel?

- 1 A Correct.
- 2 Q The Trump Hotel, you've never done it?
- 3 A Correct.
- 4 Q Who does draft the job descriptions?
- 5 A When I got hired, they were already there.
- 6 Q In your position, do you post these job -- the job
7 descriptions that were already created? Are you responsible
8 for posting them?
- 9 A Job positions opening?
- 10 Q Yes.
- 11 A We have someone who -- I follow-up with the HR
12 coordinator.
- 13 Q Who's the HR coordinator?
- 14 A Jenny.
- 15 Q What's her last name?
- 16 A I don't recall. Mirando, I think, I'm not sure.
- 17 Q Okay. Who's the department head of the housekeeping
18 department?
- 19 A Alejandra, the main director.
- 20 Q Okay. And, do you know how many managers are in the
21 housekeeping department?
- 22 A Three, four.
- 23 Q Can you name them, please?
- 24 A It's Tom --
- 25 Q Do you know his last name?

- 1 A -- Nida, Nida. Tom Stemp, I believe.
- 2 Q Uh-huh.
- 3 A Nida.
- 4 Q Uh-huh.
- 5 A And, Christina, and then we have the director, Kelvin.
- 6 Q What's Christina's last name?
- 7 A I don't recall. Sorry, I'm bad at names.
- 8 Q That's okay.
- 9 JUDGE THOMPSON: And, who was the last one that you named?
- 10 THE WITNESS: Christina.
- 11 JUDGE THOMPSON: And, after her?
- 12 THE WITNESS: Nida.
- 13 JUDGE THOMPSON: Okay, thank you.
- 14 THE WITNESS: Uh-huh.
- 15 Q BY MS. DAVILA: Is that N-I-D-A?
- 16 A Yes.
- 17 Q For what purpose do housekeeping -- or department managers
- 18 come to you?
- 19 A Either come for advice, coaching, for if you're going to
- 20 discipline an associate with recommendation, any other concern
- 21 they might have.
- 22 Q Do they come to you before a termination?
- 23 A Yes.
- 24 Q Do they always advise you before a termination?
- 25 A They'll give me like an FYI, because I have to approve it.

1 Q You approve the termination?

2 A Uh-huh.

3 Q Okay. Do you know that employees at the Trump hotel are
4 trying to organize a union?

5 A Yes.

6 Q Have you seen employees wear pro-union buttons to work?

7 A Yes, I have.

8 Q Have you seen housekeeping employees wear pro-union
9 buttons to work?

10 A Uh-huh, yes.

11 Q Okay. You know that the hotel is opposed to the
12 unionization, correct?

13 A Yes.

14 Q Have you ever attended a meeting with an employee named
15 Juan Cruz?

16 A No, I have not.

17 Q Okay. Have you heard of these meetings?

18 A Yes, I have.

19 Q Do you know if these meetings were mandatory?

20 A No, they're not mandatory.

21 Q Were they held during the employee shifts?

22 A Yes.

23 Q Were employees, that were on their work shift, go to these
24 meetings?

25 A Yes.

1 Q Okay. Do you know if housekeeping employees went to these
2 meetings?

3 A Yes.

4 Q About how many meetings have there been with Juan Cruz?

5 A I don't recall, a few meetings.

6 Q Do you know where these meetings are held?

7 A Throughout the meeting space at the hotel.

8 Q Did these meetings with Juan Cruz happen in 2014?

9 A I don't recall, because I wasn't there. I got hired in
10 September of '14.

11 Q Of '14?

12 A Uh-huh.

13 Q So, do you recall any, between September and December, in
14 2014?

15 A Don't recall, I don't think so.

16 Q Do you know when Juan Cruz was first hired by the hotel?

17 A I do not know.

18 Q Okay. Did that hiring go through the human resources
19 department?

20 A With Juan Cruz?

21 Q Yes.

22 A I don't recall.

23 JUDGE THOMPSON: Mr. Acosta, if you would please keep your
24 voice up, because we need to be able to hear you in the
25 recording.

1 THE WITNESS: Okay.

2 JUDGE THOMPSON: Thanks.

3 Q BY MS. DAVILA: I'd like to refer you to GC Exhibit 11,
4 which was already introduced --

5 MS. DAVILA: Is it up there?

6 JUDGE THOMPSON: It may be up there.

7 MS. DAVILA: It's the employee handbook.

8 JUDGE THOMPSON: In the documents.

9 Q BY MS. DAVILA: Are you familiar with the hotel's employee
10 handbook?

11 A Yes, I am.

12 Q Is this a copy of the employee handbook?

13 A Yes, it is.

14 Q Okay. Are you familiar with the policies of the employee
15 handbook?

16 A Some, yes, uh-huh.

17 Q Okay. Are you familiar with the hotel's attendance
18 policy?

19 A Yes, I am.

20 Q Can you describe that for us?

21 A Attendance policy, so let's say for example, if an
22 associate is late, you get half a point. Depending if it's
23 peak or not, could run for a point. If you reach four points,
24 let me check. So, if you have four points, you get a verbal.
25 5.5 is a written. Seven points is a second. Eight points,

1 suspension. And, then ten is termination, depending on the
2 situation. It all varies, you know sometimes at peak, you
3 could run from a 5.5 to an 8.

4 Q Okay. I'm sorry, to -- I'm going to have to make you
5 repeat some of that, because I really don't understand an
6 attendance point policy. So, as -- basically, the idea is that
7 if you get a certain number of points, you can be terminated,
8 correct?

9 A Correct.

10 Q Okay. And, at the Trump Hotel, the max number of points
11 you can get, before your risk of termination, is ten points,
12 correct?

13 A Correct.

14 Q And, employees, when they start off in their first hired,
15 how many points do they come in with?

16 A Zero.

17 Q Zero? And, let's say an employee goes a whole month
18 without being absent, do they accumulate a point?

19 A No, they don't.

20 Q If they go a whole month without being tardy, do they
21 accumulate a point?

22 A If they come out with no tardies?

23 Q Uh-huh.

24 A No, zero points.

25 Q So, the only way they accumulate would be to be tardy,

1 correct?

2 A Uh-huh.

3 Q Or to be absent?

4 JUDGE THOMPSON: That was yes?

5 THE WITNESS: Correct, yes.

6 JUDGE THOMPSON: Thank you.

7 Q BY MS. DAVILA: And, an employee who -- so, half a point
8 is charged in what situations?

9 A Let's say for example, they did not clock in back from
10 lunch or forgot to clock in.

11 Q Okay. Are there other examples of getting docked half a
12 point?

13 A I believe maybe if they're late.

14 Q And, are you looking at the handbook?

15 A Yes, I am.

16 Q Employee handbook? And, what page are you looking at?

17 A Page 35.

18 Q Okay. And, can you describe what's on that page?

19 A It's a require -- if they're tardy, and early out,
20 absence, half a point. Yes, it's -- you get half a point if
21 you're late, if you report late, 15 minutes late.

22 Q Okay. And, who tracks these points?

23 A The departments.

24 Q The -- what -- who in the departments?

25 A Whoever it's assigned to to track those points.

1 Q So, in the human -- I'm sorry, in the housekeeping
2 department, who tracks the points?

3 A Either Vania or Christina.

4 Q Can you say their last names, please?

5 A I don't not know their last names, sorry.

6 Q It's okay. Vania and Christina. And, what -- where are
7 their offices?

8 A Housekeeping department.

9 Q Housekeeping department? Do they have their own offices?

10 A They have a desk.

11 Q They have a desk? They each have a desk or they share a
12 desk?

13 A They each have desk.

14 Q And, do they wear a special uniform?

15 A They just wear the regular uniform, housekeeping.

16 Q Who else wears that uniform, aside from Vania and
17 Christina?

18 A Status clerk, that's it, status clerk.

19 Q So, the status clerks, Vania and Christina wear one
20 uniform?

21 A Correct.

22 Q What does Alejandra Magana wear?

23 A Just regular outfits, suits.

24 Q What do the managers wear?

25 A Suits too.

- 1 Q Suits?
- 2 A Uh-huh.
- 3 Q And, what do the housekeepers wear?
- 4 A They wear a uniform.
- 5 Q Can you describe that uniform?
- 6 A It's gray with white color.
- 7 Q Is it a pant and top?
- 8 A Pants, yes.
- 9 Q For both male and female?
- 10 A Correct.
- 11 Q Can you describe what Vania's uniform looks like?
- 12 A It's a light brown pants, white T-shirt with a vest,
13 brown.
- 14 Q And, can you describe what Christina's uniform looks like?
- 15 A Same as Vania.
- 16 Q And, the status clerks?
- 17 A Same as Vania and Christina.
- 18 Q Okay. And, do status clerks each have a desk as well?
- 19 A They have a -- they share a long, big desk.
- 20 Q They share a long, big desk?
- 21 A Uh-huh.
- 22 Q And, what's the proximity of that long, big desk next to
23 Vania's and Christina's desk?
- 24 A Maybe from this wall to back, by the --
- 25 JUDGE THOMPSON: Mr. Acosta --

1 THE WITNESS: -- door.

2 JUDGE THOMPSON: -- could you describe it in feet, because
3 the record can't see what you're pointing at?

4 THE WITNESS: Eight feet long.

5 Q BY MS. DAVILA: Okay.

6 A With computers on top.

7 Q And, are they all located in one room?

8 A One? Yes.

9 Q Okay. And, does that room have a name?

10 A Just housekeeping department.

11 Q It's a housekeeping department office, general office? It
12 doesn't have its own name?

13 A Correct.

14 Q Correct? Okay. Let's go back to the point system. So,
15 half a point could be charged for forgetting to clock in,
16 right? And, what would one point be charged for?

17 A If you're absent report to -- oh, I'm sorry. If you call
18 within four hours.

19 Q Could you describe what that means?

20 A Let's say for example, if you're scheduled to work at
21 4:00.

22 Q Uh-huh.

23 A And, you call at 12:00, you'll get the half -- that one
24 point.

25 Q Charged --

- 1 A If --
- 2 Q -- to --
- 3 A Correct. If it's not peak.
- 4 Q If it's not peak?
- 5 A If it's peak, you get double.
- 6 Q And, can you describe what peak means?
- 7 A Peak is when we have -- the hotel is 100 percent, and you
8 could get two points. Double points, I'm sorry.
- 9 Q Double points charged to you?
- 10 A Correct.
- 11 Q And, are there times where you could get more than two
12 points at a time?
- 13 A At the same time?
- 14 Q Charged to you -- is there something aside from peak
15 period, where you would get charged, let's say an absence is
16 worth four points?
- 17 A Yes. If it's -- yes.
- 18 Q Would that be aside from being multiple days?
- 19 A They're consecutives, so let's say for example, if
20 somebody call off on Monday --
- 21 Q Uh-huh.
- 22 A -- and Tuesday, and Wednesday, it's considered
23 consecutive. So, count as one point. You know, either one
24 point or two point, depending on where you stand.
- 25 Q Can you -- what do you mean, depends on --

- 1 A So --
- 2 Q -- where you stand?
- 3 A -- let's say for example, it was a peak --
- 4 Q Uh-huh.
- 5 A -- you know, you could get two points, and you call within
- 6 your four hours, you will only get two points for three days.
- 7 Q Two points for the three days?
- 8 A Because, it's considered consecutive. It's described on
- 9 the very bottom.
- 10 Q Can you read that to me, please?
- 11 A Consecutive absence due to sick, illness, injuries, but
- 12 recorded as one occurrence, regardless of the number of days.
- 13 Q Okay. Can you read the next sentence?
- 14 A If the absence due to illness exceed three days, a doctor
- 15 note may be required in order to return to work.
- 16 Q Does that word say, required or requested?
- 17 A Oh, requested, I'm sorry.
- 18 Q It's okay. Can you finish reading that?
- 19 A All associate are required to call their department on
- 20 each day they are going to be absent, in accordance with the
- 21 department call in policy, call in policy.
- 22 Q Do all associates call in every single day that they're
- 23 going to be absent?
- 24 A Yeah, I'm not sure, because they call the department.
- 25 They're in charge to call the department.

1 Q So, it's possible that all associates don't call in every
2 single day that they're going to be absent?

3 MR. DRITSAS: Objection, calls for speculation.

4 JUDGE THOMPSON: Sustained.

5 Q BY MS. DAVILA: Have you -- are you aware of a situation
6 where an associate didn't call in every single day that they
7 would be absent?

8 A I don't recall.

9 Q You don't recall? Who keeps track of when -- do you know
10 what a no call, no show is?

11 A Yes, I do.

12 Q Can you describe what that is?

13 A No call, no show is when somebody doesn't call for his
14 shift at all. Didn't report to work.

15 Q Okay. And, as far as the consecutive absences due to an
16 illness or injury, do you know if status requires a
17 verification of an illness or an injury?

18 A Repeat that question -- rephrase that.

19 Q So, if -- how do you verify that something is a one
20 occurrence situation?

21 A Well, it's -- they know the procedure that's -- like I
22 said, if they're absent three days in a row, they know that
23 it's going to be consecutive.

24 Q And, do you --

25 A If they're --

1 Q -- always assume that the consecutive absences are because
2 of an illness or injury?

3 A Most of the time, that's -- from what I recall.

4 Q Do you ask that?

5 A I don't ask.

6 Q No? Do you know if the status clerks ask that?

7 A Don't know.

8 Q Are they supposed to ask that?

9 A Don't know.

10 Q So, if an employee is absent three days in a row, you just
11 assume that it's an illness or an injury and you mark it as one
12 point?

13 A Correct.

14 MR. DRITSAS: Objection. Hold on, objection. You haven't
15 established he does anything, that he lays down any points.
16 You're asking him to describe his understanding, not what he's
17 doing.

18 Q BY MS. DAVILA: As far as you understand it, does an
19 illness or an injury -- an illness or an injury assumed if
20 there is consecutive absences?

21 A Well, if an associate has any concern, they'll come to me
22 and then I'll talk to the associate or the department, see
23 what's going on.

24 Q That doesn't answer my question, sir. So, if there's an
25 illness or an injury -- I mean, sorry, if there's a consecutive

1 absence, do you assume it be an illness or an injury?

2 A Well --

3 Q Is it your understanding and they're -- that's how the --
4 they only get one point docketed to them?

5 A Well, correct, and I can state, if you require -- if
6 you're asking more than three, you're required to bring a
7 doctor's note, depending on, you know, if you're sick.

8 Q Do you -- who collects these doctors notes?

9 A Usually they're provided to their departments.

10 Q Do you ever ask the departments for these doctors notes?

11 A Yes.

12 Q Do you always verify these doctors notes?

13 A No.

14 Q Do you always ask for these doctors notes from the
15 department?

16 A Depending on the circumstance.

17 Q Can you give me an example of a circumstance where you
18 asked to see a doctor's note?

19 A Let's say an associate come to my office and say that they
20 disagree with the discipline, because they were sick or -- if
21 they disagree, I'll investigate.

22 Q And, what does your investigation entail?

23 A You know, I'll find out what happened. Listen to the
24 associate, get some information, and then also get some
25 information from the department manager.

1 Q What kind of information do you get from the department
2 manager?

3 A You know, what -- when were they scheduled, what happened,
4 did they provide any doctors note.

5 Q Okay. And, if they did provide a doctor's note, what's
6 your next step?

7 A So, it would be called consecutive, then they will just
8 receive that one point, the point they deserve.

9 Q Okay. And, do department managers have discretion
10 about -- as far as reducing points?

11 A They do.

12 Q Can you describe how that discretion --

13 A It all depends on the circumstance. You know, it could be
14 they got into a car accident, they were -- got sick, they had
15 provided they were in the hospital, depending on the
16 circumstance.

17 Q And, on the circumstance, what would happen to the
18 employees point in total?

19 A What I've seen is they'll deduct -- they deduct some
20 points.

21 Q Do they deduct one point?

22 A It all depends. Could be one point, two point, three
23 points.

24 Q Have you seen a situation where there's been ten points
25 reduced (sic)?

1 A You know, I don't recall, I'm going to say yes and no.

2 I'm going to say -- you know, I don't recall, sorry.

3 Q Is the housekeeping manager the only person who could
4 reduce these points?

5 A Correct.

6 MR. DRITSAS: Well, I assume you mean in the housekeeping
7 department?

8 MS. DAVILA: Correct, for the housekeeping employees.

9 THE WITNESS: Uh-huh.

10 JUDGE THOMPSON: That was a yes?

11 THE WITNESS: Yes.

12 Q BY MS. DAVILA: Is having a doctor's note enough to get
13 points reduced?

14 A Yes.

15 Q Can you go to page 36 of the GC's Exhibit 11? Right
16 there, where it says action to be taken, could you go through
17 and describe what action is taken with the point totals next to
18 it? So, four points leads to what action?

19 A Document verbal coaching.

20 Q Do employees who get four points always receive a
21 documented verbal coaching?

22 A From the ones that I've seen, yes.

23 Q For 5.5 points, what action is to be taken?

24 A We get a first written.

25 Q What does that mean?

1 A They'll get -- they'll go to the next step. They'll get a
2 document saying, hey, you have reached 5.5 points.

3 Q Where does this document go?

4 A They provide it, and then it goes to the persons personnel
5 file.

6 Q And, who signs this document?

7 A Either the person who delivered it along with the
8 associate. And, then it goes through HR, then I review it, and
9 sign for it.

10 Q So, you always sign every --

11 A It could be me or Jeff.

12 Q Jeff? Okay. The director?

13 A Correct.

14 Q Okay. And, in the housekeeping department, for example,
15 Alejandra Magana would be the one to sign the re-inaction?

16 A Not all the time. It could be also Kelvin.

17 Q Who's Kelvin?

18 A Kelvin, he's the assistant housekeeping director.

19 Q And, what's his last name?

20 A Kwon.

21 Q Okay. So, those are the only two who can sign?

22 A It could be also floor managers.

23 Q Can you name some of the floor managers in the
24 housekeeping department?

25 A It could be Nida, it could be Christina, it could be Tom.

1 Q Okay. And, is Christina the same person you were talking
2 about when you said that she wore a light brown uniform?

3 A No.

4 Q Okay. So, they are two different people?

5 A Correct.

6 Q Okay.

7 A That's Christina Steele.

8 Q Christina Steele is which one?

9 A She is housekeeping manager.

10 Q The one who can sign the written --

11 A Correct.

12 Q Okay. So, floor managers can sign the written warning

13 to --

14 A It could --

15 Q -- housekeeping employees, as well as Alejandro Magana or
16 Kelvin Kwon?

17 A Correct.

18 Q And, seven points leads to what action to be taken?

19 A The second written, the -- this will get delivered to
20 them, if they get seven points.

21 Q Okay. And, this also goes in their personnel file?

22 A Correct.

23 Q And, it's also signed by Alejandra, Kelvin, or a floor
24 manager?

25 A Correct.

1 Q And, it's also signed by you, ultimately? Or --

2 A Either me --

3 Q -- Jeff?

4 A Correct.

5 Q Okay. And, with eight points, what action is to be taken?

6 A You get suspended.

7 Q Okay. And, how long is that suspension?

8 A Just a one day suspension.

9 Q Okay. And, who lets the associate know they're going to

10 be suspended --

11 A It could be --

12 Q -- or --

13 A -- any of the four that you mentioned earlier, either

14 Alejandro, Kelvin, or floor managers.

15 Q Do you ever tell a new employee that they're going to be

16 suspended --

17 A I don't.

18 Q -- personally?

19 A No.

20 Q No? Do you sign that suspension form?

21 A Either myself or Jeff.

22 Q Or Jeff, okay. And, can you read what happens -- what

23 action is to be taken when ten points are reached?

24 A Ten points? You could get terminated, depending on

25 investigation.

1 Q Okay. Can you explain -- so, what that investigation
2 entails?

3 A I'll get the document, and I review it, along with the
4 attendance log. And, I will pull a -- where the associate
5 clocks in, called UniFocus and their punches, and also I'll
6 pull the schedule of those tardies or absence that were made by
7 the associate.

8 Q And, what are you looking for?

9 A Just to see that everything is accurate.

10 Q And, accurate what's -- it matches up?

11 A Matched up, like for example, if they were late or they
12 were absent.

13 Q Okay. And, do you review every employee in the
14 housekeeping department who gets the ten points?

15 A It could be me or Jeff.

16 Q Or Jeff. But, somebody in HR reviews every employee who
17 gets a ten points?

18 A Yes.

19 Q And, do you review them, and has there ever been a
20 situation where you review somebody with ten points, and then
21 you meet with Alejandra Magana, and she reduces the points?

22 A No. She -- once it's turned in to me at ten points, it's
23 because they have reached the points. And, normally if
24 Alejandra removes a point, it's before it comes to me.

25 Q It never gets -- so, Alejandra wouldn't let it get to ten

1 points if she didn't want you to review it, basically?

2 A Uh-huh. Correct.

3 Q Okay. Can you read the section that says point reductions
4 on page 36?

5 A An associate will be -- will have, here her points
6 deducted as follow: One point minus, subtract from the total
7 for no tardies, absence, miss clock in or out of each 30 days
8 from the date of last point issue.

9 Q So, under this heading, under point reductions, it says
10 that an employee is take -- remove one point for every 30 days
11 that they go without incident?

12 A Correct.

13 Q And, it doesn't mention that a department manager can
14 remove points, correct?

15 A Correct.

16 Q Does it say anywhere in this policy, to your knowledge,
17 that a department manager can remove points?

18 A In the handbook?

19 Q Uh-huh.

20 A No.

21 Q No? And, do all departments get to remove points upon the
22 managers discretion?

23 A From different department? Yes.

24 Q Yes. But, it's not written policy?

25 A Correct.

1 Q Okay. And, it's not written policy that you get the
2 employees who have reached ten points?

3 MR. DRITSAS: I'm sorry, I don't understand the question.

4 Q BY MS. DAVILA: Is there somewhere written in the hotel
5 policy that every time an associate reaches ten points that it
6 goes to human resources?

7 A Well, any suspension on -- I'm sorry, suspending
8 investigation has to go by HR.

9 Q Any suspensions, and it's investigation?

10 A And, the investigation, yes.

11 Q Okay. And, termination I'm --

12 A During that case --

13 Q -- assuming?

14 A Correct, yes.

15 Q Okay. I'm going to show you what's marked as GC Exhibit
16 13.

17 JUDGE THOMPSON: She hasn't handed it to you.

18 THE WITNESS: Oh.

19 Q BY MS. DAVILA: Have you ever seen this document? This
20 particular document?

21 A No, I have not.

22 Q And, does this look like a position description for the
23 hotel?

24 A Yes.

25 Q Okay. And, you started working there, when?

1 A September of 2014.

2 Q Of 2014?

3 MS. DAVILA: Your Honor, I would ask the custodian of
4 records to be called just because this predates this witnesses
5 involvement.

6 JUDGE THOMPSON: Are you aware, counsel, of any other
7 witness that you intend to call that may be able to
8 authenticate this document?

9 MS. DAVILA: No, Your Honor.

10 JUDGE THOMPSON: Okay.

11 MS. DAVILA: Unless Respondent will stipulate to the
12 authenticity since they produced it.

13 MR. DRITSAS: I could stipulate just what you see here, I
14 can't stipulate this document ever was applied or used at the
15 Las Vegas Trump Hotel. So, that's not going to get you where
16 you need to go.

17 MS. DAVILA: So, then I would like the --

18 JUDGE THOMPSON: Okay, so --

19 MS. DAVILA: -- custodian of records --

20 JUDGE THOMPSON: Okay. Do we need to issue a subpoena for
21 that individual?

22 MS. DAVILA: I -- we can certainly.

23 (Counsel confer)

24 MS. DAVILA: We issue the subpoena with SDT for the
25 custodian of records?

1 JUDGE THOMPSON: Okay. So, then we need to just
2 provide -- but, was that encompassed appearance or did that
3 just encompass appearance or documents? I don't have it in
4 front of me. I'm assuming it --

5 MS. DAVILA: I'm sure it did --

6 JUDGE THOMPSON: -- encompass --

7 MS. DAVILA: -- with the attachment, yeah.

8 JUDGE THOMPSON: Okay. It did. All right, well, we
9 will -- counsel, I'm going to need to have whoever the
10 custodian of records appear to answer questions regarding what
11 has been marked as GC Exhibit 13. But, in the meantime,
12 counsel, can you proceed with this witness?

13 MS. DAVILA: Yes, Your Honor.

14 Q BY MS. DAVILA: Mr. Acosta, do you recognize the job title
15 status clerk lead?

16 A Yes.

17 Q Is that still a position that hotel employs?

18 A I believe the person who has a status clerk lead is
19 just --

20 MR. DRITSAS: Could you please keep your voice up?

21 THE WITNESS: The person who has this position is only
22 Christina, I don't know her last name.

23 Q BY MS. DAVILA: Okay. And, do you know what Christina's
24 duties are?

25 A She oversees status clerk --

1 Q When you say she oversees, what does that mean?

2 A Just -- there's four status clerks, and I guess --

3 Q Does she give them directions for what to --

4 JUDGE THOMPSON: Wait a minute, counsel, you got to let
5 him --

6 MS. DAVILA: I'm sorry.

7 JUDGE THOMPSON: -- answer the question.

8 THE WITNESS: She assists Alejandra on any document, for
9 example, the attendance. I believe she works on schedules.

10 Q BY MS. DAVILA: She drafts schedules?

11 A Correct.

12 MR. DRITSAS: Objection, he said works.

13 MS. DAVILA: And, then I asked --

14 JUDGE THOMPSON: And, then he asked -- she asked draft, so
15 overruled.

16 Q BY MS. DAVILA: She draft schedules, correct?

17 A Correct.

18 Q Okay. And, you said you said she oversees the status
19 clerks, correct?

20 A Correct.

21 Q Can -- does she have the authority to tell them what to
22 do?

23 MR. DRITSAS: Objection, lack of foundation.

24 JUDGE THOMPSON: I think she's trying to just ask the
25 question, so I'm going to overrule the objection. You can

1 answer the question.

2 THE WITNESS: Repeat that question again.

3 Q BY MS. DAVILA: Does she have authority to tell them what
4 to do?

5 A I have never seen her do that. Because, I don't work with
6 her, unless I have a question, I'll go to her station.

7 Q When you have a question about what's going on in status,
8 who do you ask?

9 A I never had any questions with status.

10 Q You never asked Christina what's going on in status?

11 A No.

12 Q You've never asked Christina what's going on with an
13 employee in status?

14 A I -- normally, if I have an issue concern, I'll go
15 directly to Alejandra.

16 Q But, you've never gone to Christina to ask her something
17 about --

18 A It would just be --

19 Q -- status?

20 A -- just for documents, not about the status.

21 Q I'm sorry, can you repeat what you --

22 A It would be more like schedules, can you print me, or can
23 you pull the schedule for this particular person.

24 Q Okay.

25 A That's it. Any concerns, I would go directly to Alejandra

1 or Kelvin.

2 Q So, when you say that she oversees the status clerks, what
3 do you mean?

4 A I just -- because it -- status clerk lead.

5 Q And, because that's part of her job title, correct?

6 A I assume, yeah.

7 Q And, she sits at a different table than the other status
8 clerks, correct?

9 A Correct.

10 Q She has her own desk?

11 A Correct. She share with somebody else.

12 Q She shares with somebody else?

13 A Uh-huh.

14 Q Because, earlier you said she had her own desk.

15 A Well, just thought about it, she shares with another
16 evening -- she shares with other housekeeping managers.

17 Q Okay. So, she uses the housekeeping manager desk?

18 A They share it.

19 Q They share it?

20 A Uh-huh.

21 Q Okay. So, what would be in that housekeeping manager
22 desk, who uses that?

23 A It would be -- I've seen Cherrie, supervisor Walter, Alma.

24 Q And, these people aren't there at the same time that she's
25 working?

1 A Correct, they're not.

2 Q They were on -- when they're on different shifts?

3 A Correct.

4 Q So, a status clerk would never use that desk?

5 A No.

6 Q No? Okay.

7 (Counsel confer)

8 MS. DAVILA: Your Honor, I'd move to admit GC's Exhibit
9 13, since --

10 JUDGE THOMPSON: I can't admit it, because it's not been
11 authenticated.

12 MS. DAVILA: Respondent said that they would -- they would
13 stipulate to its authenticity, since they supplied it.

14 JUDGE THOMPSON: They did not say that.

15 MR. DRITSAS: No, no, I said I could tell you that here's
16 a piece of paper that's got some names on it, but I can't
17 authenticate it that is applies in any way to this hotel.

18 MS. DAVILA: So, you provided -- I'm not talking about the
19 weight, I'm talking about --

20 MR. DRITSAS: I'm not --

21 MS. DAVILA: -- the authenticity --

22 MR. DRITSAS: -- excuse me, counsel, I'm not going to
23 stipulate to the authenticity.

24 JUDGE THOMPSON: You're going to have to call the
25 custodian of records, until then, I can't admit that document.

1 (Counsel confer)

2 Q BY MS. DAVILA: Where are the current job descriptions
3 kept in the facility?

4 A From what I have in my HR drive.

5 Q In your HR drive?

6 A Yeah.

7 Q Okay. And, you have the most recent job descriptions?

8 A There are some -- yes.

9 Q Do you -- are aware of the last time that the job
10 descriptions were edited?

11 A No. Don't recall.

12 (Counsel confer)

13 Q BY MS. DAVILA: Have they been edited since you've been
14 hired?

15 A No, I don't think so.

16 Q Okay. So, there's a possibility that this is a current
17 job description?

18 MR. DRITSAS: Objection, calls for speculation.

19 JUDGE THOMPSON: Sustained.

20 Q BY MS. DAVILA: So, this is a current job description,
21 correct?

22 MR. DRITSAS: Objection, lack of foundation.

23 JUDGE THOMPSON: He doesn't know -- he -- I -- sustained.

24 Q BY MS. DAVILA: You have them on your personal computer,
25 correct?

1 A Not my personal, it's HR are able to view it.

2 Q Who has access to these job descriptions?

3 A It would be Jeff, my other two HR generalists, HR
4 coordinator.

5 Q Who would know which is the most current job description
6 that exists at the hotel?

7 A They are current, we have a file that's issued 2014, so
8 anything --

9 Q But, who would know?

10 A All of us are new, you know, maybe Jeff.

11 Q And, if not Jeff, who would know where the most current
12 job descriptions exist?

13 A He should be able to answer.

14 Q Does human resources also handle security personnel?

15 A Being their specific personnel, like, files?

16 Q Files, yeah.

17 A Yeah.

18 Q Of the employees?

19 A Uh-huh.

20 Q Do you know how many employees --

21 JUDGE THOMPSON: That was yes?

22 THE WITNESS: Yes.

23 Q BY MS. DAVILA: How many employees are there in security?

24 A I would say maybe 15 plus.

25 Q Fifteen plus? Okay. How many managers are there in

1 security?

2 A We have one, he's the security manager. We have director,
3 case worker's comp manager.

4 Q Okay. And, who's the security manager?

5 A Eric Delgado.

6 Q And, the director of security?

7 A Mr. Turner.

8 Q And, the worker's comp advisor?

9 A Debbie Jones.

10 Q Okay. Is there security present on the premises 24 hours
11 a day?

12 A Securities?

13 Q Yes.

14 A Yes.

15 Q Who does the schedules for security?

16 A Don't know.

17 Q Do you know who Olivia Green is?

18 A Yes.

19 Q Who is she?

20 A She's a security agent.

21 Q Is that the title for the security officers?

22 A We call them security agents.

23 Q So, everybody in security, who's not a manager or
24 supervisor is a security agent?

25 A Repeat that again?

1 Q Everybody who works in security, part of the security
2 department who's not a manager or a supervisor, is a security
3 agent?

4 A Agent or officer.

5 Q Okay. And, the job title is agent though, you said?

6 A I call them agents, some -- I have worked at different
7 properties, called agent or officer.

8 Q Okay. What kind of duties the security agents or officers
9 have?

10 A They call the -- whenever there's an incident or accident,
11 they respond to either guests or associates, the security of
12 the building and associates of -- just the safety of everybody.

13 Q So, they respond to the safety concerns of the hotel?

14 A Hotel, yes.

15 Q Do they respond by themselves?

16 A Whoever reported it, you know, they communicate with the
17 nearest to the incident.

18 Q Do they always work in twos? Or can a security officer go
19 off by himself?

20 A Don't know.

21 Q You don't know? Okay. Do you know who Anthony Wandick
22 is?

23 A Yes.

24 Q Who is he?

25 A He was a floors manager.

1 Q In what department?

2 A Housekeeping.

3 Q And, what duties did the -- does the floor manager have in
4 housekeeping?

5 A It all varies. I know that for his position, he was the
6 trainer, and he helped inspect rooms.

7 Q Okay. Do you have a special position for instructors, in
8 housekeeping?

9 A A job description you said?

10 Q No, a special title. Is there a title the inspector in
11 the housekeeping --

12 A It's --

13 Q -- department?

14 A -- just inspectors.

15 Q Inspectors? That's the job title, inspectors?

16 A Uh-huh.

17 Q So, Anthony Wandick wasn't an inspector?

18 A No.

19 Q What do inspectors do?

20 A They inspect rooms to be released.

21 Q What does that mean?

22 A That's if the GRA will go and clean the room.

23 Q Uh-huh.

24 A And, then the inspector will go ensure that everything's
25 correct on the rooms, that are met the room standards.

1 Q What do floor managers do then?

2 A Floor managers, they could train, they also inspect the
3 work of, I believe the inspectors, just assist any GRAs
4 inspectors who could have questions.

5 Q How many inspectors are there in the housekeeping
6 department?

7 A I want to say maybe ten plus.

8 Q Okay. And, you said there were four floor managers?

9 A Three or four.

10 Q Okay. And, how many GRA's are there?

11 A Give an estimate, maybe 150 plus.

12 Q One-fifty? Do you know who James Doucette is?

13 A Yes.

14 Q Who is he?

15 A He was food and beverage manager.

16 Q Who was above him?

17 A Mr. Bausa.

18 Q And, what's his job title?

19 A He was the director of food and beverage.

20 Q Now, what does a food and beverage manager -- what
21 responsibilities do they have?

22 A Assistant -- assist of servers, for the department, make
23 sure everything is running smooth. I blanked out, I'm sorry.
24 Assist with any guest complaints.

25 Q Does James Doucette still work there?

1 A No.

2 Q Do you know who Imelda Cretin is?

3 MR. DRITSAS: I'm just not understanding how you're
4 pronouncing these names --

5 MS. DAVILA: Imelda --

6 MR. DRITSAS: -- Imelda Cretin?

7 MS. DAVILA: -- Imelda Cretin, Cretin.

8 MR. DRITSAS: Okay.

9 THE WITNESS: Yes.

10 Q BY MS. DAVILA: And, you know who she is, right? Sorry.

11 A Uh-huh.

12 Q Got distracted. And, what is her job title?

13 A She was also a housekeeping floor manager.

14 Q Okay. And, she reported to Alejandra Magana?

15 A Correct.

16 Q Okay. Do you know what Trump talks are?

17 A Yes.

18 Q Can you describe that they are?

19 A Trump talk, it tells you how full is the hotel for that
20 day or for the past next seven days, three days, four days,
21 whose birthday is it, any -- the weather, also we have a topic
22 of the day, could be stretch before you work, travel, have fun.
23 What else? We have a core value that we focus every day.

24 Q Okay. And, are Trump talks given every single day?

25 A In the housekeeping department? Yes, and throughout the

1 store --

2 Q Other --

3 A -- or throughout the --

4 Q It's a hotel.

5 A -- hotel.

6 Q And, other departments have Trump talks as well?

7 A Uh-huh.

8 Q And, they have them daily as well?

9 A Correct.

10 Q Okay. And, who leads the Trump talks in the housekeeping
11 department?

12 A The persons who's the opening manager.

13 Q Okay. And, that would be one of the floor managers?

14 A Floor manager? Yes.

15 Q Okay. And, they're held in the employee dining room,
16 correct?

17 A Correct.

18 Q Have you ever been to the employee dining room?

19 A Yes, I have.

20 Q Do you go there often?

21 A Yes, I do.

22 Q Do you eat there?

23 A Yes, I do.

24 Q Do employees, other than the housekeeping employees, eat
25 there?

1 A Repeat that question.

2 Q Do employees, other than the housekeeping employees, eat
3 there?

4 A Yeah.

5 Q And, have you seen union activity in the employee dining
6 room?

7 A Uh-huh.

8 JUDGE THOMPSON: That was a yes?

9 THE WITNESS: Yes.

10 Q BY MS. DAVILA: And, you've seen employees distribute
11 flyers in the employee dining room?

12 A Yes.

13 Q And, you've seen the hotel's own posters about unions in
14 the employee dining room?

15 A None in the EDR.

16 Q You've never seen a poster, by the hotel, in the employee
17 dining room?

18 A Don't recall, no.

19 Q When was the last time you were in the employee dining
20 room?

21 A Yesterday.

22 Q Yesterday? Were you there the day before?

23 A No.

24 Q Were you working the day before?

25 A I was off.

1 Q You were off? How about the day before that?

2 A I was off.

3 Q And, the day before that?

4 A I was there.

5 Q Did you go to the employee dining room that day?

6 A Yes, I did.

7 Q Would you say you go every day that you work, to the
8 employee dining room?

9 A I do.

10 Q Okay. And, you've never seen a poster?

11 A I don't recall, no.

12 Q Do you have train the trainer programs in the hotel?

13 A Uh-huh.

14 Q Can you --

15 JUDGE THOMPSON: That was a yes?

16 Q BY MS. DAVILA: -- describe them please?

17 A Yes.

18 Q Can you describe them please?

19 A We have selective -- they have associate that will go and
20 train another associate.

21 Q What are some of the topics they train them on?

22 A Depending on the position they're at. For example, it
23 could be server, they'll train, you know, we have specific
24 person that will train the server how it needs -- how they need
25 to be trained.

1 Q And, how -- and what -- what would they train a server?

2 Like who would be training a server? Another server?

3 A Another server, yes.

4 Q Another server? Would it be a server on their same level?

5 A Yes.

6 Q Okay. And, so it's employee on employee training?

7 A Uh-huh.

8 Q It's never a supervisor training an employee?

9 A I don't recall. It could be.

10 Q Do the trainers make more money?

11 JUDGE THOMPSON: Counsel, I'm sorry, I'm trying to
12 determine the relevance to this line of questioning about the
13 training?

14 MS. DAVILA: I'm just setting a context, Your Honor.

15 JUDGE THOMPSON: Okay. Can we -- I just need to get the
16 connection.

17 THE WITNESS: I don't recall, I want to say, probably yes.

18 Q BY MS. DAVILA: Trainers make more money?

19 A Uh-huh.

20 Q Than their trainees?

21 A The trainer, yes.

22 Q Okay. Who -- do the status clerks, are they the ones who
23 edit the attendance calendars for an employee?

24 A Repeat that question.

25 Q The attendance calendars. The employer has attendance

1 calendars, correct?

2 A Oh, yes.

3 Q And, who marks on the attendance calendar? Who has the
4 authority to mark on this attendance calendar when an associate
5 is charged a point?

6 A I think either Vania or Christina.

7 Q Okay. So, they'd mark the infaction (sic), we'll call it?

8 A Uh-huh.

9 Q On the attendance calendar? And, that then goes in the
10 person -- in the employee -- associates personnel file?

11 A If -- when they receive a discipline, they'll attach an
12 attendance log that will go to HR and we'll put that in the
13 personnel file. So, if they get one point, there's no action,
14 they have them --

15 Q They keep them?

16 A -- I'll just save them. Yes.

17 Q Are they kept in hard copies in the housekeeping
18 department, for example?

19 A I don't think they print them, unless they're going to be
20 disciplined.

21 Q So, they're electronic files, attendance calendars --

22 A Uh-huh.

23 Q -- at the Trump --

24 JUDGE THOMPSON: Yes?

25 THE WITNESS: Yes.

1 Q BY MS. DAVILA: Okay. Were you involved the termination
2 of Martha Guzman?

3 A Yes, I was.

4 Q And, what role did you play?

5 A I made the investigation, and I made the final
6 termination.

7 Q Okay. Can you describe a little bit about what that
8 investigation entailed?

9 A So, when they bring in SPI, I usually review the document.

10 Q Sorry to interrupt you, what's an SPI?

11 A Suspension pending investigation.

12 Q Okay.

13 A We review it. I'll talk to the associate to share with me
14 what's going on, what happened. And, I'll pull, with Martha, I
15 pull the -- from UniFocus, the punch in. I pull the schedule,
16 and determine when she was absent or tardy, to see -- make sure
17 that the attendance log is accurate. I reviewed it, everything
18 was accurate, and then I pondered with Alejandra, and told her,
19 hey, proceed with this termination. Then we met with Martha,
20 informed her of the status of her termination.

21 Q Okay. And, how did you get Martha's attendance calendar?
22 Or how were you advised of Martha's absences?

23 A Usually I ask all the managers that whenever they're going
24 to issue a discipline, I want an attendance log attached to it.

25 Q So, in this incidence, Alejandra was going to issue a

1 suspension --

2 A Uh-huh.

3 Q -- so, you asked to see her calendar and her log?

4 A They know already to attach it.

5 Q Okay. And, did Alejandra tell you why she wanted to
6 suspend her?

7 A She told me about attendance.

8 Q Okay. And, I'm going to introduce what's marked as GC
9 Exhibit 14. Can you read the employee name on this attendance
10 calendar?

11 A Martha Guzman.

12 Q Okay. And, do you recognize this document?

13 A Yes, I do.

14 Q Okay. Can you flip it over please? If you could read
15 with me, December 12th, how many total points did she have?

16 A Which side? Back or the front?

17 Q The back.

18 A And, repeat that question, please.

19 Q December 12th, how many points did she have?

20 A December 12th?

21 Q Uh-huh, the first line.

22 A Two points. I'm sorry, she had a total of eight points.

23 Q Eight points? January 12th?

24 A January 12th, she had a total of seven points?

25 Q And, can you read what it says before that?

- 1 A Remove one point.
- 2 Q Remove one point? And, then in February 5th?
- 3 A She had 11 points.
- 4 Q Eleven points? And, February 6th? Can you read --
- 5 A Spoke to --
- 6 Q -- what the line says?
- 7 A Spoke to Alejandra, remove the point, total seven points.
- 8 Q Okay. And, February 14th?
- 9 A Tardy, eight points.
- 10 Q If you could read the whole thing.
- 11 A Tardy period --
- 12 MR. DRITSAS: Your Honor, the document speaks for itself,
- 13 we -- do you have a question besides reading?
- 14 JUDGE THOMPSON: Sustained. Counsel, you can -- I mean,
- 15 we can all read, if you can just ask whatever question you'd
- 16 like.
- 17 MS. DAVILA: Okay.
- 18 Q BY MS. DAVILA: So, from this document, you can see that
- 19 Alejandra reached more than ten points on February 5th,
- 20 correct?
- 21 A Correct.
- 22 Q She reached more than ten points on February 24th,
- 23 correct?
- 24 A Correct.
- 25 Q She reached more than ten points on March 11th, correct?

1 A Correct.

2 Q And, you can see that Alejandra removed points on February
3 6th, correct?

4 A February 6th, yes.

5 Q Alejandra -- or, there was a point removal on May 1st,
6 correct?

7 A Correct.

8 Q And, there was a point removal on June 16th, correct?

9 A Correct.

10 Q And, you reviewed this in your investigation?

11 A Yes.

12 Q Can you read on March 19th that it says that Martha
13 brought in a doctor's note, and so a point would be removed?
14 Or, points would be removed?

15 A From March, yes.

16 Q Okay. And, you considered this document in terminating
17 Ms. Guzman, correct?

18 A Yes.

19 MS. DAVILA: I'd like to admit this document, Your Honor.

20 MR. DRITSAS: No objection.

21 JUDGE THOMPSON: Okay, no objection. Received GC Exhibit

22 14.

23 **(General Counsel Exhibit Number 14 Received into Evidence)**

24 (Counsel confer)

25 Q BY MS. DAVILA: I'd just like to clarify, sir, that

1 December 12th, where it says 2014 on the back, that's 2014 and
2 the rest of these dates are 2015, correct?

3 A Correct.

4 MS. DAVILA: No further questions, Your Honor.

5 JUDGE THOMPSON: Okay, thank you. Mr. Dritsas?

6 MR. DRITSAS: Yes, Your Honor.

7 JUDGE THOMPSON: Cross?

8 MR. DRITSAS: I do, Your Honor.

9 **CROSS-EXAMINATION**

10 Q BY MR. DRITSAS: Okay. You started working at the hotel
11 when, Mr. Acosta?

12 A September 2014.

13 Q Okay. What were you -- just tell us a little bit about
14 your background.

15 MS. DAVILA: Objection, relevance.

16 MR. DRITSAS: Relevance to his employment background.

17 Okay. I think it's relevant to describe what the background of
18 a human resource professional is.

19 JUDGE THOMPSON: I'll allow it. Overruled.

20 Q BY MR. DRITSAS: What's your experience in the human
21 resource field?

22 A I have a little over 14 years. I have a master in human
23 resource. I worked at the Renaissance, as a HR manager, slash
24 director. Worked for Aramark as a HR manager. Worked for
25 Kohl's and Mervyns as an HR manager, slash operation.

1 Q Okay. So, I think when you were describing your job
2 duties, I think you said sometimes employees come to you?

3 A Correct.

4 Q So, it's not just managers, but employees?

5 A Correct.

6 Q And, what sorts of things would employees come to you
7 about?

8 A They come to either they disagree with a discipline, you
9 know, an inspector or a manager was mean, any other -- they
10 felt that -- felt being threatened, either by another
11 associate, argument.

12 Q Okay. One of the questions asked if you knew when someone
13 named Juan, who was hired, were you involved in any
14 determinations regarding any consulting or hiring of Juan Cruz?

15 A Repeat that again, I'm sorry.

16 Q General Counsel asked you if you knew when someone by the
17 name of Juan Cruz was hired. My question is, were you involved
18 in any way with the retention of Mr. Cruz?

19 A No.

20 Q Okay. Let's talk about the attendance policy for a second
21 here.

22 A Uh-huh.

23 Q If you go take a look at the handbook. So, I just want to
24 clarify a few things, and let's just start on page 35. So, I'd
25 like you to go down, we'll start one at a time. Late, but

1 reports to work within 15 minutes. Just what it says, someone
2 is just 15 minutes late?

3 A I'm sorry, repeat that question.

4 Q That you get a half a point if you are tagged with being
5 late for 15 or --

6 A Correct.

7 Q -- 15 minutes? Okay. And, then if you report later than
8 15 minutes, what happens?

9 A You get a point. Thereafter, one point added for every
10 hour an associate is late.

11 Q Okay. And, if someone calls and says, I'm going to be
12 late, what does that do to the points? Read the next box.

13 A The supervisor is notified in advance associate will be
14 late, the supervisor will exceed direction --

15 Q I just meant read it to yourself, but --

16 A Oh.

17 Q -- what is the consequence if you're late, but you've
18 called in advance?

19 A You get one point, or depending if it's peak, it could
20 double.

21 Q Okay. Tell me about this box here then, it says,
22 supervisors notified in advance the associate would be late,
23 half a point; what is that circumstance?

24 A So, if you call in advance, you'll get half a point.

25 Q Okay.

1 A Let's say for example, their schedule time at 8:00, they
2 call at 7:00 in advance, you'll get half a point.

3 Q Okay.

4 A Or depending if it's not peak. If it's peak, it's going
5 to double.

6 Q Okay. For all these -- well, does the peak apply to all
7 the infractions?

8 A Yes.

9 Q Okay. Now, if you leave early, after working less than
10 four hours, what happens?

11 A You'll get a point, or if it's peak, it could be double.

12 Q Okay. And, if you leave early, but you've worked more
13 than four hours, what happens?

14 A Half a point, or double.

15 Q Okay. I think you testified no call, no show, do you
16 understand what that means?

17 A Yes, I do.

18 Q Okay. So, that's when someone just doesn't show up?

19 A Correct.

20 Q Okay. And, what's the consequence for that?

21 A You could be terminated.

22 Q How many points --

23 A For not showing for your shift.

24 Q How many points do you get?

25 A Ten points.

1 Q Okay. Then the next box, explain that for us? Failed to
2 report to work or notify supervisors of absence two or more
3 hours after shift starts.

4 A You get ten points.

5 Q Okay. Now, there's different points depending on if you
6 call off, where you call within two hours, within four hours,
7 or outside of four hours; is that right?

8 A Uh-huh.

9 Q Okay.

10 JUDGE THOMPSON: Yes?

11 THE WITNESS: Yes.

12 Q BY MR. DRITSAS: Okay. Why don't you explain the
13 differences and the different points that are allocated?

14 A So, let's say for example, you do not call two hours after
15 your shift, you get ten points. You get four points if you
16 call within two hours or double.

17 Q When you say double, you mean because of peak?

18 A Correct.

19 Q And then, keep going.

20 A So, if you call less than four hours, you get two points
21 or double. If you call within four hours, you get a point or
22 double due to peak.

23 Q Now, what happens if you fail to clock in or clock out?

24 A You get a half a point.

25 Q Okay. If you could continue down in page 35, there's

1 some, in bold it says, it's the associates responsibility to
2 keep track of her own attendance points. What does that mean?

3 A That -- I usually advise the associate that if they're
4 going to be late or absent, to keep track on their own personal
5 calendar.

6 Q Now, let's go to page 36. In the middle, go to top third
7 of the page, it gives examples where circumstances surrounding
8 an employee's absence may not be counted for points; do you see
9 that section?

10 A In the middle or top?

11 Q Where it starts, work consideration.

12 A Oh, okay. Okay.

13 Q Okay. So, if, that you know, I realize you're not in the
14 housekeeping department, but if someone knows in advance that
15 they're going to be absent, let's say because the death of an
16 immediate family member, would that even be written on the
17 attendance log?

18 A I've seen it, but I don't recall.

19 Q Okay, that's fine. If someone has been absent, and they
20 come back and give an explanation that I was absent because of
21 the death of an immediate family member, would those points be
22 taken off?

23 A We have never counted any points, from what I recall. If
24 a family member have passed away. Normally, so what they
25 do, they request -- there's a form. They have to request for

1 bereavement, if they're qualified, and provide that to the
2 department manager.

3 Q In reviewing -- have you reviewed attendance logs for
4 other employees in the housekeeping department besides Ms.
5 Guzman?

6 A Yes, I have.

7 Q And are you aware of whether other employees had points
8 removed by either Alejandra or the housekeeping management?

9 A Alejandra, yes, or Kelvin.

10 Q Now, the handbook says that each department sets its
11 peaks. Do you know how the housekeeping department determines
12 whether where there are peak periods?

13 A I do not know, no.

14 Q Okay. Now, people come sometimes in this work for
15 serious things such as hospitalization, but sometimes they may
16 come in with a doctor note that says I have --

17 MS. OVIEDO: Objection, Your Honor, leading.

18 MR. DRITSAS: I haven't finished the question.

19 JUDGE THOMPSON: He hasn't finished his question, so let
20 him finish the question first, counsel.

21 Q BY MR. DRITSAS: But if someone comes in with a doctor
22 note, does that automatically mean that points will be
23 eliminated, regardless of what the medical claim was?

24 A That would be under department discretion.

25 JUDGE THOMPSON: I'm going to overrule the objection, so

1 the record is clear.

2 MR. DRITSAS: Thank you, Your Honor.

3 Q BY MR. DRITSAS: So let's kind of go through in some more
4 detail your involvement with the Guzman situation. So even
5 before she was terminated, were you -- did you have any
6 knowledge of prior discipline that she was issued?

7 A Yes.

8 MR. DRITSAS: Can we see --

9 (Counsel confer)

10 JUDGE THOMPSON: Counsel, I'll ask if you'd just mark the
11 documents before you hand them --

12 MR. DRITSAS: Yes, I'm sorry.

13 JUDGE THOMPSON: That's okay. Thanks.

14 Q BY MR. DRITSAS: So I'm showing you Respondent's Exhibit
15 1. Can you identify it for us, please?

16 A Yes, this is a suspension for Martha Guzman.

17 Q And what's the date of the suspension?

18 A It was December 29, 2014.

19 Q Okay. Is your signature on this document?

20 A Yes, it is.

21 Q Can you identify it for us?

22 A Yes, this is my signature.

23 Q Tell us under what line is it.

24 A Human resource at the bottom left.

25 Q When were you provided with this document?

1 A I was provided with it -- I put the date, which is
2 December 29, 2014.

3 Q And do you know if that was before or after the discipline
4 was issued?

5 A It was after it was delivered.

6 Q Now, if you go to the second page of the document, there
7 are a few things. What's the -- under previous discipline, is
8 that part of the document that you reviewed?

9 A Yes, I reviewed this.

10 Q And then there's some handwriting here. Do you understand
11 whose handwriting it is?

12 A Yes, that is Martha.

13 Q And she seems to be making some type of claim here that
14 she wasn't -- that she wasn't late?

15 A Correct.

16 Q Did you investigate that?

17 A Yes, I did.

18 Q Is there anything in this document that reflects your
19 investigation?

20 A Yeah. I pulled the last page. So whenever an associate
21 makes a comment, I will investigate. So she said that was late
22 -- she was not late December 3, I generated this attendance.
23 So as you see, she clocked in December 3rd at 8:58 a.m. She
24 was scheduled at 8:30. I also pulled schedules.

25 Q Just so the record is clear, you're identifying the date

1 Wednesday, December 3, and the fourth column over has the time?

2 A I think -- yes.

3 MR. DRITSAS: I move admission of Respondent's 1.

4 JUDGE THOMPSON: Any objection, counsel?

5 MS. OVIEDO: No objection.

6 JUDGE THOMPSON: Hearing no objection, I'll receive

7 Respondent Exhibit 1.

8 **(Respondent Exhibit Number 1 Received into Evidence)**

9 Q BY MR. DRITSAS: And was Respondent's 1 -- strike that.

10 Let me show you Respondent's 2.

11 A Thank you.

12 Q Okay. I'm showing you what we are marking as Respondent's

13 2. Can you identify this document?

14 A It is a suspension for April 7, 2015, for Martha Guzman.

15 Q And is your signature on this document?

16 A Yes, it is.

17 Q Can you identify where it is?

18 A It's up on the left lower corner, dated April 10, 2014.

19 JUDGE THOMPSON: You mean 2015?

20 THE WITNESS: 2015, sorry.

21 Q BY MR. DRITSAS: Did you review the document when it was

22 presented to you for signature?

23 A Yes.

24 Q Were there any comments or objections to the discipline

25 issued in the box for employee comments?

1 A No, no comment.

2 Q If you take a look at General Counsel 14, that's the 2015
3 attendance log?

4 A I'm sorry, repeat that.

5 Q It's the document that you looked at earlier, the double
6 sided -- do you have that in front of you?

7 A Yes, I do.

8 Q Okay. Turn over to the back side of the document.

9 A Okay.

10 Q And under April 1, there's no reference to any suspension.
11 Do you see that?

12 A Correct.

13 Q But was this suspension issued, even though it wasn't on
14 the attendance log?

15 A Correct.

16 Q Do you have any role in keeping or preparing the
17 attendance logs?

18 A No, I do not.

19 MR. DRITSAS: I move admission of Respondent's 2.

20 JUDGE THOMPSON: Any objection?

21 MS. OVIEDO: No objection.

22 JUDGE THOMPSON: Hearing no objection, I will receive
23 Respondent's Exhibit 2.

24 **(Respondent Exhibit Number 2 Received into Evidence)**

25 Q BY MR. DRITSAS: I'm showing you what is marked as

1 Respondent's 3. Can you identify this document?

2 A This is a suspension for Martha for May 23, 2014.

3 Q And can you identify the signature under human resources?

4 A I don't -- it could be Marisa. I'm not really sure.

5 Q When you were conducting your review of the SPI, was this
6 one of the documents that you reviewed as part of your
7 investigation?

8 MS. OVIEDO: Objection, leading.

9 JUDGE THOMPSON: I don't think so, counsel. He just asked
10 was this a document that he reviewed in the investigation.

11 MS. OVIEDO: But he could ask: What documents did you
12 review?

13 JUDGE THOMPSON: Please. Overruled.

14 THE WITNESS: Yes, I did review this.

15 Q BY MR. DRITSAS: Thank you. Do you know if the suspension
16 was issued?

17 A Yes, because she signed it.

18 Q There is a note here that says on the second page, "I
19 never received a separate -- never received a second writing."
20 Do you see that?

21 A Correct.

22 Q Did you review the records to determine if in fact Ms.
23 Guzman had received a second written warning?

24 A I don't recall ever reviewing -- pull the files, any with
25 attendance.

1 Q So you looked at her entire disciplinary history as part
2 of your review?

3 A Correct.

4 MS. OVIEDO: Your Honor, I'm just going to have a standing
5 objection to anything that would be leading questions.

6 JUDGE THOMPSON: So noted. I just don't have any -- so
7 far I haven't recognized any leading, but so noted.

8 MS. OVIEDO: That last one was also leading.

9 Q BY MR. DRITSAS: Mr. Acosta, I'm showing you Respondent's
10 Exhibit 4. Have you seen this before?

11 A Yes.

12 Q When did you see this?

13 A When I did the investigation with the SPI.

14 Q What is this document?

15 A This is a second written that was delivered on February
16 2014 for attendance.

17 MR. DRITSAS: Move admission of Respondent's 4.

18 JUDGE THOMPSON: And 3?

19 MR. DRITSAS: Yes, I'm sorry, Your Honor. Thank you. 3
20 and 4.

21 JUDGE THOMPSON: Mr. Acosta, do you recognize Respondent's
22 3?

23 THE WITNESS: I do.

24 JUDGE THOMPSON: General Counsel, any objection to 3 and
25 4?

1 MS. OVIEDO: To 3 and 4?

2 JUDGE THOMPSON: To Respondent 3 and 4.

3 MS. OVIEDO: Your Honor, could you will permit me to voir
4 dire?

5 **VOIR DIRE EXAMINATION**

6 Q BY MS. OVIEDO: If you will turn to Respondent's Exhibit
7 3.

8 JUDGE THOMPSON: Ms. Davila needs to do it, because she
9 started.

10 **VOIR DIRE EXAMINATION**

11 Q BY MS. DAVILA: If you'd go could Respondent's Exhibit 3,
12 do you recognize the signature as human resources?

13 A Like I said, I believe it was Marissa. I'm not sure.

14 Q So you didn't review and sign this document?

15 A I did not, because I got hired September of 2014.

16 Q So this predates your employment with the employer?

17 A What's that?

18 Q This predates the time that you were employed with the
19 Respondent?

20 A You mean --

21 Q You didn't work there during this time?

22 A Correct.

23 Q So you didn't prepare this document?

24 A I did not.

25 Q Respondent's Exhibit 4, do you recognize this signature at

1 the bottom?

2 A No, I do not.

3 Q Were you employed at the hotel in February 2014?

4 A No, I was not.

5 MS. DAVILA: So we'll object to that admission.

6 MR. DRITSAS: Your Honor, he testified he reviewed all the
7 discipline that was issued. Whether he issued it or not is
8 irrelevant. He testified that in July, when he was conducting
9 his investigation, he reviewed the discipline.

10 MS. DAVILA: That doesn't tell if what's in this context
11 is true and correct. There's no foundation just to read
12 something that he's admitting he didn't produce.

13 MR. DRITSAS: He doesn't have to prepare the documents to
14 consider them for purposes of his investigation.

15 MS. DAVILA: It's been noted on the record that he's
16 considered them in his recommendation. They doesn't have to be
17 introduced into evidence.

18 MR. DRITSAS: It's certainly relevant, the documentation
19 that a witness is making -- excuse me, counsel. It's certainly
20 relevant that the documentation the witness reviews to confirm
21 or participate in a termination decision is relevant to the
22 case.

23 JUDGE THOMPSON: Well, the issue is authenticity that the
24 General Counsel is raising, and the reason why I have to
25 overrule the objection is with the prior witness, that

1 individual did not recognize the document and had not authored
2 it. The difference is this witness, even though he did not
3 author it, he recognizes the document and attested that he
4 reviewed it, and that's sufficient to at least let it in for
5 purposes of admission. So I have to overrule the objection,
6 based upon authenticity and it admit Respondent 3 and 4 into
7 evidence.

8 **(Respondent Exhibit Number 3 and 4 Received into Evidence)**

9 JUDGE THOMPSON: Mr. Draitsas, proceed.

10 **CROSS-EXAMINATION (CONTINUED)**

11 Q BY MR. DRITSAS: I'm showing you Respondent's Exhibit 5.
12 Can you identify the document?

13 A This is another suspension for Martha. It was delivered
14 on May 20, 2015, and that's my signature on the lower left
15 corner that I signed on May 21, 2015.

16 Q Okay. Were you consulted about this suspension before it
17 was issued?

18 A I don't recall.

19 Q When you signed the document, did you check and see
20 whether there were any associated comments that deserved any
21 further investigation?

22 MS. OVIEDO: Objection, leading.

23 JUDGE THOMPSON: Counsel, I don't believe that he was
24 leading, but you raised the issue with regard to 611C. It also
25 says with respect to the board that I have discretion to allow

1 leading questions of a 611C witness, so I don't believe that it
2 was leading. So overruled. But to the extent that he was
3 leading, I'm going to allow it, so overruled. You can answer
4 the question, if you recall it.

5 THE WITNESS: Yes, I do review it.

6 Q BY MR. DRITSAS: What did you determine in terms of
7 whether there were any associate comments?

8 A No associate, so she signed it. She agreed with the
9 discipline.

10 MR. DRITSAS: I move admission, Your Honor, of Respondent
11 5.

12 JUDGE THOMPSON: General Counsel, any objection to
13 Respondent Exhibit 5?

14 MS. OVIEDO: No objection, Your Honor.

15 JUDGE THOMPSON: Hearing no objection, I'll admit
16 Respondent Exhibit 5.

17 **(Respondent Exhibit Number 5 Received into Evidence)**

18 MR. DRITSAS: Thank you, Your Honor.

19 Q BY MR. DRITSAS: Can you identify what we've marked as
20 Respondent's 6?

21 A It's another discipline, SPI, for Martha Guzman for July
22 2015, and that's my signature on the lower left corner.

23 Q Let's go over how this came to you. Did you sign this?

24 A I did.

25 Q Were you aware -- is there something on here that tells

1 you this is an SPI?

2 A Yes, on the very bottom it's checked, suspension pending
3 investigation.

4 Q What does that trigger for you?

5 A That associate is suspended pending investigation to
6 determine either termination.

7 Q Let's go through a little more detail what you did. So
8 once you got this document -- I'll ask it this way. Before you
9 received the SPI, did you have any communication with anyone in
10 the housekeeping department that an SPI would be coming to you?

11 A If I'm not mistaken, yes.

12 Q And who was that from?

13 A It could have been either Alejandra or any other floor
14 managers, could be I think Anthony.

15 Q Can you recognize or do you know who the signature is
16 under the manager's signature box?

17 A I don't.

18 Q Do you know whether or not that's Alejandra?

19 A No.

20 MS. OVIEDO: Objection, asked and answer.

21 JUDGE THOMPSON: Sustained.

22 Q BY MR. DRITSAS: So let's go through what you did. You
23 got the SPI. Just take us through your steps.

24 A So my steps, it was issued, I read the comment. You know,
25 according to Martha she ruled that she talked to Vania, she had

1 seven points, that she was sick. She was taken to the
2 hospital. What I did is I look at attendance log. I pulled
3 time punches from Unifocus and Kronos. I pulled the schedules
4 the day that she worked. Then after I received a couple of
5 calls from Martha and she told me she was SPI. I'm sorry, yes,
6 SPI. I asked her what happened. She informed that she was in
7 the hospital, they took her in an ambulance, that Vania told
8 her she had seven points. What else?

9 Q Okay. Let me stop you for a second there. You said that
10 you looked at something called Unifocus?

11 A Correct.

12 Q Can you identify what Unifocus is?

13 A Unifocus is when an associate clocks in or out when they
14 come to work or when they go to lunch.

15 Q How do you access that?

16 A Myself?

17 Q How do you access it?

18 A I have an access in my computer.

19 Q When did Unifocus come into being; do you know?

20 MS. OVIEDO: Objection, outside the scope.

21 JUDGE THOMPSON: Well, I don't know if it's outside the
22 scope, but I don't know that it's relevant when it came into
23 being. The relevancy is he accessed it, so sustained.

24 Q BY MR. DRITSAS: So you reviewed -- you testified that you
25 reviewed the time punches?

1 A Correct, from Unifocus.

2 Q Unifocus. Did you review the time punches from any other
3 system?

4 A Yes, I did, from Kronos. We went live with Kronos on
5 February 22nd.

6 Q Okay. So let me pull that. Can you identify this?

7 A This is all the punches for Martha Guzman. This shows her
8 punches.

9 Q Let's kind of orient ourselves to the document. There's a
10 date column. What does that indicate?

11 A The date of -- then following is, you know, the punches.

12 Q So under time in, that's when -- why don't you tell you us
13 what the documents are here? What the entries are?

14 A So these are, you know, they could pull your vacation or
15 holiday or personal. The next column tells you the amount for
16 vacation or holiday. Then states it's time in. This shows
17 when the associate punched in. Break, when they went to lunch,
18 when they started lunch, when they came back from lunch and
19 when they left on time out. And then on total it shows the
20 total amount of hours worked for that date. And then the next
21 net overtime is if they worked overtime. And the total is when
22 the associate was scheduled to work.

23 Q Okay. So did you review Respondent 7 as part of your
24 investigation?

25 A Yes, I did.

1 Q What was the significance of that? Why did you pull
2 these?

3 A Because the attendance log, Exhibit 6, showed that she did
4 not show up to work, called off on July 7.

5 MS. OVIEDO: Can you tell us what document --

6 THE WITNESS: Exhibit 6, attendance log. So the
7 attendance log on Exhibit 6 is the third page. The very last
8 one it says July 7, call out.

9 Q BY MR. DRITSAS: I'll take you through this. So
10 Respondent's 6, the last entry says July 7, called out at 4:15
11 a.m. So is there something on Exhibit 7 that reflects the
12 entry of July 7?

13 A There was no punches.

14 Q What does that signify to you?

15 A That she called off.

16 Q So the punches on the document here are -- when you see a
17 time in/time out, that means the person worked that day?

18 A Correct.

19 Q And when there's a blank, that means no work that day?

20 A Correct.

21 Q And then before Unifocus, I think you said you had another
22 system for time entries?

23 A Yes, it was Kronos.

24 Q Did you review the Kronos entries for the entries on the
25 2015 attendance log just to check it?

1 A Yes, I did.

2 Q So can you identify Exhibit 8, Respondent's Exhibit 8?

3 A This is shift detail for Martha.

4 Q Okay. I want to bring you to the fourth page in.

5 Starting on the fourth page in, which will require magnifying

6 glasses. But can you identify what the documents are that

7 start the fourth page in, the first I'm looking at says

8 timecard Martha?

9 A Correct.

10 Q What are we looking at here?

11 A This is similar to Unifocus. It has the dates, then it

12 has the pay code amount, and then it shows the time in, the

13 associate clocked in. Then it's transferred, which is blank.

14 And then out is when they went to lunch; end is when they came

15 in; transfer is blank; and then when the associate left, punch

16 out. And then the next shift shows total hours worked.

17 Q So when you were reviewing the entries on Ms. Guzman's

18 2015 attendance log, did you consult this Kronos system to

19 crosscheck as you did with the Unifocus?

20 A I did.

21 MS. OVIEDO: Objection. These are all leading questions.

22 JUDGE THOMPSON: They are not leading questions. He just

23 asked him if did he check -- it's not leading, counsel. So

24 overruled.

25 Q BY MR. DRITSAS: What did you determine once you reviewed

1 the Kronos entries?

2 A I compared it to the attendance log, made sure that, for
3 example, on February 5th did she call out? I compared it to
4 the punched.

5 Q What did you determine?

6 A That she was absent or tardy.

7 Q The first three pages of Respondent's 8, can you identify
8 what they are? The first three pages, what do they represent?

9 A These are from Unifocus. Yeah, Unifocus.

10 Q So they're just a different picture than Exhibit 7?

11 A Correct.

12 MR. DRITSAS: I move admission, Your Honor, of Respondent
13 7 and 8 -- 6, 7 and 8.

14 JUDGE THOMPSON: Okay. General Counsel, any objections to
15 6, 7 or 8? Just a second, before you answer. Mr. Acosta, on
16 Respondent Exhibit 7 at the top left hand, it says, "Watson,
17 RM." Do you see that?

18 THE WITNESS: Yes, I do.

19 JUDGE THOMPSON: Who or what is that?

20 THE WITNESS: I do not know, but this is a system that we
21 use. It's called Unifocus. Maybe that's the name of the
22 company.

23 JUDGE THOMPSON: But you don't know as you sit here today?

24 THE WITNESS: No, correct.

25 JUDGE THOMPSON: Okay. Now, General Counsel, any

1 objection to 6, 7 or 8?

2 MS. DAVILA: Voir dire, Your Honor?

3 **VOIR DIRE EXAMINATION**

4 Q BY MS. DAVILA: Mr. Acosta, when you were reviewed these
5 documents, did you read them electronically?

6 A Yes, I did.

7 Q Did you print them out when you reviewed them?

8 A I did.

9 Q Do you know if this is an exact copy of what you reviewed?

10 A Yes, this is on that I printed.

11 Q You printed it?

12 A Uh-huh.

13 Q These are the copies you printed?

14 A Correct.

15 Q How do you know this is a copy you printed?

16 A Because I photo shopped them and I like to attach them
17 when terminating an associate.

18 Q Do you print all electronic documents when you review
19 them?

20 A Yes. It's a lot easier for me, because I make notes,
21 highlights.

22 MS. DAVILA: Okay. No objection, Your Honor.

23 JUDGE THOMPSON: Hearing, no objection, I'll receive
24 Respondent's Exhibits 6, 7 and 8.

25 **(Respondent Exhibit Number 6, 7 and 8 Received into Evidence)**

1 MR. DRITSAS: Thank you. Your Honor, I've got a lot more
2 to go with this witness. Do you want to take a lunch break?

3 JUDGE THOMPSON: How much longer do you have, counsel?

4 MR. DRITSAS: Probably another half hour. If not, can we
5 have a five- minute break?

6 JUDGE THOMPSON: No, let's -- I hate to stop in the middle
7 of a witness's testimony, but unfortunately I have some health
8 considerations that I have to keep in mind, so I'm going to
9 stop now. Let's come back at 1:30. It is now almost a quarter
10 until 1:00. Let's come back at 1:30 and we'll resume cross.
11 Mr. Acosta, please don't discuss your testimony with anyone
12 while we are on our break. Having said that, the hearing is in
13 recess until 1:30. Off the record.

14 (Off the record at 12:41 p.m.)

15 JUDGE THOMPSON: We are back on the record continuing with
16 the cross-examination of Mr. Acosta. Mr. Dritisas, continue.

17 MR. DRITSAS: Thank you, Your Honor.

18 **CROSS-EXAMINATION (CONTINUED)**

19 Q BY MR. DRITSAS: I'm showing you Respondent Exhibit 9.
20 Can you identify that, please?

21 A Yeah, this is the GRAs schedules.

22 Q You will see the pages for February 2015, March 2015 and
23 April 2015 and May for 2015 and July 2015. Did you review any
24 of these documents in connection with your investigation?

25 A I did.

1 Q Which ones?

2 A All of them. I did it from the starting date from
3 February 5th all the way until July 7th.

4 Q How did you use these documents?

5 A I compared them with the punches from time and attendance,
6 Unifocus and Kronos. For example, I looked at: Was Martha
7 scheduled to work on February 5? If she did, then I compared
8 it to the punches and then I made sure that it was logged on
9 the attendance log.

10 Q Okay. So I think it's probably -- if we need to get
11 another copy we can, but I see the photocopying has made things
12 a little darker on mine. Can you tell on yours, Mr. Acosta, on
13 the first page on February 5, whether there was a scheduled
14 time there?

15 A February 5th? Yes. 8:30 until 5:00.

16 Q Okay.

17 MS. OVIEDO: What number?

18 THE WITNESS: It's highlighted.

19 JUDGE THOMPSON: Ms. Guzman.

20 MS. OVIEDO: Oh, sorry.

21 MR. DRITSAS: I just want to make sure for the record we
22 have something that's a little darker. The second page --

23 MS. OVIEDO: Ours is blocked off.

24 MR. DRITSAS: Try this copy.

25 Q BY MR. DRITSAS: The second page, what date and time did

1 you look at or what schedule date did you look at?

2 A I'm sorry, repeat that question.

3 Q Sure. The second page, which entry did you look at?

4 A I looked for February 15.

5 Q Okay. And I think that's pretty clear that's written as a
6 9:00 to 5:30 schedule?

7 A Correct.

8 Q And then on the third page, what did you look at?

9 A Let me see if I can --

10 JUDGE THOMPSON: He was just waiting for you to ask the
11 question.

12 Q BY MR. DRITSAS: Oh, I'm sorry. On the third page, what
13 schedule date are you looking at?

14 A The week of the 22nd?

15 Q Yes.

16 A For the 24th, she was scheduled from 8:30 to 5:00.

17 Q And then the next page, the week of March 8, what are you
18 looking at?

19 A March 8 or March 11?

20 Q The week of March 8. You tell me the date.

21 A Oh, March 11, she was scheduled 8:30 to 5:00.

22 Q And then the next page, the week of May 29th starting into
23 April.

24 A For April 1st she was scheduled 8:30 to 5:00.

25 Q And then the last page, what were you looking at?

1 A The last page?

2 Q There's two more, sorry. The week of May 10.

3 A I looked to see -- she was scheduled on May 17. She was
4 scheduled from 9:00 to 5:30.

5 Q And the last page?

6 A And I looked to see if she was scheduled on July 7. She
7 was scheduled at 8:30 to 5:00.

8 MR. DRITSAS: Okay. Thank you. Your Honor, I move
9 admission of Respondent's 9.

10 MS. OVIEDO: No objection.

11 JUDGE THOMPSON: Hearing no objection, I'll receive
12 Respondent Exhibit 9.

13 **(Respondent Exhibit Number 9 Received into Evidence)**

14 Q BY MR. DRITSAS: So if I understand where we pick it up
15 you got the SPI, you did your investigation that you just
16 testified about. I think you said at some point you spoke with
17 Ms. Guzman; is that correct?

18 A That's correct.

19 Q How did that conversation come about?

20 A She called me a couple of times, I think two or three
21 times. I think the second or third time she called me she said
22 that she was suspended, and she told me she was suspended due
23 to attendance, that Vania told her she had seven points; that
24 her blood pressure was high. She ended up going to the
25 hospital and the ambulance took her.

1 Q Anything else she said?

2 MS. OVIEDO: Objection, hearsay.

3 JUDGE THOMPSON: Overruled. I will allow it.

4 THE WITNESS: She said that Imelda or Anthony got her mad,
5 and that's it that I recall.

6 Q BY MR. DRITSAS: Okay. What did you say to her?

7 A I was taking notes and I told her that I'll get back with
8 her; that I was going to research what she told me.

9 Q What did you do next in connection with Ms. Guzman's case?

10 A After I finished talking to her I followed up with
11 Alejandra and Vania, because Ms. Guzman informed me that Vania
12 told her she had seven points. So I asked Vania, Vania, did
13 you talk --

14 Q Stop for a second. Who is Vania?

15 A Vania, she is the assistant housekeeping.

16 Q Okay.

17 A I asked Vania, "Vania, did you talk to Martha?" And she
18 told me it had been a while back, in May, that she informed her
19 she had seven points.

20 Q Okay. So?

21 A And then I compared to see if Vania did tell her that.
22 But according to the attendance log, Martha had seven points,
23 it was in May.

24 Q What else? You said she mentioned --

25 A She also mentioned -- I'm sorry, she mentioned that she

1 gave Alejandra a doctor's note and I followed up with
2 Alejandra. "Do you have a doctor's note that Martha provided?"

3 Q Hold on. Let me get that. I should ask you, did you get
4 a copy of the doctor's note as part of your investigation?

5 A After talking with Vania, yes.

6 Q I'm showing you what's marked as Respondent's Exhibit 10.
7 Can you identify this?

8 A Yes, this is Martha's doctor's note. And it states to
9 excuse her from the 2nd through the 3rd, but there is a
10 scratch-off on the 5th.

11 Q When you saw it, was the scratch-off already there?

12 A Yes. There was not --

13 Q Were there any job restrictions listed on this that you
14 could see?

15 A No.

16 Q What consideration did you give to this doctor note in
17 terms of your recommendation or your approval for the
18 termination of Ms. Guzman?

19 A Points never counted against her from July 2nd through the
20 5th.

21 Q Is there anything in this note that you thought excused
22 her from coming to work on July 7th?

23 A No, she was scheduled.

24 Q Was there anything else you did as part of your
25 investigation besides what you testified to?

1 A She stated she had high blood pressure. I looked at the
2 second page. There's nothing about high blood pressure. Just
3 said swelling, inflation, muscle.

4 Q Did Ms. Guzman provide you with -- to your knowledge the
5 hotel -- with any further medical documentation besides what
6 we've marked as Exhibit 10? Excuse me. Yeah, Exhibit 10, in
7 connection with her July absence?

8 A No.

9 Q So is there anything you did as part of your investigation
10 besides what you testified?

11 A No.

12 Q Let's talk about the final decision. How did it come
13 about that -- you had an SPI that was given to you from the
14 housekeeping department. Tell me what you did once you
15 finished your investigation.

16 A Once I did the investigation, I followed up with Alejandra
17 and informed her that we were going to go ahead and proceed
18 with the termination. I told her that I was going to send her
19 an invite. I was going to call Martha to sit with her and
20 discuss her SPI. And for her to attend, Alejandra.

21 Q Did you have a meeting with Ms. Guzman?

22 A Yes,.

23 Q Who attended meeting?

24 A It was me, Alejandra and Martha.

25 Q Tell me what happened at that meeting.

1 A At that meeting, it was either July 21 or 22, I met with
2 her. I told her that I did the investigation, you know, the
3 stuff that she shared with me, I did the investigation. I told
4 her that she had reached her maximum points; that we were going
5 to terminate her. I told her that Alejandra did give her a
6 couple of chances, several, as she could see the four or five,
7 that I needed to proceed. She started crying and asked me if I
8 could give her another chance, and I told her cannot. I need
9 to be consistent with everybody.

10 I told her "Alejandra has helped you a couple of
11 occasions," and she refused to sign the PAF, personal
12 performance action plan. And she said if she could make a
13 phone call. I told her I had a meeting. I think it happened
14 at 2:00. At 2:30, I had a meeting and I needed her to sign.
15 She refused. I gave her her check. She signed a copy of the
16 check and then I walked her out.

17 Q Did you address with her your research into her point
18 concerning Vania?

19 A Yes, I did tell her. I told her I did talk to Vania and
20 "Vania did inform me that she talked to you a while back." And
21 I told her, "Hey, you talked to Vania on May 1st, because you
22 had seven points." She consistently said, "Hey, I was taken to
23 the ambulance on July 2nd." I told her we never count those
24 points. You told her, "You missed on July 7."

25 JUDGE THOMPSON: Counsel, are you ready to move

1 Respondent's 10 in?

2 MR. DRITSAS: I was going to move them both together, 10
3 and 11, Your Honor.

4 JUDGE THOMPSON: Okay, certainly.

5 Q BY MR. DRITSAS: Can you identify Exhibit 11?

6 A This is a personal action form, PAF. This shows Martha's
7 information when she started, termination. When I gave her
8 this she refused. I told her that she could use this as a
9 reference. We won't inform nobody why we let her go. We could
10 tell when she started and when she left. And I gave her a
11 business card of mine and told her that if she had any
12 questions she could call me or I'll permit the reference.

13 Q And did you prepare this Exhibit 11, the PAF?

14 A Yes, I did.

15 Q Did you sign it?

16 A Yes, I did.

17 Q Can you identify where you signed it?

18 A Where it says HR signature.

19 Q Vertical lines are your signature?

20 A Yes.

21 MR. DRITSAS: Your Honor, I move admission of Respondent's
22 10 and 11.

23 JUDGE THOMPSON: Counsel, any objection?

24 MS. OVIEDO: No, Your Honor.

25 JUDGE THOMPSON: Hearing no objection, I'll receive

1 Respondent's Exhibits 10 and 11.

2 **(Respondent Exhibit Numbers 10 and 11 Received into Evidence)**

3 Q BY MR. DRITSAS: I want to go back to something you
4 testified with General Counsel. Other than receiving documents
5 or schedules that you asked Christina Keeran to provide, did
6 you ever observe her in the performance of her job duties?

7 A I only saw her like scheduling, because I went in and out,
8 asked her to, you know, print schedules or call the GRA to my
9 office.

10 Q At one point you talked about there was a document in
11 front of you which you hadn't seen, and you used the word
12 oversee. Did you ever see Ms. Keeran oversee any employees in
13 the status department?

14 A I'm sorry, repeat the question.

15 Q Did you ever see Ms. Keeran oversee any employees in the
16 status department?

17 A Who is Keer --

18 Q Christina.

19 A Christina.

20 Q You don't know her last name. Christina K. Did you ever
21 see her oversee any employees in the status department?

22 A No, I don't recall. Like I said, I go in and out of her
23 desk.

24 MR. DRITSAS: I have nothing further of Mr. Acosta at this
25 time.

1 JUDGE THOMPSON: Thank you. Any redirect?

2 MS. DAVILA: Yes, Your Honor. I have a few questions, but
3 I would just like to put on the record I want to preserve the
4 right to recall him. I have a lot of documents to look over.

5 JUDGE THOMPSON: Certainly.

6 MS. DAVILA: But I do have something.

7 **REDIRECT EXAMINATION**

8 Q BY MS. DAVILA: Mr. Acosta, you were first alerted to Ms.
9 Guzman's attendance record by Alejandra Magana, correct?

10 A Either Alejandra or Anthony.

11 Q Anthony?

12 A Anthony.

13 Q Could you state who Anthony is?

14 A He's the floor housekeeping manager -- was.

15 Q Do floor managers usually tell you about attendance issues
16 with the employees?

17 A SPIs.

18 Q Suspensions?

19 A Yes and no.

20 Q Can you explain what an SPI is?

21 A SPI is when they have pending investigation, whenever they
22 are going to be -- potentially be terminated.

23 Q Suspension pending investigation. So that's when an
24 employee has already been placed on suspension, correct?

25 A Correct.

1 Q So you were alerted to her file after she had already been
2 issued a suspension?

3 A This is -- alerted. You know, sometimes they do. I don't
4 recall on her case. There can be an alert, hey, we're going to
5 suspend this person.

6 Q Is it your testimony that it was her July 7th absence this
7 year that put her over the edge of ten points?

8 A Correct.

9 Q It's your testimony that it was that overage of ten points
10 after July 7th that led to her termination?

11 A On the 7th, yes.

12 JUDGE THOMPSON: Make sure you speak up, Mr. Acosta.

13 THE WITNESS: On July 7th.

14 Q BY MS. DAVILA: Okay. And it's your testimony that the
15 absences from July 2nd to July 6th did not count towards her
16 attendance record?

17 A Correct.

18 Q And it's your testimony that her doctor's note was
19 considered in the investigation?

20 A When she told me that she gave Alejandra a doctor's note,
21 I wanted to see what kind of doctor was it, what were the
22 dates.

23 Q Right. And looking at Respondent's Exhibit 10, you said
24 you looked at that document, correct?

25 A Correct.

1 Q Can you read the name on the bottom right-hand corner?

2 A Miguel Mendoza Lovato.

3 Q And those initials at the end?

4 A Correct.

5 Q What are the initials?

6 A MM.

7 JUDGE THOMPSON: The document speaks for itself, counsel,

8 I don't need the witness to read the document.

9 MS. DAVILA: Sorry, Your Honor.

10 JUDGE THOMPSON: That's okay.

11 MS. DAVILA: I just wanted to establish that.

12 JUDGE THOMPSON: It's established, it's in the record.

13 Q BY MS. DAVILA: It's MD, correct?

14 A MM.

15 Q Is it MM on your record?

16 A Oh, after the -- I was looking at the initials. Oh, MD.

17 Q Is there any written policy as to how much information has
18 to be in a doctor's note presented by an employee?

19 A No.

20 Q And so when you look at a doctor's note from an employee
21 excusing an absence, what do you look for?

22 A I don't excuse it. It's the department who decides, makes
23 that decision.

24 Q When you're doing an investigation, because you have
25 authority to do an investigation, correct?

- 1 A Uh-huh.
- 2 Q What do you personally look for?
- 3 A At the dates, you know, do they count, do they not count.
- 4 Q Count as far as?
- 5 A Absence.
- 6 Q Absence. And do you look for the patient's name?
- 7 A Yes.
- 8 Q And the title of the person signing?
- 9 A Correct.
- 10 Q Do you do any further authentication of the document?
- 11 A What's that?
- 12 Q Do you do any further authentication of the document?
- 13 A No.
- 14 Q Just the copy that you have?
- 15 A Correct.
- 16 Q So it didn't matter that it didn't mention blood pressure,
17 correct?
- 18 A Correct.
- 19 Q You mentioned that you had known of Ms. Guzman's health
20 problems, her history of health problems with the company,
21 right?
- 22 A I wouldn't -- no.
- 23 Q This is the first time you had ever encountered Martha
24 Guzman's file at all?
- 25 A In particular, she informed me when I talked to her that

1 it was high blood pressure.

2 Q And you said that she told you about being taken in an
3 ambulance to the hospital?

4 A Correct.

5 Q Did you follow up on that? Did you ask other employees
6 about what had happened?

7 A No, that's privacy.

8 Q I'm sorry?

9 A That's privacy.

10 Q Privacy issue. You never heard about her being taken from
11 an ambulance from the hospital directly from the hospital --
12 from the hotel to the hospital?

13 A No, she informed me.

14 Q She informed you. And what did she tell you?

15 A That she was taken from the hotel to the hospital.

16 Q Did she tell you she was on her shift when that happened?

17 A No.

18 Q No?

19 A She did not tell me.

20 MS. DAVILA: That's all for now, Your Honor.

21 JUDGE THOMPSON: Thank you, counsel. Mr. Acosta, thank
22 you for your testimony. Please don't discuss it with anyone,
23 and you are excused from the stand. Thank you.

24 Ms. Davila, would you like to call your next witness?

25 MS. DAVILA: General Counsel calls Olivia Green. She's on

1 her way.

2 (Counsel confer)

3 JUDGE THOMPSON: Let's go off the record.

4 (Off the record at 2:37 p.m.)

5 JUDGE THOMPSON: We are back on the record with our next
6 witness who I believe is Ms. Green. Good afternoon, Ms. Green.

7 MS. GREEN: Good afternoon.

8 JUDGE THOMPSON: My name is Judge Thompson. I'm an
9 Administrative Law Judge with the National Labor Relations
10 Board, and I've been assigned to hear the complaint in this
11 case. You have been called as a witness on behalf of the
12 General Counsel. I need to swear to swear you in, however.
13 Would you please raise your right hand?

14 Whereupon,

15 **OLIVIA GREEN**

16 having been duly sworn, was called as a witness herein and was
17 examined and testified as follows:

18 JUDGE THOMPSON: Great. Thank you. Could you state your
19 name for the record please?

20 THE WITNESS: Olivia Green.

21 JUDGE THOMPSON: Ms. Green, how do you spell your first
22 name?

23 THE WITNESS: O-L-I-V-I-A.

24 JUDGE THOMPSON: And your last name.

25 THE WITNESS: G-R-E-E-N.

1 JUDGE THOMPSON: Great. Thank you. If you wouldn't mind,
2 let me give you just a few instructions before providing your
3 testimony. As you can see, there is a microphone in front of
4 you as we're recording the proceedings. First, if you wouldn't
5 mind giving us a verbal response. Oftentimes we can't
6 distinguish between uh-huh and uh-huh. So if you wouldn't mind
7 to give us a verbal response, we would appreciate that.

8 Second, if you don't understand a question that either of
9 counsel at the table ask, would you tell them so? Yond your
10 question. So that they can rephrase it or repeat so that you
11 can understand it. If you answer a question that's asked,
12 we'll just presume that you understood what they were asking
13 you.

14 Third, if either counsel object or lodge an objection,
15 would you hold your response until I have an opportunity to
16 rule on the objection.

17 And fourth, if you wouldn't mind, sometimes you may know
18 where counsel may be headed with their questions. But it
19 confuses the record if you interject your answer before they
20 finish a question. So could you hold your answer until they
21 finish the whole question? That way we can get the whole
22 question and your entire answer. Would you do those things for
23 us?

24 THE WITNESS: Yes.

25 JUDGE THOMPSON: Great. Thank you so much. Ms. Davila,

1 your witness.

2

DIRECT EXAMINATION

3 Q BY MS. DAVILA: Good afternoon, ma'am.

4 A Good afternoon.

5 Q My name is Judith Davila. I'm with the General Counsel
6 and the National Labor Relations Board. My co-counsel is
7 Alicia Oviedo. Can you state your occupation for the record?

8 A Security officer.

9 Q Security officer for what facility?

10 A Trump Hotel.

11 Q And how long have you worked there?

12 A Four years.

13 Q I'm sorry, four?

14 A Four years.

15 Q Okay.

16 A Uh-huh.

17 Q And where did you work before that?

18 A I worked at the Renaissance Hotel.

19 Q And what was your position there?

20 A Engineer coordinator.

21 Q Okay. Engineer coordinator?

22 A Uh-huh.

23 Q Okay. Is that -- could you describe the duties of an
24 engineer coordinator?

25 A Anything that had to do with the facilities. I was in

1 charge of inside and outside the facilities, setups, keeping
2 the grounds proper so they can look good.

3 Q Did that involve manual labor, or it was just oversight?

4 A No. It was manual labor involved as well.

5 Q Okay. Can you describe your duties at the Trump Hotel?

6 A To protect the inside and outside of the hotel.

7 Q What's your schedule?

8 A I'm sorry?

9 Q Your schedule, your work schedule?

10 A 7 to 3:30.

11 Q Of an a.m.?

12 A 7 a.m. to 3:30.

13 Q 3:30 p.m.?

14 A Yes.

15 Q How many hours do you work a week?

16 A Forty plus.

17 Q Do you regularly work overtime?

18 A Only if necessary.

19 Q And you're paid hourly, correct?

20 A Yes.

21 Q What is your hourly pay?

22 MR. KRAMER: Objection.

23 THE WITNESS: 14.94.

24 MR. DRITSAS: Sorry.

25 MR. KRAMER: Ignore him, Your Honor.

- 1 Q BY MS. DAVILA: Who's your supervisor?
- 2 A We have a manager and a supervisor so --
- 3 Q Okay. Who's your manager?
- 4 A Manager is Eric Delgado.
- 5 Q And what's his title?
- 6 A Security manager.
- 7 Q And your supervisor?
- 8 A The director is Mr. Clyde Turner.
- 9 Q How many security officers are on duty during one shift?
- 10 A It can vary between five and six. They vary at different
- 11 shifts.
- 12 Q Which shift have the most security officers?
- 13 A I believe -- I don't recall how many is on each shift.
- 14 Q Okay. Can you describe some of the different shifts?
- 15 A We have day shift, swing shift and grave.
- 16 Q Grave as in the night shift?
- 17 A Graveyard, yes.
- 18 Q Okay. How long have you been working the schedule from 7
- 19 a.m. to 3:30 p.m.?
- 20 A For four years.
- 21 Q For four years.
- 22 A Uh-huh.
- 23 Q That's always been your schedule?
- 24 A Yes.
- 25 Q Okay. As security officer is your job -- are you assigned

1 a certain part of the facility to watch over and protect, or do
2 you all have general --

3 A We rotate.

4 Q You rotate?

5 A Yes.

6 Q But there are specific stations or positions where you are
7 at one time?

8 A Yes.

9 Q Okay. Can you name some of the stations or the locations
10 of those stations?

11 A Well, we have the Robert unit -- the Robert unit, the
12 Lincoln unit. This is what they're called.

13 Q Okay. The Robert unit?

14 A Yes.

15 Q Like the boy's named Robert?

16 A Yes.

17 Q And what does that unit entail?

18 A That unit entails the inside of the hotel and outside of
19 the hotel as well.

20 Q And what was the other unit?

21 A Lincoln, which is basically almost the same thing.

22 Q Is there a difference between besides the name?

23 A No, not really.

24 Q Okay. You said your job was to protect the facility,
25 correct?

1 A Yes. To -- yes.

2 Q What do you protect the facility from?

3 A Well, we watch for, you know -- we don't want any trouble
4 or anything going on. Or if we see groups of people that's
5 gathering, to find out what's going on at that time, and to
6 make the guests safe.

7 Q You've had some public events outside your hotel recently,
8 correct?

9 A Yes.

10 Q And they've drawn large crowds, correct?

11 A Conventions, basically conventions but that's --

12 Q Conventions, inside the hotel or outside?

13 A They stay at the hotel.

14 Q Oh, they stay --

15 A And then --

16 Q -- at the hotel?

17 A Yeah. They do stay at the hotel, and then they leave. We
18 have large groups come in and out.

19 Q If there's a security issue, for example, a robbery,
20 what's the first step you take? If a guest comes up to you and
21 tells you they've been robbed, what do you do?

22 A I immediately call my control desk for backup. And always
23 have -- I always have -- we always have a backup. I notify
24 them that we have a issue at that -- wherever the location is
25 located.

1 Q And then what?

2 A And then someone would come up. And then we'll try to get
3 as much information from the guest as necessary.

4 Q And then what happens?

5 A To just do a follow up to see if --

6 Q What if there's a physical fight going on? What would be
7 your first step?

8 A First step is to call the control desk. Second step if
9 the fight continues, we contact Metro.

10 Q Metro Police?

11 A Yes.

12 Q Is that -- Las Vegas is local police?

13 A Yes.

14 Q At what point would you notify Eric Delgado or Clyde
15 Turner?

16 A Anytime there's an altercation at the job?

17 Q Do you notify them on every incident that you address?

18 A Depending on what the incident is, yes.

19 Q So is that a yes or a no?

20 A Yes.

21 Q Okay. So if somebody's locked out of their room, you
22 would not notify Eric Delgado or Clyde Turner of that incident?

23 A No. It's not necessary to notify him for a lock -- a
24 person locked out of their room. It's just if it's something
25 physical or something that's, you know, endangerment or

1 something like that.

2 Q So there are instances where you don't notify them before
3 taking action, correct?

4 A No.

5 Q No?

6 A Yes. We do notify them that -- Mr. Delgado and Mr. Turner
7 depending on what the issue is, you know. A person locked out
8 of their room is not really a big issue. We can handle that.

9 Q So you wouldn't notify --

10 A No.

11 Q -- Eric Delgado or Clyde Turner about that. Okay. Who
12 would you notify about that?

13 A Just our control desk and --

14 Q The control desk?

15 A Yes.

16 Q And who works at the control -- how do the control desk
17 help you in that situation?

18 A Well, everybody takes turns at the control desk. It's
19 every two hours someone different is at the control desk.
20 Depending on what the issue is, we always notify them if --
21 they notify us if it's just a guest key assist. They notify us
22 if a safe is not working or whatever, whatever the issue may
23 be.

24 Q Okay. Do you file reports with Eric Delgado?

25 A We do file reports, yes.

1 Q Do you file reports with Eric Delgado?

2 A To Eric Delgado?

3 Q Uh-huh.

4 A We file reports, and then Mr. Delgado does look at the
5 report.

6 Q Does somebody else look at the report?

7 A Mr. Turner.

8 Q Mr. Turner. And do you file these reports daily?

9 A Depending on if we have a day that we have reports. If we
10 don't have reports, we don't file them.

11 Q So if you go through a shift without any incidents, you
12 don't file a report?

13 A No.

14 Q Okay. You don't file a log of what you did that day?

15 A It's -- we have a log that's called a DAR --

16 Q And what --

17 A -- Daily Activity Log --

18 Q And what are --

19 A -- and that any information goes into that.

20 Q Can you give us an example of what information --

21 A Well --

22 Q -- would go --

23 A -- just like a key assist, for instance. If someone calls
24 for a key assist, and we assist them and get them into the
25 room, we indicate that the guest is in the room at that time.

1 Q So these logs contain every incident that you've addressed
2 during your shift?

3 A Yes.

4 Q So there wouldn't be something that you've addressed that
5 you wouldn't log?

6 A No.

7 Q Okay. You've made a report about Union activity, correct?

8 A I made a statement, yes.

9 Q Did you make -- did you make a report in your daily log
10 about Union activity?

11 A I was at the control desk at that time, but I'm quite sure
12 my coworker did log this information in the daily activity log.

13 Q So you address the Union activity, but you didn't log it.
14 Somebody -- you think somebody might have at the control desk?

15 A I didn't -- repeat the question please?

16 Q That you made a report about Union activity?

17 A I didn't make a report about Union activity. No, I did
18 not.

19 Q Did you address a situation where there were employees
20 distributing Union literature outside of the facility?

21 A I did see them outside the facility gathering, but I
22 didn't know it was Union activity at that time.

23 Q Okay. Did you file a log about that?

24 A I wrote a statement. I did not file a log.

25 Q Why would you write a statement and not log -- not a log?

1 A Well, the control desk logs everything. I don't log
2 everything. The control desk logs whatever we call in at that
3 time.

4 Q So you don't log anything?

5 A No. I don't. Now --

6 MR. KRAMER: Objection, misstates the -- her testimony.

7 MS. DAVILA: I'm just trying to clarify --

8 JUDGE THOMPSON: I don't --

9 MS. DAVILA: -- what kind of reports you --

10 JUDGE THOMPSON: And I agree so overruled. Could you
11 restate the question, counsel?

12 Q BY MS. DAVILA: Do you create logs everyday with the
13 incidents that you address?

14 A We have a control desk that logs down whatever we may call
15 in at that time.

16 Q So you never write --

17 A I do --

18 Q -- a log?

19 A I do not create it myself, no.

20 Q No.

21 A No.

22 Q Okay. So to clarify on your shift when something
23 happens --

24 A Uh-huh.

25 Q -- you say that -- before it was logged, correct?

- 1 A Yes.
- 2 Q An incident -- if you address an incident of keys,
3 somebody's missing their key --
- 4 A Yes.
- 5 Q -- you said it was logged?
- 6 A Yes, it is.
- 7 Q But it's not you who's making those logs?
- 8 A No, it's not.
- 9 Q It's somebody that you call in?
- 10 A Which is the control desk.
- 11 Q And they log it.
- 12 A Yes.
- 13 Q Okay. So have you ever called into the control desk about
14 employees being outside hanging out flyers of the hotel?
- 15 A Yes.
- 16 Q Yes. And you said you gave a statement, correct?
- 17 A Yes.
- 18 Q Who did you give a statement to?
- 19 A It was my coworker.
- 20 Q And what's your coworker's name?
- 21 A Officer Holdsworth.
- 22 Q Do you know his first name?
- 23 A Gerald.
- 24 Q And do you always give a statement to your coworker?
- 25 A It's not a statement. It's calling in what's going on at

1 that time.

2 Q And does he work at the control desk?

3 A Yes, he does.

4 Q Okay.

5 A We alternate.

6 Q So you work the control desk sometimes?

7 A Yes.

8 Q Okay. I was just -- that wasn't clear to me. So you
9 called him once you addressed the situation, correct?

10 A Yes.

11 Q And you told him what happened, and it was a statement.

12 MR. KRAMER: Objection, compound.

13 JUDGE THOMPSON: It is, but I'm going to allow the
14 question to stand. Ms. Green, you can answer the question if
15 you recall it.

16 THE WITNESS: Okay. The statement, I made a statement,
17 yes, on the issue that took place, yes.

18 Q BY MS. DAVILA: After it happened, correct?

19 A At the time it was happening. Not after it happened.

20 Q At the time?

21 A Yes. I call -- I call the control desk.

22 Q Okay. And you've seen employees wear pro-Union buttons,
23 correct?

24 A Recently, yes.

25 Q Do you see employees wearing buttons that say committee

1 leader?

2 A They say what? I'm sorry?

3 Q Committee leader.

4 A Not that I recall.

5 Q And when you say you've seen Union buttons, what do they
6 look like?

7 A They just red and white buttons.

8 Q But you never read them?

9 A No. I don't -- I just know they Union. That's all I
10 know.

11 MS. DAVILA: One minute, Your Honor.

12 Q BY MS. DAVILA: Okay. And when you called in, you gave a
13 statement to your coworker, Gerald Holdsworth. Did that occur
14 this year?

15 A Yes.

16 Q Did it -- did it occur in February?

17 A Yes.

18 Q Do you remember if it was morning or night?

19 A It was morning.

20 Q And about how many employees were outside the facility at
21 that time?

22 A I don't recall how many it was.

23 Q Was it more than ten?

24 A I don't recall if it was more than ten.

25 Q Do you recall if it was more than five?

1 JUDGE THOMPSON: She doesn't recall, counsel.

2 Q BY MS. DAVILA: Do you recall what you said in that
3 statement to your coworker?

4 A I just told him there were some housekeepers gathering in
5 front of the building.

6 Q The security guards at the Trump Hotel have been given
7 instructions about what they should do during the Union
8 organizing campaign, correct?

9 A At that time I did not know it was Union organize.

10 Q But my question is, the security guards had been given
11 instructions about what to do during the organizing campaign,
12 correct?

13 A Just to back off.

14 Q When were you given those instructions?

15 A At the date of, February.

16 Q Who gave you those instructions?

17 A Mr. Turner.

18 Q The day of what?

19 A February.

20 Q The day that you saw the employees outside?

21 A Yes.

22 Q Have you ever received written instructions about what to
23 do with the -- during the Union organizing campaign?

24 A No.

25 Q Ever since February, have you been given instructions

1 about what to do with the Union organizing campaign?

2 A No.

3 Q Have you ever been instructed to prepare incident reports
4 related to the employees' activities during the organizing
5 campaign?

6 A No.

7 Q Have you ever called in and made another statement about
8 Union organizing --

9 A No.

10 Q -- about the Union organizing happening.

11 A No.

12 Q How did you find out that the employees were engaging in
13 Union activity that February?

14 A It's after the fact.

15 Q Who told you?

16 A They told us.

17 Q They being.

18 A The housekeepers that were outside. I don't know their
19 names.

20 Q And what did they tell you?

21 A That they're allowed on property.

22 Q Did you approach them when you saw them?

23 A In the beginning, yes, I did.

24 Q Did you see them doing anything violent?

25 A No.

1 Q When you approached them, you asked them what they were
2 doing, correct?

3 A Correct.

4 Q And after you approached them, you didn't see them doing
5 anything violent, correct?

6 A No.

7 Q And did you hear them say anything threatening?

8 A No.

9 Q And did you see them do anything inappropriate?

10 A No.

11 Q And after you approached them, you called another security
12 officer, correct?

13 A I called the control desk.

14 Q And control desk sent two security officers to you,
15 correct?

16 A Yes.

17 Q Who did they send?

18 A Officer Johnson and Officer Bonales.

19 Q And after those two other officers got to the front of the
20 hotel with you, one of the security officers told the employees
21 they had to leave, correct?

22 A I don't recall.

23 Q Do you know if these two other officers also gave a
24 statement to the dispatcher that day about the incident?

25 A Yes, I believe so.

1 Q Do you know whether your statement was logged?

2 A Logged, what? At the hotel?

3 Q Yes.

4 A Yes, it was logged.

5 Q Did you sign your statement?

6 A Yes, I did.

7 MS. DAVILA: No further questions, Your Honor. Oh, sorry.

8 Strike that. It's fine. There's no further questions, Your

9 Honor.

10 JUDGE THOMPSON: Thank you. Mr. Dristas?

11 MR. KRAMER: Kramer, Mr. Kramer this time.

12 JUDGE THOMPSON: Kramer, Mr. Kramer. Any cross?

13 MR. KRAMER: Thank you.

14 **CROSS-EXAMINATION**

15 Q BY MR. KRAMER: Afternoon, Officer Green.

16 A Afternoon.

17 Q I just want to ask you some questions here from what

18 General Counsel had to ask you to see if I can follow up a bit.

19 And you indicated that your responsibilities are to protect the

20 inside of the -- and outside of the hotel; is that correct?

21 A That's correct.

22 Q All right. Does that include the people in the hotel?

23 A Yes.

24 Q Guests?

25 A Yes.

1 Q Associates?

2 A Yes.

3 Q Okay. And in the chain of command is -- where do Eric and
4 Clyde -- who's immediately above you and then who's above that
5 person?

6 A Eric is -- Eric Delgado is right over me. And then Clyde
7 Turner is over him.

8 Q Okay. And you talked about a couple of -- couple of the
9 assignments that you and the other officers rotate. I believe
10 you mentioned Robert and Lincoln; is that correct?

11 A Yes.

12 Q Is there an assignment for the tower itself?

13 A Yes. We have a tower unit which is called a Tom One and a
14 Tom Two unit.

15 Q Okay. Tom One and Tom Two, all right. And you mentioned
16 also that you -- people, your associates -- excuse me.
17 Officers rotate through control; is that correct?

18 A Yes.

19 Q Is that also an assignment?

20 A Is that also an assignment?

21 Q Yes.

22 A Yes.

23 Q Okay. Do they have a name, or is it just control.

24 A No. It's just control desk.

25 Q Okay. And control -- can you tell us -- and you -- do you

1 rotate this on a weekly basis, monthly basis. How does this
2 work?

3 A Every day.

4 Q Every day?

5 A Yes.

6 Q So every couple hours you switch?

7 A Yes.

8 Q Okay. And can you tell us, for example, what the person
9 who's assigned to control does in control?

10 A There's a schedule every day that's presented to us in the
11 morning when we come in.

12 Q Okay.

13 A And they tell us what our location and what are -- where
14 we're going to be at at the time.

15 Q Okay. And the person -- when you're in control, Officer
16 Green, what do you do?

17 A In control it delegates the person if there's a key
18 assist, a safe assist, or if there's a problem at front desk or
19 whatever may occur. That person delegates that to the
20 officers.

21 Q Okay. And how do you find out if there's key assist or a
22 problem at the front desk? Someone --

23 A The control -- front desk will call or a housekeeper will
24 call from various floors --

25 Q Okay.

1 A -- and say that the guest needs assistance.

2 Q So if someone has a security issue, they contact the
3 control desk?

4 A Yes.

5 Q All right. And then as the person in the control desk,
6 what do you do?

7 A We delegate that person to go and assist the guest or the
8 housekeeper or whatever.

9 Q Okay. And is that normally the officer who's assigned to
10 that particular area?

11 A Yes. And if that officer is busy, then someone else will
12 go.

13 Q Okay. And then you also log that on this daily activity
14 report?

15 A Yes, it is.

16 Q Okay. All right. And those are situations where someone
17 calls and asks for assistance. Do officers also report to
18 control as to what they're doing during the course of their
19 rounds?

20 A We call in floors, yes, we do. If whatever station we're
21 located -- for instance I do -- if I do the tower, I may call
22 in floor 6463 to let them know that's where I'm located at that
23 time.

24 Q Okay. And do you also report when you've cleared a floor
25 and everything's safe and fine?

1 A We just notify them that those floors are clear.

2 Q And so that's noted on the log as well?

3 A Yes.

4 Q Okay. So basically any communication that comes into
5 control is noted on the log?

6 A Yes, it is.

7 Q Okay. And that's been part of your job since you've been
8 employed here?

9 A Yes.

10 Q Has that changed any since you've been employed here?

11 A No.

12 Q Okay. And do you recall what your assignment was the day
13 that the housekeepers gathered out in front of the hotel?

14 A I don't know if I was at Lincoln or Robert unit, but I
15 know I was assigned to the outside at that time.

16 Q Okay. And when you're assigned to the outside, whether
17 that's Lincoln or Robert, what is your responsibility?

18 A To just look around and make sure everything is running
19 smoothly on the outside.

20 Q Okay. You actually patrol the outside of the grounds?

21 A Yes.

22 Q Okay. And if you're in Lincoln or Robert, are you also
23 responsible for the front entrance?

24 A Yes, we are.

25 Q Okay. And there was some talk about statements and

1 reports. And I think we talked about it. Everything you call
2 in gets put on this daily activity report; is that correct?

3 A Correct.

4 Q Now from time to time are there situations where you
5 actually fill out a more formal -- an actual report report?

6 A Depends on what the issue is. If it's a statement
7 required, then we do fill out a form --

8 Q Okay.

9 A -- a statement form.

10 Q Okay. What types of situations have you come across where
11 you have to fill out a --

12 A Well, I've had guest injuries. I've had associate
13 injuries. I've had guests being loud in the lobby area or a --
14 might have a homeless person come through. And, yeah, just
15 make a statement about it. And it's logged in that daily
16 activity log.

17 Q It's logged in.

18 A Yes.

19 Q Okay. And let me -- when you say make a statement about
20 it, do you mean radio it in, or do you mean write a separate --

21 A You radio --

22 Q -- report?

23 A -- it in. And if it's -- calls for a report, then we do a
24 statement as well.

25 Q Okay. You do a statement as well. So it just depends on

1 the situation?

2 A Yes.

3 Q Okay. And by the way you mentioned that if there's an
4 injury, is that something security's called to help out with?

5 A Yes.

6 Q Okay. And what do you do in that type of situation?

7 A Associate injury, depending on what the case is. If they
8 need medical, we call for medical. If not, then we assist
9 them. We bring them down to the office and assist them.

10 Q Okay. Okay. So just for clarification, pretty much then
11 any -- well, let me take a step back. And I can't even tell.

12 Are you wearing a radio?

13 A I'm sorry?

14 Q Are you wearing a radio right now?

15 A No, I'm -- no, I'm not.

16 Q All right. When you're working, do you carry a radio?

17 A Yes, we do.

18 Q All the officers do?

19 A Yes.

20 Q Is pretty much any radio traffic put down on a daily
21 activity log?

22 A Yes.

23 Q Okay. So if you see something unusual and you report it,
24 you call it in. You let people know. It gets put on a log?

25 A Yes.

1 Q Okay. All right. You talked about this incident with the
2 housekeepers that were gathering. You said it occurred in the
3 morning?

4 A Yes.

5 Q Do you remember how early it was in the morning?

6 A No, I don't recall.

7 Q What time does your shift start?

8 A Seven.

9 Q Okay. You remember in relationship to when your shift
10 started approximately when it was?

11 A It might have been five or ten minutes after my shift. I
12 don't recall the exact --

13 Q Okay.

14 A -- the exact time.

15 Q So somewhere early in the morning? The --

16 A Yes.

17 Q -- first part of your shift? Okay. And how was it that
18 you came across these people that were gathering outside the
19 hotel?

20 A Well, I was doing my patrolling at that time.

21 Q Okay.

22 A And as I was going towards the parking lot, the valet, I
23 seen them across the street and start forming in front of the
24 building.

25 Q Okay. And had you ever seen that before?

1 A No.

2 Q Okay. All right. And I think you indicated you went up
3 and you asked them what they were doing; is that correct?

4 A Yes.

5 Q And how is it that -- why did you do that?

6 A Because they're gathering. And I wanted to know what was
7 going on at that time.

8 Q Okay. And why did you want to know?

9 A Because I'm there to do my job --

10 Q Your job of --

11 A And that's to --

12 Q -- what?

13 A Is protecting the property.

14 Q Okay. And at that point did you have any idea that there
15 was some possible Union activity going on?

16 A No, I did not.

17 Q Okay. Had housekeepers or any other employees gathered
18 out in front of the hotel before while you've been on duty?

19 A No.

20 Q Were they carrying big signs or anything like that at the
21 time?

22 A No.

23 Q Okay. And when you went out there -- at the time you went
24 out there and you spoke to them, where were they exactly?

25 A They were crossing from the Fashion Show Mall.

1 Q Okay.

2 A There's a -- there's a walkway right there. And they were
3 crossing right there.

4 Q They're on the sidewalk?

5 A Yes.

6 Q Okay. All right. Did you -- do you know who you talked
7 to?

8 A No.

9 Q Did you recognize them as housekeepers?

10 A Yes.

11 Q Were there other people there that you didn't recognize as
12 housekeepers?

13 A Yes.

14 Q Were they dressed in employee uniforms?

15 A The employees or the other people that I did not
16 recognize?

17 Q The other people.

18 A No. They were in regular clothes.

19 Q Okay. And especially, do you recall what did you -- and
20 approximately how many people were out there when you spoke
21 with them?

22 A I don't recall how many were there.

23 Q Okay. As best as you recall, what did you ask them, and
24 what did they say to you?

25 A I just said, hello, ladies. What's going on?

1 Q And did someone respond?

2 A Yes. One said, we have business here.

3 Q Did they say anything else?

4 A No.

5 Q And did you continue to stay there and talk with them at
6 that point?

7 A No, I did not. That's when I radioed to the control desk.

8 Q Okay. Did you radio right there, or did you move
9 somewhere first?

10 A No. I radioed walking back.

11 Q Okay. All right. And what did you radio to the control
12 desk again?

13 A I just told them there was a large -- there was some of
14 the housekeepers outside in the front of the building gathering
15 together.

16 Q Okay. And how was it in -- and you mentioned a name,
17 Holdsworth?

18 A That was who was at the control desk at that time.

19 Q Okay. And he's just another security officer --

20 A Yes.

21 Q -- right? Okay. All right. And how was it that two
22 other security officers came out to be --

23 A Because I radioed -- anytime there's anything that takes
24 place on the property that -- we always call for back, we
25 always have backup.

1 Q Okay. So like if there's a fight, you call for backup?

2 A Yes.

3 Q Okay. And so that was part of the normal of course of
4 responding to an incident like this?

5 A Yes.

6 Q And when they came, did you stay out there?

7 A I was still out there, yes, I was.

8 Q Okay. And do you watch the people gathering?

9 A Yes.

10 Q Why did you do that?

11 A I was with the other officers. We were just standing
12 there.

13 Q Why were you watching?

14 A Because at the time I didn't know they could not come on
15 the property. I didn't know what they doing.

16 Q Okay. And they were out on the public sidewalk?

17 A Yes.

18 Q Okay. Where everyone can see them?

19 A Yes.

20 MR. KRAMER: Can we take a moment off the record, Your
21 Honor?

22 JUDGE THOMPSON: Yes, off the record.

23 (Off the record at 3:11 p.m.)

24 JUDGE THOMPSON: We are back on, counsel.

25 MR. KRAMER: Thank you.

1 Q BY MR. KRAMER: Officer Green, I take it -- I think you
2 indicated at some point you did receive direction from Mr.
3 Turner, and what was Mr. Turner's direction?

4 A It was to back off.

5 Q Okay. And I want to ask you a couple of questions about
6 your responsibilities. Do you have any authority to discipline
7 any employees?

8 A No.

9 Q Have you ever gotten involved in the hiring process?

10 A No.

11 Q Do you have any control over anyone's pay?

12 A No.

13 Q Do you have any ability to lay employees off?

14 A No.

15 Q Award them a vacation?

16 MS. OVIEDO: I would just like to raise an objection just
17 because we're not alleging that the guards are statutory
18 supervisors, we're alleging that they are statutory union. So,
19 I mean, if you want to save time --

20 MR. KRAMER: That's fine, we'll stipulate to that.

21 MS. OVIEDO: Yeah, I mean if you wanted that --

22 MR. KRAMER: Okay, we'll accept that stipulation.

23 JUDGE THOMPSON: Thank you, counsel.

24 Q BY MR. KRAMER: And just a couple of clarifications.

25 Prior to this day on February 28, had you received any

1 direction from your managers as to what to do in the event a
2 bunch of employees gathered in front of the hotel as they did?

3 A No.

4 Q Had you received any instructions as to what, if anything,
5 to do in the event of any union activity?

6 A No.

7 Q The observation you did of the employees gathered out
8 there, how did that compare to other unusual situations that
9 you've come across, as an officer?

10 MS. OVIEDO: Objection, relevance.

11 JUDGE THOMPSON: Mr. Kramer, where are you headed with
12 that?

13 MR. KRAMER: I can withdraw the question, Your Honor.

14 JUDGE THOMPSON: Thank you.

15 MR. KRAMER: Or rephrase it.

16 Q BY MR. KRAMER: Observation, is that part of your job?

17 A Yes.

18 Q At the time you were doing this, did you know what these
19 employees were going to do?

20 A Did I know what? I'm sorry.

21 Q What the employees were going to do?

22 A No.

23 Q And that was your post at that time, was to patrol on the
24 outside?

25 A Yes.

1 Q In the front entrance?

2 A Yes.

3 MR. KRAMER: Okay. No further questions of the witness,
4 Your Honor.

5 JUDGE THOMPSON: Thank you, Mr. Kramer.

6 Ms. Davila, any redirect?

7 MR. KRAMER: Yes, Your Honor, I would just like to repeat
8 and reserve the right to recall her after we've looked at the
9 subpoenaed documents.

10 JUDGE THOMPSON: Certainly.

11 **REDIRECT EXAMINATION**

12 Q BY MS. DAVILA: I just have a few more questions, Ms.
13 Green. Do you have to consult anybody before you take a drunk
14 guest off the property who's being unruly?

15 A Can you repeat that?

16 Q Do you have to consult anybody before you escort a guest
17 off the property?

18 MR. KRAMER: Objection, foundation.

19 MS. DAVILA: She's already spoken to her duties and
20 responsibilities at the facility.

21 JUDGE THOMPSON: I will allow it.

22 THE WITNESS: So do I?

23 Q BY MS. DAVILA: Do you have to consult anybody before you
24 escort somebody off the property?

25 A We do it on front control desk about any issue.

1 Q You notify them?

2 A Yes. We contact the --

3 Q Do you ask for permission to --

4 JUDGE THOMPSON: Wait, wait, wait.

5 MS. DAVILA: Okay.

6 JUDGE THOMPSON: Let her finish the answer. Go ahead, Ms.
7 Green.

8 THE WITNESS: We contact the control desk and notify them
9 that we have someone on the property that's unruly or whatever.

10 Q BY MS. DAVILA: Okay, and then what action do you take?

11 A Depending on what the issue is, most of the time it would
12 be a trespass, if the person is unruly at that time.

13 Q When you are contacting the control desk, you are
14 notifying them, correct?

15 A Correct.

16 Q You are not asking for permission, correct?

17 A No.

18 Q Have you personally ever escorted somebody off the
19 property?

20 A I haven't done a trespass, no, I have not.

21 Q You have never escorted somebody off the property?

22 A I have not done a trespass, no.

23 Q Can you describe what a trespass is?

24 A Take the people -- ask someone to leave the premises.

25 Q And you noted that the employees in February, the

1 housekeeping employees, you noted that they were on the public
2 sidewalk, correct?

3 A Yes.

4 Q And you noted that it was a group of women, correct?

5 A Yes.

6 Q And how did you know that they were employees of the
7 hotel?

8 A They had their uniforms on.

9 Q They had their uniforms on?

10 A Yes.

11 Q And about how big was this group?

12 A I don't recall.

13 Q And why did you call it in?

14 A Because they were gathering in front of the property and
15 it's a part of my job to make sure everything is okay.

16 Q But they were on a public sidewalk, correct?

17 A They were in front of the Trump Hotel on a public
18 sidewalk, correct.

19 Q So you have been given orders that employees can't be on a
20 public sidewalk in front of the hotel?

21 A No, I have not, no.

22 Q No?

23 A No.

24 Q But you saw employees on a public sidewalk in front of the
25 hotel and you called it in?

1 A Yes, I did.

2 Q Okay. And did you call it in because they were employees?

3 A No, I called it in because they were gathering.

4 Q Okay. So if there's a group of women gathering in front
5 of the hotel do you normally call it in?

6 A I would have, yes.

7 Q Do you call it in if you see two women standing on the
8 public sidewalk of the hotel?

9 A No.

10 Q Do you it call it if you see five women standing in front
11 of the --

12 A I don't recall how many women were standing out there at
13 the time.

14 Q I'm not asking if you did, ma'am, I'm just asking if would
15 it call in a group of five women standing on a public sidewalk
16 in front of the hotel?

17 MR. KRAMER: Objection, argumentative.

18 JUDGE THOMPSON: It is, but I am going to -- I don't know
19 if it is, but I'm going to allow her to ask the question.
20 Overruled.

21 Q BY MS. DAVILA: Would you call in a group of five women
22 standing on the public sidewalk, not on the hotel property,
23 would you call that in?

24 A Yes.

25 Q You would?

1 A Yes.

2 Q And why would you call it in?

3 A Because I don't know what's going on. I don't know if
4 they're gathering for an issue or what. I don't know.

5 Q Have you ever been given orders that you should call in a
6 group standing on the public sidewalk?

7 A No.

8 Q So why would you call it in?

9 A Anytime there's a gathering I would call anything in that
10 looks out of the norm.

11 Q Could you define a gathering, please?

12 A More than, like you said, five people. I don't know how
13 many people were out there at the time.

14 Q I'm not asking about that specific incident. I'm just
15 asking in general. What do you consider a gathering?

16 MR. KRAMER: Objection, she answered. She answered the
17 question, Your Honor.

18 MS. OVIEDO: It's nonresponsive.

19 MR. KRAMER: It was not nonresponsive.

20 JUDGE THOMPSON: She answered the question. It's sort of
21 a different question that counsel is asking, so I'm going to
22 allow her to ask the question and the witness to answer. Can
23 you repeat it, counsel?

24 MS. DAVILA: Can I have it repeated, please? I don't know
25 what I said.

1 JUDGE THOMPSON: I think you asked: What do you consider
2 a gathering?

3 THE WITNESS: Several people. Several. I said five, you
4 know, just a gathering of people. Five, six, seven people or
5 just --

6 Q BY MS. DAVILA: On that particular day it was just a group
7 of employees, correct?

8 A Yes.

9 Q And you noted that because they were wearing uniforms,
10 correct?

11 A Yes.

12 MS. DAVILA: No further questions, Your Honor.

13 JUDGE THOMPSON: Ms. Green, thank you so much for your
14 testimony today, and as counsel indicated, thank you for coming
15 in on such short notice. Please don't discuss your testimony
16 with anyone. You are excused and have a great day.

17 THE WITNESS: Thank you.

18 MR. KRAMER: Your Honor, I mean, we have subpoenaed her as
19 a witness reserve our right to call her as part of our case in
20 chief.

21 JUDGE THOMPSON: So noted. Thank you. You may be back.

22 THE WITNESS: Thank you.

23 JUDGE THOMPSON: But you are excused for now. Thank you,
24 so much. Ms. Davila, we call our next witness I need a five-
25 minute break.

1 (Off the record at 3:20 p.m.)

2 JUDGE THOMPSON: We are back on the record.

3 Ms. Davila, would you like to call your next witness?

4 MS. DAVILA: Yes, Your Honor, the General Counsel calls
5 Jose Pineda.

6 JUDGE THOMPSON: Hi, Mr. Pineda. How are you?

7 MR. PINEDA: Good.

8 JUDGE THOMPSON: I'm Judge Thompson. I'm the
9 Administrative Law Judge with the National Labor Relations
10 Board. I have been assigned to hear the complaint in this
11 case. You have been called as a witness by the General
12 Counsel, but I need to swear you in. Would you please raise
13 your right hand.

14 Whereupon,

15 **JOSE PINEDA**

16 having been duly sworn, was called as a witness herein and was
17 examined and testified as follows:

18 JUDGE THOMPSON: Great, thank you. You would please state
19 your name again.

20 THE WITNESS: Jose Pineda.

21 JUDGE THOMPSON: How do you spell your last name.

22 THE WITNESS: P like Peter, I as in Indian, E as in
23 elephant, N as Nancy, A as in apple -- I'm sorry. Want me to
24 do it again?

25 JUDGE THOMPSON: P?

1 THE WITNESS: P-I-N-E-D-A.

2 JUDGE THOMPSON: Say your last name again.

3 THE WITNESS: Pineda.

4 JUDGE THOMPSON: Pineda. Thank you. Mr. Pineda, let me
5 give you just a few instructions before you provide your
6 testimony. Number one, there is a microphone in front of you
7 that we are using to record the proceeding, but sometimes it
8 doesn't distinguish between huh-uh and uh-huh, so if you would
9 give us a verbal response, we would appreciate it. Second, if
10 there is a question that either counsel ask you that you don't
11 understand what they're asking, would you please tell them so.
12 "I don't understand your question." So that they can repeat it
13 or rephrase it such that you can understand it. If you answer
14 a question, we'll presume you understood it.

15 Number three, if either counsel object to a question
16 asked, would you please hold your response until I can rule on
17 the objection. And finally, sometimes you may know which
18 direction counsel may be going in asking a question, but in
19 order make certain that the transcript is clear, would you
20 please hold your response until counsel has asked their
21 complete question so that way we can get their complete
22 question and your complete answer. Would you do that for us,
23 please?

24 THE WITNESS: I will.

25 JUDGE THOMPSON: And one last thing, which I don't think

1 you're going to have a problem with, if you would make certain
2 to keep your voice up so that we can hear you, we would
3 appreciate that as well.

4 THE WITNESS: Okay.

5 JUDGE THOMPSON: Thank you. Ms. Davila, I'm sorry,
6 General Counsel, your witness.

7 MS. DAVILA: Thank you, Your Honor.

8 **DIRECT EXAMINATION**

9 Q BY MS. DAVILA: Mr. Pineda, can you state your job title?

10 A Director of organizing, director.

11 Q Where do you work?

12 A I work at the culinary workers union, Local 226.

13 Q How long have you been working there?

14 A 22 years.

15 Q How long have you been the organizing director?

16 A For over 13 years.

17 Q What is your responsibilities as organizing director?

18 A Oversee the organizers, a group of organizers who work in
19 my team and follow up, and pretty much have daily meetings and
20 check-ins with them.

21 Q About how many organizers do you see?

22 A Right now in this, six of them.

23 Q Six. And are you involved in the organizing campaign
24 that's going on at the Trump Hotel?

25 A Yes, I am.

1 Q How did you first meet employees from the Trump Hotel?

2 A The employees came to the union office, to the union
3 building to ask for help and have a union representation.

4 Q When did they come to you?

5 A In 2014.

6 Q About how many employees came?

7 A It was around five of them.

8 Q What instruction did you give them?

9 A I told them that if they want to have a union
10 representation they should collect some information from their
11 own coworkers, and if they are willing to get that information,
12 so they can come back and then we can have a meeting with them.

13 Q Do you know what kind of employees they were for the
14 hotel? What department they worked in?

15 A Okay. We have the housekeepers, the EVS, and all food and
16 beverage.

17 Q And about how many employees is that?

18 A Right now or before?

19 Q Before.

20 A Around 300 to 400 people.

21 Q And those employees who came to you, were they food and
22 beverage employees?

23 A It was housekeepers.

24 Q Housekeepers, okay. And did you give them union buttons
25 when they came to visit you?

1 A Not the first time. But after the second meeting, yes.

2 Q And do you know if they wore those union buttons?

3 A Yes.

4 Q Do you know what happened once they wore the union
5 buttons?

6 MR. KRAMER: Objection.

7 JUDGE THOMPSON: Go ahead and state your objection.

8 MR. KRAMER: Foundation and hearsay. He's going to go
9 into hearsay, Your Honor.

10 JUDGE THOMPSON: Counsel, I'm sorry, what was your
11 question? Do you recall it?

12 MS. DAVILA: Do you know what happened after they wore
13 their union buttons?

14 JUDGE THOMPSON: It's not hearsay because she asked him
15 does he know what happened. I'm going to overrule the
16 objection and let the witness answer the question.

17 THE WITNESS: They got fired.

18 Q BY MS. DAVILA: How do you know they got fired?

19 MR. KRAMER: Objection.

20 JUDGE THOMPSON: Go ahead.

21 THE WITNESS: Because they came to the union office.

22 JUDGE THOMPSON: Wait a minute, wait a minute. Go ahead,
23 Mr. Kramer.

24 MR. KRAMER: I was going to object. A, that wasn't the
25 question that was asked and, second, there's no foundation as

1 to how he knows that or what he knows. When he gets to the
2 foundation it's going to be hearsay, Your Honor.

3 MS. DAVILA: I'm asking his personal knowledge.

4 MR. KRAMER: The question was did he know what happened,
5 and instead of answering question or no he said they got fired.
6 That's not the question. You got to build foundation first.

7 JUDGE THOMPSON: I understand. I understand. I'm going
8 to have to sustain the objection to that question, so I'm going
9 to strike the answer.

10 Ms. Davila, can you continue?

11 Q BY MS. DAVILA: Do you know if any Trump employees were
12 fired?

13 A Yes.

14 Q Do you know if they were fired for wearing union buttons?

15 A Yes.

16 Q Do you know if that happened after they came to see you
17 when you gave them union buttons?

18 A Yes.

19 Q And do you know how many employees were fired?

20 A Five.

21 Q And do you know if they had worn their buttons for a week?

22 A Yes, the next day.

23 Q So they were fired one day after?

24 A One day after -- same day that they're wearing the button,
25 they got fired the same day.

1 MR. KRAMER: Your Honor, again I'm going to object. He's
2 giving conclusions without any basis. And also, Your Honor,
3 again we're delving into 2014. Well beyond the scope of the
4 complaint. Raising questions as to what we're going to be
5 litigating here and whether we're going to have to litigate
6 every single charge that was filed.

7 JUDGE THOMPSON: Ms. Davila, why am I hearing about what
8 happened in 2014?

9 MS. DAVILA: Your Honor, just as I introduced the charges
10 which he filed, which I'll get into, I just want to introduce
11 the context of his involvement. He is the direct witness to
12 one of the 8A1s in this charge.

13 JUDGE THOMPSON: Then let's hear about him being the
14 direct witness to one of the 8A1 charges that is involved in
15 this case. I don't want to get into the specifics of what
16 happened in a prior case that may or may have been resolved, so
17 I'm going to sustain the objection.

18 MS. DAVILA: Your Honor, if I may ask him about his
19 involvement since he started, just to lay foundation as to why
20 he was there that day?

21 JUDGE THOMPSON: Certainly.

22 Q BY MS. DAVILA: You filed charges on behalf of the union
23 against Trump Hotel, correct?

24 A Yes, I did.

25 Q Is there a stack of papers in front of you. Can you see

- 1 GC Exhibit 2? Did you sign file that?
- 2 A Yes, I did.
- 3 Q Do you see GC Exhibit 3?
- 4 A Yes.
- 5 Q Did you file that?
- 6 A Yes.
- 7 Q Do you see GC Exhibit 4?
- 8 A Yes.
- 9 Q Did you file that one?
- 10 A Yes.
- 11 Q Do you see GC Exhibit 5?
- 12 A I don't think I have 5.
- 13 Q Do you recall this?
- 14 A Yes.
- 15 Q Okay. And finally, GC Exhibit 6. Is that your signature
- 16 on page 2?
- 17 A Yes, my name is on there. No. You said 6, right?
- 18 Q Uh-huh.
- 19 JUDGE THOMPSON: She asked if your signature was on there.
- 20 Q BY MS. DAVILA: Is that your name in the box?
- 21 A I don't see it. My name in here. You said my name in
- 22 typing?
- 23 Q Yes, is that your signature?
- 24 A Yes, it is there.
- 25 Q And what is this document?

1 A 6?

2 Q Yeah.

3 MR. KRAMER: Your Honor, I am going to object. The
4 document speaks for itself. Again, are we getting into
5 testimony about what happened back in 2014?

6 JUDGE THOMPSON: I don't want him to get into that
7 testimony, counsel.

8 MS. DAVILA: Your Honor, it's just to establish his
9 knowledge of the organizing campaign.

10 JUDGE THOMPSON: He said he signed it.

11 THE WITNESS: Yes.

12 JUDGE THOMPSON: I don't need that testimony. Objection
13 sustained.

14 Q BY MS. DAVILA: Have you filed any changes against the
15 Trump Hotel this year?

16 A Yes.

17 Q On behalf of the employees?

18 A Yes.

19 Q Did you file the charges that we're litigating here today?

20 A Yes. Also Richard McCracken, a lawyer, filed some
21 charges.

22 Q And represented the union?

23 A Correct.

24 Q Do you remember being outside the Trump Hotel in late
25 February this year?

1 A Yes.

2 Q Do you remember being there with employees?

3 A Yes.

4 Q What happened that morning?

5 A The employees -- a group of employees were ready to
6 passing flyers to customers in front of the front doors of the
7 Trump Hotel. When they went in there, there was a security
8 guard who came in and told them that they are not allowed to
9 pass those flyers to customers.

10 Q What employees were you with that morning?

11 A It was -- I don't recall the names, but it was -- I think
12 it was -- I don't recall the names.

13 Q About how many employees were there?

14 A Like five.

15 MR. KRAMER: Your Honor, could we go off the record for a
16 minute? Just one minutes, Your Honor? Can we excuse the
17 witness so I can raise an objection at this time?

18 JUDGE THOMPSON: Why does the witness need to be off the
19 stand for you to raise --

20 MR. KRAMER: It concerns the scope of the complaint and
21 all that, and I want to object because -- I would like to make
22 an objection and maybe there's not an issue here with the
23 General Counsel, or I can step outside with the General Counsel
24 for a minute and find out whether or not we need to have an
25 objection.

1 JUDGE THOMPSON: Well, to the extent you want to object,
2 you can state your objection. I mean, I don't know why the
3 witness needs to be excused for you to state your objection.

4 MR. KRAMER: Sure. The complaint allegations which they
5 are talking about are allegations of surveillance and
6 interrogation.

7 JUDGE THOMPSON: Yes.

8 MR. KRAMER: And I believe the witness and the testimony
9 is going to be getting into some other issues that were raised
10 in the charge that were not made part of the complaint, and I
11 would object to those as being basically outside of the scope
12 of the complaint and irrelevant.

13 JUDGE THOMPSON: Well, I am not going rule on the
14 objection at the moment because at this point counsel hasn't
15 gone there yet. So I'll just reserve ruling on your objection.
16 To the extent that she does go there, we can revisit the
17 objection.

18 MR. KRAMER: Okay.

19 JUDGE THOMPSON: I appreciate what you're trying to tell
20 me.

21 MR. KRAMER: Thank you. If it pleases the Court, I will
22 be quiet about it until you're ready to address the issue, if
23 it gets there.

24 JUDGE THOMPSON: Well, if you wouldn't mind, would you
25 object -- I mean, I hear your objection.

1 MR. KRAMER: All right. I will object again, yes.

2 JUDGE THOMPSON: So please object so that I know that you
3 are saying "this is the part that I'm objecting about."

4 MR. KRAMER: Got it.

5 JUDGE THOMPSON: Perfect.

6 MR. KRAMER: Thank you, Your Honor, I will.

7 JUDGE THOMPSON: Thank you. Ms. Davila, could you
8 continue, please.

9 Q BY MS. DAVILA: Where were you standing when you and the
10 employees were gathered there that morning?

11 A In front of the sidewalk, in front of the Trump Hotel.

12 Q Did you ever stand by the door of the hotel?

13 A No.

14 Q Did you ever go on the hotel property?

15 A No.

16 Q You said you were approached by a security guard?

17 A Yes.

18 Q What did the security guard say to you?

19 A Security guard said that those workers are not allowed to
20 passing any -- any flyers to customers.

21 Q Did you respond to her?

22 MR. KRAMER: Objection.

23 THE WITNESS: Yes, they --

24 JUDGE THOMPSON: Just a second. Go ahead.

25 MR. KRAMER: Assumes a fact in evidence at the time moment

1 that's not in evidence.

2 MS. DAVILA: Can you clarify your objection?

3 MR. KRAMER: He's not identified the security guard.

4 MS. DAVILA: I haven't asked him to.

5 MR. KRAMER: Well, you just gave the security guard a
6 gender, which he hasn't even identified.

7 JUDGE THOMPSON: I'm going to have to sustain the
8 objection, Counsel.

9 MS. DAVILA: Your Honor -- sorry.

10 Q BY MS. DAVILA: Mr. Pineda, was the security guard a woman
11 or a man?

12 A It was a woman.

13 Q Did you respond to the security officer?

14 A Yes.

15 Q What did you say?

16 A I tell them that they have the right to do that.

17 Q And did she respond?

18 A She say, "No. They don't have the right to do it."

19 Q And then what happened?

20 A And then, you know, they kept the workers out of the
21 property and told them that if they don't leave, they going
22 to --

23 Q Were the workers eventually allowed to pass out fliers?

24 A Yes, after that.

25 Q Did you leave after that happened?

- 1 A Yes.
- 2 Q About how long were you there that morning?
- 3 A Around 20 minutes or -- around 10 to 20 minutes.
- 4 Q Do you know what time it was exactly?
- 5 A It was around, like, 7:45, around 8:00 o'clock or so.
- 6 Q Do you know what the guard's name was?
- 7 A Say that again?
- 8 Q The name of the security officer?
- 9 A Yeah. I think it was -- it was -- what's her name? I
- 10 don't recall the name at this time, but I --
- 11 Q Could you describe what she looked like?
- 12 A She was an African American, female African American. I
- 13 think was Green in her name.
- 14 Q "Green?"
- 15 A Last name, Green.
- 16 Q Was she in uniform?
- 17 A Yes.
- 18 Q How did you know she was a security officer?
- 19 A Because it was our security officer, security.
- 20 MS. DAVILA: Let the record reflect he is pointing to his
- 21 lapel.
- 22 THE WITNESS: It was a nametag here, and it was --
- 23 Q BY MS. DAVILA: We're just not video recording, so you
- 24 need to describe what you're pointing at.
- 25 A Okay. Right here, there was --

- 1 Q On the chest?
- 2 A Yes, on the chest.
- 3 Q Okay. Did any other security officers approach the group?
- 4 A Two more came in, two more female guys came in.
- 5 Q Do you know what they -- were they men or women?
- 6 A Men.
- 7 Q "Men." And do you know their names?
- 8 A I don't recall at this time.
- 9 Q Do you know what they looked like?
- 10 A It was Caucasians.
- 11 Q Both of them?
- 12 A Yes.
- 13 Q Okay. And did they speak to you?
- 14 A No, no.
- 15 Q Did they speak to the group?
- 16 A They did speak to the group.
- 17 Q What did they say?
- 18 A They told them that they're not allowed to passing those
- 19 fliers to customers.
- 20 Q And did you respond?
- 21 A I told them that, yes, they have the right to do it.
- 22 Q Okay. And then what happened?
- 23 A Then --
- 24 MR. KRAMER: Your Honor,
- 25 THE WITNESS: -- they refused --

1 JUDGE THOMPSON: Wait just a second. Mr. Kramer?

2 MR. KRAMER: No. I take that back. I apologize.

3 JUDGE THOMPSON: Okay. Ms. Davila, could you repeat the
4 question?

5 Q BY MS. DAVILA: And then what happened?

6 A And then we left when they said that we're not allowed to
7 passing those fliers to customers. They're not allowed, the
8 workers.

9 Q Okay. You left or the employee left?

10 A Everybody left.

11 Q "Everybody left." Do you know if any employees came back?

12 A I don't recall that, no.

13 Q So you don't know for sure?

14 A Not for sure.

15 Q Okay.

16 MR. KRAMER: Your Honor, now I'm going to object, because
17 the testimony here is -- the allegations are very specific
18 about Olivia Green. It's regarding surveillance and
19 interrogation, nothing regarding handbills. So this is outside
20 the scope of the complaint. I don't know why we're getting
21 into this.

22 MS. DAVILA: Your Honor, if I may quote the Complaint,
23 it's Olivia Green. "On the sidewalk, she engaged in
24 interrogation of its employees and created the impression of
25 surveillance."

1 MR. KRAMER: Yes.

2 MS. DAVILA: Obviously, the accompanying language never
3 details the circumstances of those incidents. It just says
4 "Respondent's employees."

5 JUDGE THOMPSON: Yes. But go ahead.

6 MS. DAVILA: Sorry. Go ahead.

7 JUDGE THOMPSON: No. I'm done.

8 MS. DAVILA: I'm sorry. Just it never details, it just
9 says "Respondent's facility."

10 MR. KRAMER: Your Honor, there's a big difference between
11 hand-billing and -- allegedly refusing to allow people to hand-
12 bill and creating the impression of surveillance and
13 interrogation. And the Board was well aware of that, because
14 the Board asked us specific questions about these other issues
15 as part of their investigation, and then decided to issue the
16 complaint that they did. It did not raise those other issues.

17 JUDGE THOMPSON: So, Mr. Kramer, let me understand you,
18 because I want to make certain I'm clear. Are you telling me
19 that the Board accepted the surveillance and creating the
20 surveillance issue, but not the issue about distributing
21 information?

22 MR. KRAMER: The Board did not go to complain about
23 distributing information. That allegation is in regards to
24 Officer Green.

25 JUDGE THOMPSON: Okay. Hold on just a second.

1 MR. KRAMER: Complaint paragraph 5b, Your Honor.

2 JUDGE THOMPSON: Ms. Davila, how do you respond to that in
3 terms of -- I mean, because --

4 MS. DAVILA: Your Honor, the allegation --

5 JUDGE THOMPSON: Yeah. Go ahead.

6 MS. DAVILA: -- is that the Respondent created an
7 impression of surveillance and interrogated its employees.

8 JUDGE THOMPSON: Yup.

9 MS. DAVILA: And promulgated in force a rule or directive
10 prohibiting employees from distributing Union literature.

11 MR. KRAMER: I don't see that on my copy.

12 JUDGE THOMPSON: You allege that with regard to
13 Mr. Doucette, not with regard to --

14 MS. DAVILA: Oh, sorry, she's showing me the wrong one.

15 MS. OVIEDO: I'm sorry, it's my fault.

16 MS. DAVILA: Okay. Paragraph D1 through two, all of
17 paragraph five is actions against employees and Union activity.
18 Union activity includes hand-billing. I'm not asking about the
19 hand-billing. It just happens to be in the context of what
20 they were interrogated about and where that impression of
21 surveillance happened.

22 JUDGE THOMPSON: Mr. Kramer, I'm going to have to allow
23 the question to stand. I know where you're going with it, and
24 I do not believe that General Counsel is raising the allegation
25 with respect to the distributing of fliers. She's raising it

1 -- I mean, it came up in the context, but because that's how it
2 happened. So I understand your objection. I'm going to have
3 to overrule it, but thank you for noting.

4 MR. KRAMER: Your Honor, it's not part of the complaint,
5 and if it's simply background or whatever, can we get a
6 stipulation from the General Counsel to that effect so I -- we
7 don't have to continue throughout the hearing wondering whether
8 or not things are part of the case that aren't part of the case
9 but getting into evidence? I just have a concern here, Your
10 Honor, because it is not part of the complaint and, you know, I
11 don't want this hearing to get blown up and be any longer than
12 it needs to be.

13 JUDGE THOMPSON: Ms. Davila, are you -- can you stipulate
14 on the record that you're not pursuing an allegation in this
15 case regarding the distributing of the fliers, and that the
16 reason that you brought it up is because that's just what
17 happened in terms of -- in the context of the alleged
18 surveillance and creating the impression of surveillance?

19 MS. DAVILA: In my own words, I'll stipulate to the fact
20 that my line of questioning had to do with the context
21 surrounding the allegation in paragraph 5d of General Counsel's
22 complaint, sections one and two.

23 JUDGE THOMPSON: But you're not getting into -- you're not
24 alleging that there was an issue with regard to distributing
25 fliers, with respect to Ms. Green, correct?

1 MS. DAVILA: The issue was interrogation and the creation
2 of the impression of surveillance.

3 JUDGE THOMPSON: I'm asking you, are you not -- are you
4 stipulating that that is -- that the distribution of the fliers
5 with regard to Ms. Green, is not where you're going? You're
6 just talking about creating the impression?

7 MS. DAVILA: We have no intention to amend the complaint,
8 add any other further allegations than the ones that are listed
9 there.

10 JUDGE THOMPSON: I'll accept that, Ms. Davila.

11 And I will ensure that it doesn't go beyond what's alleged
12 in the complaint, Mr. Kramer.

13 MR. KRAMER: Thank you, Your Honor.

14 JUDGE THOMPSON: But for the purposes of the record, I'm
15 going to overrule the objection based upon the statement that
16 Ms. Davila just made on the record.

17 Having said that, if you remember where you were,
18 Ms. Davila, in your line of questioning, please continue.

19 Q BY MS. DAVILA: Do you know if a charge was filed, an
20 unfair labor practice charge was filed about that incident?

21 A Yes.

22 Q "Yes." Did you file that charge?

23 A Yes, I did.

24 Q Did you file it on behalf of the employees there that day?

25 A Yes, I did.

1 Q Did the Union file a petition for election?

2 A Yes.

3 Q Did the Union file a petition to stop the election,
4 postpone the election?

5 A Postpone the election, yes.

6 Q Why did the Union postpone the election?

7 MR. KRAMER: Objection, relevance.

8 JUDGE THOMPSON: I don't care why the Union postponed the
9 election, Counsel. Objection sustained.

10 MS. DAVILA: Your Honor, if I may make an offer of proof?

11 JUDGE THOMPSON: You can.

12 MS. DAVILA: If I could ask him?

13 JUDGE THOMPSON: Sure.

14 MS. DAVILA: Okay.

15 Q BY MS. DAVILA: Was one of the reasons that you --

16 JUDGE THOMPSON: Wait a minute. When you make -- can you
17 just make your offer of proof? Because if you're asking him,
18 then that's testimony.

19 MS. DAVILA: Sorry, Your Honor.

20 JUDGE THOMPSON: Just state your offer of proof. Like, "I
21 was going to."

22 MS. DAVILA: If that's your preferred method, Your Honor.

23 JUDGE THOMPSON: That would be.

24 MS. DAVILA: Okay. That -- this charge is one of the
25 charges that blocked that election. That investigation of this

1 charge is the reason I blocked this election.

2 JUDGE THOMPSON: Okay. But I still don't get why that's
3 relevant, but proceed.

4 MS. DAVILA: Just wanted it on the record, Your Honor.

5 JUDGE THOMPSON: Certainly.

6 MS. DAVILA: Thank you.

7 Q BY MS. DAVILA: So was this charge of the reasons that the
8 election was postponed?

9 A That is correct.

10 MS. DAVILA: No further questions, Your Honor.

11 MR. KRAMER: Mr. Pineda, my name is Ron Kramer.

12 JUDGE THOMPSON: Hold on just a second, Mr. Kramer,
13 because I have something I have to ask the witness to clarify.

14 Mr. Pineda, General Counsel asked you essentially to
15 describe what happened when a group of five employees were on
16 the sidewalk in front of the hotel. Do you recall that?

17 THE WITNESS: Yes.

18 JUDGE THOMPSON: And can you tell me again -- strike that.
19 You testified that a security guard came to you and said -- or
20 came to the group and you and said you can't be on -- you can't
21 be on the property distributing fliers, is that correct?

22 THE WITNESS: That -- yes.

23 JUDGE THOMPSON: Okay. What happened after that?

24 THE WITNESS: They were -- you know, they were very upset,
25 very mad, and the workers, you know, said, "We have the right

1 to do it." And they said, "No, no, no, no." And they're
2 screaming to them.

3 JUDGE THOMPSON: Now, at some point, you testified that
4 there were two additional officers that joined the first
5 officer, correct?

6 THE WITNESS: Yes.

7 JUDGE THOMPSON: What -- did you overhear the exchange
8 among the two officers and the employees?

9 THE WITNESS: Yes.

10 JUDGE THOMPSON: What did those two officers say to the
11 employees?

12 THE WITNESS: That they're not allowed to be passing those
13 fliers to the customers.

14 JUDGE THOMPSON: And what, if anything, did you or the
15 employees respond?

16 THE WITNESS: The workers said, "Yes, we have the right to
17 do it."

18 JUDGE THOMPSON: And what did the two officers respond or
19 reply?

20 THE WITNESS: "No, you don't. You don't have the right to
21 do it. You have to go --

22 JUDGE THOMPSON: And did you testify that, at that point,
23 everyone left?

24 THE WITNESS: Yes.

25 JUDGE THOMPSON: Okay. Got it. Thank you. Mr. Kramer.

1 MR. KRAMER: Mr. Pineda, my name is Ron Kramer. I'm one
2 of the attorneys for the company. I'd like to ask you a few
3 questions here about your testimony.

4 **CROSS-EXAMINATION**

5 Q BY MR. KRAMER: So you organized this hand-billing event
6 in February?

7 A Yes.

8 Q Okay. And when was it scheduled to begin?

9 A Around 7:30 a.m.

10 Q Because most of the housekeepers start at 8:30, is that
11 correct?

12 A Yep.

13 Q And I take it they were to meet on the sidewalk out in
14 front of the hotel?

15 A Yes.

16 Q And when is it you arrived?

17 A I was there since the beginning.

18 Q Okay. And were you alone in terms of -- there were other
19 organizers with you?

20 A Yes.

21 Q Who was with you?

22 A There was one lead organizer, Ramiro Navas.

23 Q Can you spell that last name?

24 A Navas is N-A-V like "Victor," A-S.

25 Q Okay. And anyone else from the Union?

1 A And Mercedes Castillo.

2 Q And approximately how many handbill -- and so both of you
3 were out there in front of the sidewalk, is that correct?

4 A Yes.

5 Q Okay. Excuse me. I said, "both." But it was the three
6 of you on the sidewalk?

7 A Yeah.

8 Q And you were wearing -- I take it you weren't wearing
9 Trump Hotel uniforms, is that correct?

10 A No.

11 Q Okay. And how many -- at the time that you were
12 approached by the female security officer, how many other --
13 how many of the housekeepers were there with you?

14 A Like around -- it was around four or five. Four womans
15 and one male.

16 Q And do you remember about what -- and they were wearing
17 uniforms, I take it?

18 A Yes.

19 Q Okay. So the four or five of them, and then the three of
20 you, is that correct?

21 A Yep.

22 Q And how long had you been standing out there at that point
23 in time?

24 A Maybe, like, around half an hour to 45 minutes or so.

25 Q So it's 7:30 in the morning, and you and basically, five,

1 six, seven other people were standing in front of the hotel for
2 about half an hour to 45 minutes, is that correct?

3 A No. Some people came different hours.

4 Q Okay. So it started out with just a few people, I take
5 it?

6 A Yes.

7 Q And then it started gathering more and more, is that
8 correct?

9 A Yes.

10 Q Until, at the point when the female security guard
11 approached you, there was the five housekeeping employees and
12 the three of you, is that correct?

13 A The housekeeper went inside, and they kicked them out.
14 They escorted them out, outside the hotel property.

15 Q I'm sorry. That's not my question, sir. At the time that
16 the -- I think you testified -- I just want to clarify here --
17 that at the time Officer -- the female officer approached you,
18 there were four or five housekeepers along with the three
19 organizers, is that correct?

20 A That is correct.

21 Q Okay. Now, as best as you can recall, can you tell me
22 what the -- who said what to whom? Because I take it this
23 woman approached you, is that correct?

24 A Approached to the whole group.

25 Q Okay. So she comes up to the whole group. Then who says

1 what to whom at that point in time?

2 A She said that those workers are not allowed to pass on
3 those fliers to the customers.

4 Q And that's the first word out of anyone's mouths?

5 A Yes. She's the one who say that.

6 Q Okay. Now, and she didn't ask you how you were doing or
7 what's going on?

8 A No.

9 Q Okay.

10 A It was very upset.

11 Q And you were there at that time?

12 A Yes, I was.

13 Q On the sidewalk with the other housekeepers?

14 A Yes, I was there.

15 Q And were the other two organizers there as well?

16 A Yes.

17 Q Okay. And you don't remember any of the housekeepers
18 names?

19 A I do some of them, but not all.

20 Q Okay. What are their names?

21 A I think Carmen Llarull was there. Jose Martinez was
22 there. Eleuteria Blanco was there. And I believe Celia Vargas
23 was there, too.

24 Q Okay. And so she says that you can't -- and what exactly
25 did she say with regards to the hand-billing?

1 A She say that those employees are not allowed to pass those
2 fliers to the customers in the hotel property.

3 Q Okay. So she said you couldn't hand out stuff in the
4 hotel property, is that correct?

5 A The workers, not me.

6 Q The workers. Okay. And did she say the workers, or was
7 she addressing everyone together?

8 A She said the workers.

9 Q All right. And how is it that she even knew that you were
10 going to be handing out fliers?

11 A I do -- I didn't hand out any fliers. The workers did.

12 Q How is it that she knew that the workers were going to
13 hand out fliers?

14 A Because she saw them when they were inside by the front
15 doors.

16 Q Oh, so they had already came inside of the front doors --

17 A Yes, they did.

18 Q -- at that point in time?

19 A Yes.

20 Q I mean -- okay. I'm trying to get some timing down.

21 Okay? I realize it's been awhile. So the security guard
22 talked -- the female security guard talked to the employees
23 while they were at the front doors of the hotel?

24 A Yes.

25 Q So they were already on the property?

- 1 A Correct.
- 2 Q And you were on the property?
- 3 A No. I was on the sidewalk.
- 4 Q You were on the sidewalk?
- 5 A Yes.
- 6 Q They were on the -- how close to the front doors of the
7 hotel were they?
- 8 A They were, like, very close but not blocking the entrance.
- 9 Q Okay. And you --
- 10 A Maybe like two or three feet.
- 11 Q Can you describe for the Judge the front entrance of the
12 Trump Hotel?
- 13 A There is sidewalk and then there is the valet parking and
14 there is the front doors.
- 15 Q Okay. And so when and -- okay. So -- make sure I
16 understand this. First you were gathering with the
17 housekeepers on the sidewalk outside the property, is that
18 correct?
- 19 A Correct.
- 20 Q And then when you had the four or five housekeepers and
21 all that, four or five housekeepers themselves, went up onto
22 the property to the front door, is that correct?
- 23 A Correct.
- 24 Q You stayed where?
- 25 A On the sidewalk.

1 Q On the sidewalk, along with the other two organizers?

2 A Yes.

3 Q Okay. And then where was it that Officer Green -- oh,
4 excuse me -- the female officer, I think you said it was
5 Officer Green -- where was it then that she talked to these
6 employees?

7 A She was by the hotel front doors.

8 Q She was by the hotel front doors, and these people were by
9 the hotel front doors?

10 A Yes.

11 Q And you were on the sidewalk?

12 A Yes.

13 Q And you heard that conversation?

14 A No. Because she was telling then -- and then when she
15 approached to us in the sidewalk, she told that they're not
16 allowed to do it. And the workers also reported to us that she
17 say that.

18 Q All right. Well let me try and break this down here. I
19 want to understand. So you weren't present for the
20 conversation with Officer Green and the housekeepers the first
21 time they went up to the front entrance of the hotel, is that
22 correct?

23 A That's correct.

24 Q Okay. So you see them go up. You see the officer there
25 and have some conversation, I take it, but you don't know what

1 the conversation is at that point, is that correct?

2 A At that time, no, because I was on the sidewalk.

3 Q Okay. And then I take it then the housekeepers came back
4 down, is that right?

5 A They escorted them out to the sidewalk.

6 Q Who escorted them out?

7 A The officer, security officer --

8 Q The one --

9 A -- Olivia Green, I guess is her name.

10 Q The woman. Okay.

11 A The woman.

12 Q So they had a conversation and then the officer walked
13 these people out to the front of the property?

14 A Right. And they --

15 Q Okay.

16 A were -- she was screaming to them, to the workers.

17 Q And she was screaming what?

18 A "You're not allowed to do this in this property."

19 Q Okay. And you heard that when they got closer?

20 A When they get very close. She was telling -- she was
21 telling that to the workers.

22 Q And what did you do when that happened?

23 A I said, "Well, you know what? Excuse me, ma'am, they have
24 the right to do it, and you don't have -- you cannot screaming
25 to these workers. They have the right to do it."

1 Q That they had the right to go onto the property?

2 A Yes. Because they are employees.

3 Q Okay. And then what happened?

4 A And then she said, "No, no, no. They're not allowed to do
5 this. They have to go."

6 Q And then what happened?

7 A And then we left.

8 Q And all of you left?

9 A We left after that. After the last -- that was the ending
10 of the conversation.

11 Q And there were no other -- there was no -- okay. And
12 where did you go when you left?

13 A Just went to the parking lot and left.

14 Q Okay. So there weren't any other conversations with any
15 other security officers?

16 A No.

17 Q Okay.

18 A There was another two behind the -- Olivia Green. Those
19 two guys, they were talking each other's with the workers in
20 front of me.

21 Q Just so I'm clear here. So when did the other two
22 officers show up?

23 A Right after, you know, when she escorted them out to the
24 sidewalk. They called -- as soon as they saw the workers
25 passing those fliers, you know, we saw this female security,

1 and then somehow, two more came in and pretty much getting
2 close to the workers and to the other officer, and telling that
3 they're not allowed to do those -- passing those fliers on the
4 hotel property.

5 Q All right. So when you said that the employees went up
6 and then they were escorted back, they were escorted back by
7 the three security guards?

8 A It was one, and then like a few minute -- a few seconds
9 later, those two securities, you know, somehow they appeared
10 there with her.

11 Q When they appeared, to the best you recall, had the other
12 employees already come -- left the premises of the property?

13 A Yes.

14 Q Okay. Did you have any conversations with the other
15 security guards?

16 A No.

17 Q You never said anything to them?

18 A I told only to the -- Olivia Green.

19 Q And you, yourself, made no attempt to come on the
20 property?

21 A No.

22 Q And you never did come on the property that day?

23 A No. Because we know the rules.

24 Q And what about Mr. Navas, did he make any attempt to come
25 on the property?

1 A No.

2 Q He never came on the property that day?

3 A No.

4 Q Ms. Castillo?

5 A No.

6 Q She never came on the property?

7 A No.

8 Q Okay. And you never attempted to come on the property
9 with the other five?

10 A No.

11 Q Okay. You never told the other security guards that you
12 guys were coming on -- you had the right to come into the
13 building and you can do whatever you wanted?

14 A The worker has, not me.

15 Q Okay.

16 A The worker has a right to do it, not me. But they work
17 for that company.

18 Q All right. You never told the two male security guards
19 that everyone was going to be handing out fliers, because they
20 can go anywhere they want to?

21 A I told him that they have the right to do it.

22 Q And didn't the guards tell you that you could hand out
23 fliers, they just couldn't hand it out on the property?

24 A They said no, they're not allowed passing those fliers in
25 this property.

1 Q On this property. Okay. So at no point after this -- so
2 you left without even -- I mean, when you left, the security
3 guards were, I take it, standing on the property?

4 A I think they're -- when we left, they left. I couldn't
5 see whatever after -- after we left, we didn't see them at all.

6 Q All right. But I guess I'm confused because I thought
7 earlier on direct you said that eventually people did handbill
8 on the front of the property, is that right?

9 A They tried to attempt those, and they stopped it.

10 Q The time that you just described?

11 A Right.

12 Q Later on, they didn't go on the property?

13 A No. After we left, they did it in the TDR, cafeteria,
14 later on, because they work that day.

15 Q All right. And they had to go to work at 8:30, is that
16 correct?

17 A Yeah.

18 Q Sir, did you do anything to prepare for your testimony
19 today?

20 A Yes.

21 Q What did you do?

22 A I have a preparation with Judith.

23 Q I'm sorry.

24 A Judith prepare me for this.

25 Q Oh, prepared you. Okay. Did you review any documents for

1 purposes of this hearing?

2 A I did it, yeah, one time.

3 Q And what did you review?

4 A Reviewed the security officers names. I know she's the
5 one who was there.

6 Q And you reviewed their names. How did you review their
7 names?

8 A Because I have the complaint.

9 Q Oh, you worked on the complaint?

10 A Right.

11 Q Okay. By the way, were you asked your name by the
12 security officers?

13 A What?

14 Q Did the security officers ask you for your name?

15 A Yes, they did.

16 Q And did you give them your name?

17 A Yes, I did.

18 Q Did you give them your last name?

19 A Yes, I did.

20 Q And did you ask the names of the other security officers?

21 A Yes, I did.

22 Q And --

23 A And they refused to give me their name.

24 Q They didn't give you any name at all?

25 A They just told us, yeah, "Do you see my nametag?" "What

1 is your last name?" And they said they didn't want to give us
2 their last name.

3 Q They showed you their nametags, though, is that correct?

4 A Uh-huh, yes.

5 Q Did you review the video you took of this incident?

6 A Yes, I did.

7 Q And were you recording the entire time?

8 A Yes.

9 Q And was that you recording, or was it one of the other
10 organizers?

11 A Other organizer.

12 Q Okay. Did you bring that recording with you?

13 A No.

14 MR. KRAMER: Your Honor, I'd like to get a copy of that
15 recording.

16 JUDGE THOMPSON: Counsel, were you aware that there was a
17 video recording prior to hearing today in testimony?

18 MR. KRAMER: I was aware that there were -- my
19 understanding was that there may have been a recording of this,
20 Your Honor, yes.

21 JUDGE THOMPSON: Then you should have requested it by a
22 subpoena.

23 MR. KRAMER: Well, Your Honor, I didn't know this person
24 was going to be testifying.

25 MS. DAVILA: Your Honor, the General Counsel has no

1 responsibility to let them know who's testifying, just as we
2 didn't ask them who was testifying in their case.

3 JUDGE THOMPSON: I understand.

4 MR. KRAMER: Your Honor, I'm also entitled to look at
5 anything --

6 JUDGE THOMPSON: I understand.

7 MR. KRAMER: -- they reviewed. Yeah.

8 JUDGE THOMPSON: Ms. Davila, how do we get a copy of this
9 video?

10 MS. DAVILA: I don't know, Your Honor.

11 MS. OVIEDO: May I?

12 JUDGE THOMPSON: Yes.

13 MS. OVIEDO: Since I'm guessing you don't carry things
14 around with you --

15 JUDGE THOMPSON: I don't.

16 MS. OVIEDO: -- we have extra subpoenas. You'll just have
17 to cross off that it's issued by the GC. Once the record
18 opens, it's the ALJ who has to issue the subpoena.

19 JUDGE THOMPSON: Okay.

20 MS. OVIEDO: And so we can get some blank ones. And
21 basically what would happen is she would have to sign it and
22 issue it and then it would go to --

23 MR. KRAMER: That would be fine.

24 MS. OVIEDO: -- you would have to fill it out and all that
25 jazz.

1 JUDGE THOMPSON: I'm going to need to do that.

2 MS. OVIEDO: Obviously to the Union, not to us.

3 MR. KRAMER: Okay.

4 JUDGE THOMPSON: Can you continue any questioning while we
5 get all of that together?

6 MR. KRAMER: Yes, Your Honor. I may need to recall the
7 witness, depending on what the video shows --

8 JUDGE THOMPSON: Certainly.

9 MR. KRAMER: -- but I don't think I need it for purposes
10 of the rest of this.

11 JUDGE THOMPSON: Okay.

12 Q BY MR. KRAMER: One last question, I believe. I'm an
13 attorney, so forgive me if I ask more than one, but -- so my
14 understanding is, is that Officer Green at no point ever asked
15 any of the housekeepers any questions, is that correct?

16 A I don't recall.

17 Q Okay. Well, I think you indicated that she just came up
18 to you and said you can't be hand-billing, is that right?

19 A She say that.

20 MR. KRAMER: Okay. All right. I have no further
21 questions of this witness, although I do reserve the right to
22 recall him depending on what the video shows.

23 JUDGE THOMPSON: Certainly, Mr. Kramer. Thank you.

24 Ms. Davila, any redirect?

25 MS. DAVILA: Yes, Your Honor.

1 REDIRECT EXAMINATION

2 Q BY MS. DAVILA: Mr. Pineda, can you tell me about how
3 many employees you were working with at the Trump Hotel?

4 A Right now?

5 Q Yes.

6 A About 500.

7 Q Do you remember all of their first names?

8 A No.

9 Q Do you attend every single organizing activity they carry
10 out?

11 A Yes.

12 Q You're there when they're carrying out demonstrations?

13 A Yes.

14 Q Are you there in the employee dining room when they're
15 doing their chants?

16 A No.

17 Q How long have you been a union organizer?

18 MR. KRAMER: I'm going to object outside the scope and
19 it's already been asked on direct.

20 JUDGE THOMPSON: I'll sustain it with respect to its
21 already been asked on direct.

22 Q BY MS. DAVILA: Do you receive training on the rights of
23 employees to participate in union activity?

24 A Yes.

25 Q Do you give this training to employees trying to unionize?

1 A Yes.

2 Q Do you know the rules about non-employees being on
3 property doing union activity?

4 A Yes.

5 Q And you filed -- you're the one that files the charges on
6 behalf of the union; correct?

7 A And Richard McCracken.

8 Q Okay. And are you involved in all the incidents alleged
9 in these charges?

10 A That's correct, yes.

11 MS. DAVILA: No further questions, Your Honor.

12 JUDGE THOMPSON: Thank you so very much for your
13 testimony. Please don't discuss it with anyone subject to
14 potentially being recalled, you are excused. Thank you so very
15 much and have a great afternoon.

16 THE WITNESS: Thank you very much for your time.

17 JUDGE THOMPSON: Ms. Davila, it's approximately 4:30. I
18 know counsel had agreed to end at 5:00 so that the parties can
19 do what they need to do with regard to documents et cetera.
20 Even though it isn't exactly 5:00, do you have another witness
21 that may be able to get in testimony in another hour, for an
22 hour or so?

23 MS. DAVILA: I don't, Your Honor.

24 JUDGE THOMPSON: You don't have another witness, okay.
25 Well then let's stop here. Ms. Oviedo, if you can get me the

1 subpoena and we can spend time doing that and kind of get that
2 going and then we can reconvene tomorrow morning at 9:00 a.m.
3 Respondent Counsel, any housekeeping matters before we recess
4 for the evening?

5 MR. DRITSAS: No, Your Honor.

6 JUDGE THOMPSON: Very well. See you guys at 9:00 a.m.
7 tomorrow. We're adjourned. Off the record.

8 **(Whereupon, the hearing in the above-entitled matter was**
9 **recessed at 4:27 p.m. until Thursday, November 19, 2015 at 9:00**
10 **a.m.)**

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Wednesday, November 18, 2015, at 9:04 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: November 19, 2015

Pages: 350 through 604

Volume: 3

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Thursday, November 19, 2015, at 9:24 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Rodolfo Aleman	357	369	387		360
Anthony Wandick	394	426	483		435/463 473/479 481
Eleuteria Blanco	493	513	550		
Maria Jaramillo	560	570	598		596

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-15	360	360
GC-16	361	361
GC-17	495	495
GC-18	555	555
GC-19	562	562
Respondent:		
R-12	436	436
R-13	464	464
R-14	475	475
R-15		
R-16	549	549
R-17	555	555
R-18(a) through R-18(j)	598	598

P R O C E E D I N G S

1
2 JUDGE THOMPSON: We are back on the record in the case of
3 Trump Ruffin Commercial, LLC, doing business as Trump
4 International Hotel Las Vegas and the Local Joint Executive
5 Board of Las Vegas affiliated with Unite Here International
6 Union. Today is Thursday, November 19, 2005 (sic). I'm Judge
7 Thompson, the Administrative Law Judge assigned to hear this
8 case. We are continuing the hearing in this matter. I am
9 located in Region 28's Las Vegas, Nevada office.

10 All the parties are here and represented. On behalf of
11 the General Counsel appears Judith Davila and Elise Oviedo and
12 on behalf of Respondent is William Dritsas and Ronald Kramer.
13 The Charging Party Union also has a representative, Richard
14 McCracken, but he is not appearing today. Good morning,
15 Counsel.

16 MR. KRAMER: Good morning, Your Honor.

17 MR. DRITSAS: Good morning, Your Honor.

18 MS. DAVILA: Good morning, Your Honor.

19 JUDGE THOMPSON: We had some brief off the record
20 discussions regarding the resumption of this hearing and I will
21 put those discussions on the record once we have a definitive
22 -- once we have definitive information as to when we will
23 resume the hearing.

24 I believe that -- oh, are there any other housekeeping
25 issues that either party need to address before we return to

1 testimony?

2 MR. DRITSAS: None for Respondent.

3 MS. DAVILA: None for General Counsel.

4 JUDGE THOMPSON: Okay, great. Thank you.

5 Ms. Davila, I think we were continuing with your case-in-
6 chief, so if you'd like to call your next witness.

7 MS. DAVILA: Yes, Your Honor. General Counsel calls
8 Rodolfo Aleman to the stand. Your Honor, he does require an
9 interpreter.

10 JUDGE THOMPSON: Okay. And I believe that Ms. Sanchez is
11 our interpreter and she is here and coming forward.

12 Mr. Aleman, you can be seated, please.

13 THE WITNESS: Thank you.

14 JUDGE THOMPSON: Mr. Aleman, I am Judge Thompson and I
15 introduced myself just a moment ago. One second. Jacqui, are
16 you able to hear?

17 THE COURT REPORTER: Yes, ma'am. Yes, ma'am.

18 JUDGE THOMPSON: Again, Mr. Aleman, I am Judge Thompson
19 and I introduced myself to you moments ago. You have been
20 called as a witness in this case, but I need to swear you in
21 before giving -- before you give your testimony. Would you
22 please raise your right hand?

23 Whereupon,

24 **RUDOLFO ALEMAN**

25 having been duly sworn, was called as a witness herein and was

1 examined and testified, by and through an interpreter as
2 follows:

3 JUDGE THOMPSON: Great. Thank you.

4 And, Ms. Sanchez, may I please swear you in as well?

5 THE INTERPRETER: Yes, ma'am.

6 JUDGE THOMPSON: If you could raise your right hand.

7 (Interpreter, Sworn)

8 JUDGE THOMPSON: Great. Thank you so very much. Mr.

9 Aleman, would you please state your name for the record.

10 THE WITNESS: My name is Rodolfo Aleman.

11 JUDGE THOMPSON: Can you spell your first name?

12 THE WITNESS: R-O-D-O-L-F-O.

13 JUDGE THOMPSON: Would you please spell your last name?

14 THE WITNESS: A-L-E-M-A-N.

15 JUDGE THOMPSON: Great. Thank you. Mr. Aleman, let me
16 give you some brief instructions before providing your
17 testimony. There is a microphone in front of you that we are
18 using to record the proceedings. Would you please provide us
19 with a verbal response. The transcript cannot understand uh-uh
20 or uh-huh, so we ask you to give us a verbal response.

21 Next, if there is a question you don't understand, would
22 you please tell us, "I don't understand the question," so that
23 Counsel can repeat it or rephrase it for you. If you answer a
24 question asked, we will assume you understood it.

25 Next, if either Counsel objects, would you please hold

1 your response until I rule on the objection. Finally, would
2 you please hold your answer until Counsel have finished asking
3 their question. That way we can get the complete question and
4 your complete answer.

5 Would you do that for us, please?

6 THE WITNESS: Yes.

7 JUDGE THOMPSON: Great. Thank you so much.

8 Ms. Davila, your witness.

9 **DIRECT EXAMINATION**

10 Q BY MS. DAVILA: Good morning, Mr. Aleman. Can you please
11 tell us where you currently work?

12 A I am working at Cigna Tour MGM.

13 Q And what is your position there?

14 A Housekeeping.

15 Q And how long have you been working there?

16 A Two months.

17 Q Who was your last employer?

18 A Trump Hotel International.

19 Q And when did you start working there?

20 A At Trump, I started October 20, 2011.

21 Q And when was your last day at Trump?

22 A It was around June.

23 Q Of what year?

24 A Of this year, 2015.

25 Q Okay. And what position did you have at the hotel?

- 1 A Housekeeping.
- 2 Q And were you a full-time employee?
- 3 A Yes.
- 4 Q Were you always a full-time employee?
- 5 A No. I started out as on call and then I went on to be
- 6 full-time.
- 7 Q How long were you an on call employee?
- 8 A I think it was a year and six months or five months.
- 9 Q Okay. Who was your manager?
- 10 A Lastly, it was Alejandra Magana.
- 11 Q What department did you work in?
- 12 A Housekeeping.
- 13 Q And your position?
- 14 A GRA.
- 15 Q Okay. That's a housekeeper, correct?
- 16 A Yes.
- 17 Q And when did you stop working at the Trump Hotel?
- 18 A I was disillusioned at the company. I was disillusioned
- 19 at the pressure being held by the company for the rights that
- 20 the employees have, the scandals that was going on that they
- 21 didn't want us to have better positions there at the company.
- 22 Q Were you part of the Union organizing campaign?
- 23 A Yes.
- 24 Q When did you start being a part of the campaign?
- 25 A We started in 2014 around May.

1 Q Okay.

2 MS. DAVILA: I'd like to introduce General Counsel's
3 Exhibit -- we are on --

4 MS. OVIEDO: 15.

5 MS. DAVILA: Thank you.

6 Q BY MS. DAVILA: I'm going to show you what's marked as
7 General Counsel's Exhibit 15. Do you recognize this document?

8 A Yes. This is the card that I signed, the Union card that
9 I signed in order to support the Union, which I signed and
10 dated May 14, 2014.

11 Q Did you receive this card from the Union?

12 A Yes.

13 Q Did you receive it from the Culinary Workers Union?

14 A Yes.

15 Q Did you meet with Jose Pineda?

16 A Yes.

17 MS. DAVILA: I'm going to introduce what's marked General
18 Counsel's Exhibit 16.

19 MR. DRITSAS: Can I voir dire the witness?

20 JUDGE THOMPSON: I'm sorry.

21 MR. DRITSAS: I'd like to voir dire the witness, Your
22 Honor.

23 JUDGE THOMPSON: On this?

24 MR. DRITSAS: Yes.

25 JUDGE THOMPSON: You can, but she hasn't yet offered it.

1 MR. DRITSAS: Oh, I thought you just offered it. I'm
2 sorry.

3 JUDGE THOMPSON: No. She's about to go to another
4 exhibits.

5 MS. DAVILA: I was going to move them in at the same time.

6 JUDGE THOMPSON: Okay.

7 MS. DAVILA: I am going to offer it if you want to make
8 your objection. I move to have them into evidence.

9 JUDGE THOMPSON: Okay.

10 **VOIR DIRE EXAMINATION**

11 Q BY MR. DRITSAS: Mr. Aleman, did you write your name here?

12 A Yes.

13 Q Okay. Do you read English?

14 A Intermediate.

15 Q Can you read what's -- don't read it now, but could you
16 read what was written when you said you had signed Union yes,
17 sir?

18 A I read it on the back side, which is in Spanish.

19 Q Oh, okay. Okay. And this is your writing though?

20 A Uh-huh, yes.

21 Q Okay.

22 MR. DRITSAS: No objection, Your Honor.

23 JUDGE THOMPSON: Hearing no objection, I will receive GC
24 Exhibit 15.

25 **(General Counsel Exhibit Number 15 Received into Evidence)**

1 THE INTERPRETER: Go ahead.

2 MS. DAVILA: She said he was one of the ones who started
3 the campaign.

4 THE WITNESS: We started to gather signatures of all the
5 workers at the hotel. We also would hand out flyers and
6 information in regards to the Union.

7 MR. DRITSAS: Your Honor, at this point of order here, I
8 mean I've been through a lot of translation cases, it's the
9 translator or interpreters that's been sworn --

10 JUDGE THOMPSON: Yes.

11 MR. DRITSAS: -- to provide the correct testimony. I'm
12 going to object to General Counsel stating something was
13 misstated without some procedure where you're going to
14 intervene because it's inappropriate. I don't speak fluent
15 Spanish. It's inappropriate for the General Counsel to tell
16 the interpreter that she's wrong without some other proceeding
17 that at least I can understand.

18 JUDGE THOMPSON: Well, I'm going to sustain the objection.
19 I believe that Ms. Davila was trying to be helpful, but since I
20 don't speak fluent Spanish either, if you believe there was
21 something that wasn't translated properly can you ask the
22 question to clarify that of the witness?

23 MS. DAVILA: I --

24 JUDGE THOMPSON: For example, in the instance that you
25 just gave where you believe he said that they started, they

1 were the ones that started, then could you ask the witness,
2 "Did you say start or collect?" You understand what I'm
3 saying? So then that way he's testifying and she's
4 translating.

5 MS. DAVILA: I understand, Your Honor. I just don't want
6 to be -- I don't want to give leading questions.

7 JUDGE THOMPSON: I understand.

8 MS. DAVILA: I just want the record to reflect that I'm
9 pinpointing --

10 JUDGE THOMPSON: But when you interject that --

11 MS. DAVILA: Okay.

12 JUDGE THOMPSON: -- that wasn't translated correctly, that
13 causes issues. And so I'm just saying if you believe that
14 something was translated incorrectly instead of just saying,
15 "Your Honor, I think it was translated incorrectly. He said
16 such and such versus such and such," just ask the -- clarify it
17 through questioning is all I'm saying.

18 MS. DAVILA: Okay.

19 JUDGE THOMPSON: Got it. Proceed, please.

20 MS. DAVILA: And I'll signal my lead question with that.

21 JUDGE THOMPSON: Got you.

22 Q BY MS. DAVILA: Okay. Okay. Sorry, I don't know where I
23 left off. So, Mr. Aleman, you were one of the people to start
24 the Union campaign, correct?

25 A Yes.

1 Q Do you remember the first day that you wore your Union
2 button to work?

3 A It was a Sunday. I believe it was the 7th of June, '14.

4 Q And why do you remember that date so well?

5 A Because it's a special date. It's because people had
6 never dared to wear a button supporting the Union. And also at
7 work there was a lot of fear there to talk about the Union.

8 Q About how many of your coworkers also wore the Union
9 button that day?

10 A On that day, it was six.

11 Q And can you describe what happened when you got to work?

12 MR. DRITSAS: Your Honor, I'm going to object. There's
13 been some testimony about the button already, this starting
14 point. And I'm going to frankly ask for clarification because
15 the testimony of someone, of Mr. Pineda yesterday, but going
16 into the details of what happened that particular day, I think
17 we don't need to go there. That case has been resolved in
18 2014. We've established he started the campaign. He had a
19 button. I don't think we need to get into specifics of who
20 said what on that particular day.

21 JUDGE THOMPSON: Ms. --

22 MS. DAVILA: Your Honor, sorry.

23 JUDGE THOMPSON: Ms. Davila.

24 MS. DAVILA: Sorry if I interrupted you. Your Honor, I
25 believe that because he's one of the employees involved in the

1 81 allegations, the context certainly goes to the course of
2 nature that he perceived to his Union activity.

3 JUDGE THOMPSON: But we're talking about the issues in
4 this case involve surveillance, creating the appearance of
5 surveillance. If this was already addressed in another case, I
6 don't need to hear it. That's not relevant to what I need to
7 make a decision on which is the surveillance, the appearance of
8 surveillance, the prohibiting of gathering, et cetera, and any
9 and all alleged reprisals for engaging in Union activity.

10 MS. DAVILA: Your Honor, it goes to the natural
11 progression of events and how he perceived coercion to his
12 section 7 activity in 2015.

13 MR. DRITSAS: Well --

14 JUDGE THOMPSON: He could tell me about that through the
15 surveillance, impression of surveillance.

16 MS. DAVILA: I have to give it some context, Your Honor.

17 JUDGE THOMPSON: No, you don't. You can just go right
18 into the --

19 MS. DAVILA: To the date?

20 JUDGE THOMPSON: You could just go right into the issues.
21 I need to make a decision regarding whether an 8(a)(1)
22 violation occurred based upon all various allegations.
23 Employees were prohibited from speaking to guests, gathering to
24 demonstrate that they were threatened with reprisals if they
25 engaged in Union activities, that they were supposedly told

1 that they needed to vote no in the Union election, that they
2 were told that they wouldn't be promoted if they engaged in
3 Union activity, et cetera. So we can go straight into that. I
4 don't necessarily need to hear about something that happened
5 that's not the subject of this case.

6 MS. DAVILA: Your Honor --

7 JUDGE THOMPSON: So I'm going to sustain the objection and
8 just ask that you just get right to the issue at hand.

9 MS. DAVILA: I'd just like for the record to reflect my
10 objection to that, Your Honor, because I think that it is
11 relevant to the coercion that he experienced. There's no way
12 he can perceive coercion in surveillance unless he's had some
13 prior experience with the Employer at his Union activity.

14 JUDGE THOMPSON: Okay. Your objection is noted.

15 Q BY MS. DAVILA: Mr. Aleman, can you describe what the EDR
16 is?

17 A EDR is the company dining hall.

18 Q And can you tell us what happened in the mornings in the
19 EDR when you worked there?

20 A When we get there, we get there about half an hour before.
21 And at that moment, we could speak with the employees and pass
22 out flyers, information about the Union, gather signatures,
23 have conversations with people over any doubts that they may
24 have over the Union.

25 Q Do you know who Anthony Wandick is? Wandick.

1 A He was a manager that was working at the Trump.

2 Q Before I go on, I'd just like to clarify that you wore
3 your Union button to work, correct?

4 A All the time.

5 Q Did you wear it on your uniform?

6 A Yes.

7 Q Okay. Are you friends with Anthony Wandick?

8 A No.

9 Q Did you ever talk to him about anything outside of work?

10 A No, no, never.

11 Q Did he ever talk to you about the Union?

12 A No.

13 Q Was he ever in the EDR when you were?

14 A He started to go almost every day to the EDR. And when I
15 would get near an employee to talk to them he would go there
16 right away. He would get as close as a meter from me and in an
17 intimidating manner so that the employees would -- he would get
18 as close to me as a meter in an intimidating manner so that the
19 workers there, so that the workers would think that the way
20 that they would see him, that they would stop. They would tell
21 me to wait until he left so that they could keep talking or
22 receive any other Union information.

23 Q Did this happen on one occasion?

24 A With me, it happened, I think two or three times.

25 Q Do you remember what year it was?

1 A It was this year in 2015.

2 Q Do you have the morning meetings in the EDR?

3 MR. DRITSAS: Objection, Your Honor.

4 THE WITNESS: Yes.

5 MR. DRITSAS: He's starting to go on and I'm getting
6 caught in narratives here, so can we try to have a question and
7 then another question before he just launches into something
8 where I don't know where he's going. The question was just
9 does he have meetings. He said yes and then he started to say
10 something else, which I don't know where he was going. It
11 wasn't a question.

12 JUDGE THOMPSON: Well.

13 MR. DRITSAS: We're entitled to know what.

14 JUDGE THOMPSON: No, I understand. I'm just, you know,
15 that's just uber technical. I'm going to sustain the
16 objection. Go ahead, Ms. Davila.

17 Q BY MS. DAVILA: Can you tell us about the morning meetings
18 in the EDR?

19 A A manager from the company comes in at 8:00 and has a
20 meeting and then they have another meeting at 8:30.

21 Q Did Anthony Wandick ever give these meetings?

22 A Yes. Sometimes he would give them.

23 Q Was he one of your managers?

24 A He was a manager, assistant manager.

25 Q What department?

1 A For housekeeping.

2 Q No further questions, Your Honor.

3 JUDGE THOMPSON: Was Mr. Wandick one of your managers?

4 THE WITNESS: Yes, he was a manager for the housekeeping
5 department.

6 JUDGE THOMPSON: Okay. Thank you.

7 MR. DRITSAS: Do you have a Jencks statement for Mr.
8 Aleman?

9 MS. DAVILA: Yes.

10 MR. DRITSAS: Okay. Your Honor, may I --

11 JUDGE THOMPSON: Please. Off the record.

12 MR. DRITSAS: Thank you, Your Honor.

13 (Off the record at 9:54 a.m.)

14 JUDGE THOMPSON: We are back on the record. And before we
15 begin cross, I'd just like to remind everyone to keep their
16 voices up so that Jacqui, our court reporter, can hear and
17 translate accurately.

18 Mr. Dritisas, your witness.

19 **CROSS-EXAMINATION**

20 Q BY MR. DRITSAS: Thank you, Your Honor. Mr. Aleman, you
21 testified that you started as an on call employee and then
22 moved to full-time, is that right?

23 A Yes.

24 Q And when did you move to full time?

25 A It was in 2000. It was in June, I believe it was in June

1 2012, 2013.

2 Q Okay. Now you testified that you wore a Union button on a
3 day in -- a Sunday in 2014, is that right?

4 A Yes.

5 Q Okay. Who were the five other people that you were with?

6 A Carmen, Gisella, Celia, Ofelia, and another lady named
7 Minerva and myself, apart from me.

8 Q Okay. And would you agree that you were not terminated
9 for that event?

10 A On that day at 4:00, at around 4:30, I was taken to
11 Alejandra Magana's office. Alejandra said that she had two
12 options for me, that if I would remove the Union button I could
13 keep working. If I kept it on, I would have to turn my keys in
14 and leave. And that's what I did. And that's what I did. I
15 told her it was my right to wear the Union button. She told me
16 to turn in the keys and leave.

17 Q Okay. And this was Sunday. What time of day?

18 A At around 4:30, 4:45.

19 Q Okay. And was there anyone else with you in Ms. Magana's
20 office besides you and Alejandra?

21 A Just Alejandra and myself.

22 Q Okay. And my question, I don't think you answered it.

23 Would you agree that you were not terminated for wearing a
24 Union button?

25 A I would know to tell you if that was the case because she

1 told me to leave and she would let me know.

2 Q Okay. And you came back to work the next day or the day
3 after?

4 JUDGE THOMPSON: Mr. Dritsas, let me stop you because you
5 objected to General Counsel going down this road and I
6 understand that there was some testimony and that some of your
7 questions sought to clarify, but now you're going down that
8 road.

9 MR. DRITSAS: No, I don't want to go down that road, Your
10 Honor. I just haven't gotten an answer yet, and so let me try
11 to tighten it up this way.

12 Q BY MR. DRITSAS: Would you agree that after you wore the
13 button and you went home you came back to work within the next
14 day or two?

15 A No. The next day I didn't work.

16 Q Okay. How about the following day?

17 A They called us Monday night to come back on Tuesday.

18 Q Okay. Thank you. And you worked continuously from that
19 day until you resigned earlier this year?

20 A Yes.

21 Q Okay. Thank you. And as a committee leader, you wore
22 your red and white button that says committee leader.

23 A Yes.

24 Q From that day forward.

25 A Yes.

1 Q Okay. And you were never told to take that button off
2 again?

3 A Never again, not after that day.

4 Q Okay. Now you were asked some questions about Anthony
5 Wandick. Had you spoken to Mr. Wandick within the past --
6 well, let me ask you this and we'll strike that question. Have
7 you ever had a communication with Mr. Wandick since he left the
8 Trump Hotel Company?

9 A No.

10 Q Okay. Did you meet with Ms. Davila to go over your
11 testimony today?

12 A Last week I was here on Thursday.

13 Q Okay. And how much time did you spend with her?

14 A About half an hour.

15 Q And did you review any documents?

16 A No. I gave the same statement that I've given at other
17 times.

18 Q Did you review the confidential witness affidavit that you
19 had signed in July 2015?

20 THE INTERPRETER: Could you repeat, sir?

21 Q BY MR. DRITSAS: Did you review the confidential witness
22 affidavit that you had signed in July 14, 2015?

23 A No. I remember exactly what happened.

24 Q Okay. So you didn't review any documents. That's what
25 I'm led to believe?

1 A The statement that I made was the copy -- was the copy
2 that I had made with the attorney before this.

3 Q Okay. So my question is when you met with Ms. Davila last
4 week did you review that statement?

5 A Yes. It's the one that I received and it's the one that
6 I --

7 Q Okay.

8 A And I sustained that.

9 Q Okay. And the statement that I have is in English. Did
10 you review a statement that was in Spanish?

11 A In Spanish.

12 Q Okay. Counsel, I assume you have the same statement in
13 Spanish.

14 MS. DAVILA: Yes. I don't have copies.

15 MS. OVIEDO: I can print.

16 Q BY MR. DRITSAS: That's okay. Okay. So, let me ask you.
17 Where's the statement? So you testified here this morning
18 about Mr. Wandick approaching you in the EDR. Do you recall
19 that testimony?

20 A Could you repeat?

21 Q Sure. Do you recall your testimony that you saw Mr.
22 Wandick approaching you in the EDR in 2015?

23 A Yes.

24 Q Okay. Did Mr. Wandick approach you on June 23, 2015?

25 A Yes.

1 Q Okay. And when you met with the General Counsel to give
2 your affidavit, you wanted to be as accurate as possible as to
3 the number of times that Mr. Wandick had met with you in the
4 EDR, is that right?

5 MS. DAVILA: Can I just clarify something? He said the
6 lawyer to whom he gave the affidavit and she had indicated that
7 when he met with her she was the one that he had given the
8 affidavit to.

9 JUDGE THOMPSON: Again, we've got to get that out in
10 testimony. I can't just accept because you're not the witness.
11 I have to allow it to come out in testimony.

12 Q BY MR. DRITSAS: Okay. So, Mr. Aleman, when you gave your
13 statement to the National Labor Relations Board, whoever took
14 the statement, you told them that on or about June 23 when you
15 were with Carmen that Anthony Wandick came over to you, is that
16 right?

17 A Yes.

18 Q Okay. And you didn't list any other dates that Mr.
19 Wandick came over to you in your statement, is that right?

20 A It happened around two or three times and my coworkers
21 noticed that every time I was going to go speak to someone by
22 themselves he would get near us in an intimidating form where
23 the coworkers were so that they could refuse any information
24 from me --

25 Q Okay. So --

1 A And apart from that --

2 Q So my question, sir, though is -- I move to strike, Your
3 Honor, the last part as hearsay, non-responsive.

4 JUDGE THOMPSON: I'm actually going to allow that,
5 Counsel.

6 MR. DRITSAS: Okay.

7 JUDGE THOMPSON: But proceed.

8 Q BY MR. DRITSAS: Okay. My question to you, Mr. Aleman, is
9 the statement that I have says one day, June 23, 2015. Is it
10 true that you only told the National Labor Relations Board
11 agent that Mr. Wandick --

12 MS. DAVILA: Object, Your Honor.

13 Q BY MR. DRITSAS: -- Mr. Wandick approach you just on June
14 23, 2015.

15 JUDGE THOMPSON: Okay.

16 MS. DAVILA: Object. For other -- it's a
17 misrepresentation. There are other incidents listed here.

18 JUDGE THOMPSON: That's not -- overruled because he's just
19 talking about that has been -- you can develop that on
20 redirect, Counsel, to the extent that you would like to.

21 THE WITNESS: The response to your question is I made two
22 or three reports over the times that Anthony Wandick got near
23 where I was.

24 Q BY MR. DRITSAS: Okay.

25 A If it's just down by itself, I don't know why, but I did

1 make reports for every case that occurred.

2 Q How did you know it was June 23. Did you keep a notebook
3 or diary?

4 A No, because we would make statements of everything that
5 occurred on that day, on those days.

6 Q And where are those statements?

7 A I gave them to the previous attorney. I don't remember
8 the name.

9 Q To the National Labor Relations Board attorney?

10 A We would turn it in at the Culinary and they would bring
11 them here.

12 Q How many statements did you give to the Culinary that were
13 brought here?

14 A There was plenty of them. A lot of them had to do with
15 the change and the amount of work that they gave us since we
16 started, since we started to wear the button.

17 Q So my question is limited to this. When you met with the
18 National Labor Relations Board did you have the statements with
19 you or did they have the statements that you saw with them?

20 A The attorney had them.

21 Q The attorney for the National Labor Relations Board?

22 A Yes.

23 Q Okay. So tell me, let's go back to the Mr. Wandick
24 incident on June 23. What time of day was it?

25 A It was around 7:35, 7:40 in the morning.

- 1 Q Okay. Was Alejandra Magana present?
- 2 A No.
- 3 Q Did you report this incident to anyone in human resources?
- 4 A No.
- 5 Q Did you report the incident to Ms. Magana?
- 6 A No.
- 7 Q Did Mr. -- who was the employee that said they didn't want
8 to talk to you because Mr. Wandick was present?
- 9 A It was one of my coworkers whose name is Antonio.
- 10 Q What's his last name?
- 11 A I don't remember it now.
- 12 Q What was his position?
- 13 A Housekeeping, the same as myself.
- 14 Q How long did Mr. Wandick stand in your presence on that
15 day of or the two or three days that you testified about?
- 16 A Close to me or?
- 17 Q How long? How much time?
- 18 A From 7:30 until the time that we left.
- 19 Q And when did you leave?
- 20 A After 8:00 in the morning is when we started to work.
- 21 Q So Mr. Wandick stood right next to you for 30 minutes?
- 22 A No, no, no. Next to me. It was when I was having
23 conversations with some of the workers. Then after he would
24 continue walking through the EDR.
- 25 Q Okay. So my question was how much time did Mr. Wandick

1 stand next to you.

2 A Around five minutes.

3 Q So did you talk with him?

4 A No.

5 Q So he just stood there for five minutes not saying
6 anything.

7 A No, he wouldn't say nothing. He would just observe.

8 Q Well, how close was Mr. Wandick to you?

9 A The distance from where the judge is.

10 Q To you?

11 A Yes.

12 Q So what's your estimate of that? Five feet, six feet?

13 A One meter.

14 Q Okay. So just to be clear, Mr. Wandick stood a meter away
15 from you for five minutes and didn't say anything, just stood
16 there quietly?

17 A Yes.

18 Q Okay. And you stood there. Did you have your back to him
19 or did you look at him?

20 A No. I was sitting there talking with the other workers.

21 Q Okay. So you were seated?

22 A Yes.

23 Q Okay. And was Mr. Wandick in front of you or behind you?

24 A Behind me.

25 Q Okay. So you couldn't see him. He was behind you.

1 A No.

2 Q Well, I don't understand. You said he was behind you.

3 A He was behind me, but the workers were telling me, "Wait
4 until he leaves because we don't want him to see us getting any
5 kind of information."

6 Q Okay. So let's just try to understand. So you're seated
7 and Mr. Wandick is behind you, right?

8 A Uh-huh.

9 Q You have to answer yes or no. Is that correct?

10 A I have to what?

11 Q Well, he said uh-huh and you said yes, so we --

12 JUDGE THOMPSON: You have to give a verbal response.

13 THE WITNESS: Sorry, sorry.

14 Q BY MR. DRITSAS: Is that correct? Mr. Wandick stood
15 behind you.

16 A Behind me.

17 Q Okay. Okay. And so you don't really know where he stood
18 for five minutes because you were not looking at him, isn't
19 that right?

20 A When the worker told me that he's there behind me, well,
21 of course I'm going to look back and I see him.

22 Q Okay. And but you didn't look at him for five minutes,
23 right? You turned around and looked and then turned back.

24 A Yes, I did see him because when I was sitting there with
25 the workers he was there. When I left there, he left unless it

1 was a ghost.

2 Q You left when it was time to go to work, 8:00?

3 A From being there with the workers, it was five minutes
4 after. I went to more workers and he continues going around
5 the EDR.

6 Q Okay. Now the -- was this at the time that it was a Trump
7 Talk?

8 A No, before.

9 Q Okay. So what are the meetings that are held? You said
10 there's a 7:30 meeting and an 8:00 meeting.

11 A No, I said one was at 8:00 and the other one at 8:30.

12 Q Okay. Which meeting starts at 8:00?

13 A The one that I would go to.

14 Q Was that a Trump Talk meeting?

15 A Yes.

16 Q Okay. And Mr. Wandick sometimes leads the Trump Talks?

17 A Sometimes he would give the information.

18 Q Okay. So he has a reason to be in the EDR for the Trump
19 Talk, is that right?

20 A When it's the Trump Talks, yes, but not before then.

21 Q Is there a rule that he's not allowed in the EDR before
22 8:00?

23 A It's not a rule, but it's something that never occurred.

24 Q Okay. Well, he has to come in before 8:00 to give an 8:00
25 meeting, right?

1 A Normally he gives it at 8:00, not before.

2 Q Okay. You haven't kept track of every minute that Mr.

3 Wandick has entered the EDR, is that right?

4 A No, of course not.

5 Q Okay. So the person that was seated, was it just Antonio

6 or was it another person?

7 A It was Antonio and two gals were sitting in front of me.

8 Q Do you know their names?

9 A I don't remember them now. It was around six, four, or
10 five months.

11 Q Okay. You said another time that Mr. Wandick approached
12 you. Do you know when that was?

13 A It was around those same dates.

14 Q And, okay. So what time of day was it?

15 A In the morning.

16 Q What time in the morning?

17 A At around 7:30, 7:40.

18 Q Okay. So let's talk about the second time. What
19 happened? Where were you located?

20 A In the EDR.

21 Q Were you sitting or standing?

22 A No, I was handing out information over the medical
23 insurance that the Culinary offers.

24 Q Okay. So you were -- that doesn't answer my question.

25 Were you sitting or standing?

1 A No, I was standing because I was handing out.

2 Q And so were you moving up and down the aisles?

3 A And the tables, yes.

4 Q Yes. So there was a series of tables and you were going
5 down table by table giving information.

6 A I would hand out information and I would be talking to the
7 workers telling them what it would say.

8 Q Okay. And how long did you do that that morning?

9 A In the morning we would do it for a time about 15 or 20
10 minutes.

11 Q Well, I'm talking about this particular morning that you
12 said Mr. Wandick was there. How long were you passing out the
13 papers?

14 A Around 15 minutes before then until we would do it before
15 we would clock in.

16 Q Okay. So where was Mr. Wandick when you were passing out
17 the flyers for 15 minutes at the tables?

18 A Next to me at around a meter away.

19 Q Okay. And did he follow you from table to table?

20 A Yes.

21 Q Okay. And did he say anything to you?

22 A No.

23 Q So he just was walking with you as you're passing
24 information out?

25 A Yes.

1 Q Did you say anything to him?

2 A No, but we filmed it.

3 Q Oh, okay. Do you have -- who did the filming?

4 A One of my coworkers from work because it was strange to us
5 that he was following.

6 Q Who was the person that filmed it?

7 A I don't remember if it was Carmen.

8 Q Did you ever see the filming?

9 A Yes.

10 Q When did you see it?

11 A That same day.

12 Q Did you ever see it after that?

13 A Yes.

14 Q When was the last time you saw it?

15 A Oh, about around five months, six.

16 Q Did you ever get a copy of the video?

17 A No.

18 Q Did you give it to the Union?

19 A No, I didn't turn it in.

20 Q Did you give it to the National Labor Relations Board?

21 A No, but I did make a report that he was following me
22 around.

23 Q Okay. Why didn't you tell the National Labor Relations
24 Board that there was a video of this activity?

25 A The filming, we made it us particularly. We don't know if

1 that's evidence or if it's accepted or not, but there are
2 witnesses.

3 Q Okay. So you've told me about two days, one where Mr.
4 Wandick was standing behind you and one where he was walking
5 with you. Was there any other time that Mr. Wandick was in EDR
6 and he was close to you that you thought he was too close?

7 A Almost every day he would go to the EDR, but whenever we
8 were handing out any kind of information. It didn't just
9 happen to me. It happened to other workers as well.

10 Q Okay. Well, I'm talking about you, sir. Were there any
11 other days besides the two you've identified that Mr. Wandick
12 stood close to you that he thought he was trying to listen to
13 what you were saying?

14 A I already told you those two times.

15 Q Okay. Fair enough. And you were speaking Spanish to the
16 employees those two times?

17 A Yes.

18 Q Okay. Do you know if Mr. Wandick speaks Spanish?

19 A No, he doesn't speak Spanish.

20 Q Okay. Okay. So and you testified about the button
21 incident, so I wanted to go past that date. So after you
22 returned to work from the day that you went off work from --
23 were you disciplined at any time in 2014?

24 A I think that they gave me a verbal warning.

25 Q Okay.

1 MS. DAVILA: Objection, relevance.

2 JUDGE THOMPSON: Mr. Dritsas.

3 MR. DRITSAS: Well, it goes to credibility, Your Honor. I
4 mean the whole thrust of the case here is it gets to Ms. Guzman
5 is that they were motivated against her because she somehow was
6 engaged in Union activity. We've got an organizer here and
7 we'll show that there was little to no discipline.

8 MS. DAVILA: Your Honor, it's outside the scope of my
9 direct examination.

10 MR. DRITSAS: Well, that may be technically correct, but
11 it's a credibility issue also and in the interest of time
12 rather than call him back during my case-in-chief I think it's
13 most expeditious to have a couple of questions here.

14 MS. DAVILA: Oh.

15 JUDGE THOMPSON: If you make it brief, Counsel.

16 MR. DRITSAS: Okay.

17 JUDGE THOMPSON: I'm going to overrule the objection and
18 allow it.

19 Q BY MR. DRITSAS: So the records we have, Mr. Aleman, shows
20 you had a verbal warning in March 2015. Is that what you're
21 thinking of?

22 A I think so.

23 Q Okay. And then in March 2015 you were given a written
24 warning for falsifying you room report, how many rooms you
25 cleaned, is that right?

1 A I am glad you brought that up.

2 Q But can you just answer the question, sir? Did you
3 receive a written warning in March of 2015 for falsely stating
4 you completed rooms you didn't complete?

5 THE INTERPRETER: For falsely what, sir?

6 Q BY MR. DRITSAS: Stating you completed rooms that you did
7 not complete.

8 A I'm going to clarify.

9 Q Just my question -- do you understand the question? It's
10 did you receive a written warning in March accusing you of
11 falsely stating you cleaned a room you did not clean.

12 A Yes.

13 Q Okay. Thank you. And after that written warning, would
14 you agree you had no further discipline between that time and
15 the time you resigned your employment?

16 A Yes.

17 Q And you continued to wear your button and engage in
18 organizing activities.

19 A Yes, I continued wearing the button and all that.

20 Q I have nothing further at this time.

21 MR. DRITSAS: Thank you, Your Honor.

22 JUDGE THOMPSON: I can't. I know it's tempting.

23 Ms. Davila, any redirect?

24 MS. DAVILA: Yes.

25 JUDGE THOMPSON: Please.

1 REDIRECT EXAMINATION

2 Q BY MS. DAVILA: Mr. Aleman, can you look at the papers in
3 front of you please and look at GC Exhibit 6?

4 THE INTERPRETER: 6?

5 Q BY MS. DAVILA: Yes. I can give you a copy.

6 THE INTERPRETER: Yes, ma'am.

7 Q BY MS. DAVILA: No, no, no. It's all right. Can you look
8 at page three, please? Do you recognize that document?

9 A Yes.

10 Q Why?

11 A This is the document that the company put up in certain
12 places of the Trump and up here appears my name. They
13 recognized that they violated our rights.

14 Q Can you read -- oh, it's not in Spanish. Okay. That's
15 it. Thank you. You testified that you wore your button every
16 day to work, correct?

17 A Yes.

18 Q Were you wearing it when you were speaking to workers in
19 the EDR?

20 A Yes.

21 Q Were you wearing it the day that you spoke to -- I think
22 you said his name was Antonio?

23 A Yes.

24 Q And when you were talking to Antonio were you giving him
25 information about the Union?

- 1 A Yes.
- 2 Q Did you have any flyers or handouts in your hand?
- 3 A Yes.
- 4 Q About how big were they?
- 5 A A little bit more or less like this.
- 6 Q So then bigger than a page?
- 7 A Yes. There are some flyers that we would make in color.
- 8 Q Were the sheets in color?
- 9 A Yes. We would make them in different colors depending on
- 10 the theme that it was about.
- 11 Q And when you were sitting there talking to Antonio did you
- 12 have the flyer on the table?
- 13 A In my hand.
- 14 Q Okay. And I promise not to go into this too far, but Ms.
- 15 -- who was the manager who sent you home back in June 2014?
- 16 A Alejandra Magana.
- 17 Q And when you had problems in housekeeping who were you
- 18 suppose to report them to?
- 19 A Could you repeat the question?
- 20 Q When you had problems in housekeeping department who were
- 21 you suppose to report them to?
- 22 A Alejandra or Kevin.
- 23 Q Who's Kevin?
- 24 A He's the second housekeeping manager.
- 25 Q Do you know about how many housekeeping employees there

1 are?

2 A There was around 200, 2-, to 300 around.

3 Q Do you know -- go ahead.

4 A It depends because they contract and they vote.

5 Q Do you know all of their names?

6 A No.

7 MS. DAVILA: Your Honor, I have an objection to her
8 translation. I'm going to ask a leading question.

9 JUDGE THOMPSON: And clarify --

10 MS. DAVILA: Okay.

11 JUDGE THOMPSON: -- that through testimony.

12 Q BY MS. DAVILA: When you said that they vote, you said the
13 word (Spanish spoken).

14 A They let go.

15 Q Okay. That was the only clarification. Not vote.

16 A Let go.

17 Q Okay. Okay.

18 JUDGE THOMPSON: Okay. Wait a minute. Can you -- you're
19 going to have to --

20 MS. DAVILA: She --

21 JUDGE THOMPSON: Let her. Can you re-ask the question
22 that you just asked?

23 Q BY MS. DAVILA: Okay. I asked you how many employees
24 there were in the hotel. What did you say?

25 A I told you that sometimes there's 2-, to 300, but it

1 depends because sometimes they let go several of the workers to
2 downsize and then they'll be contracting again.

3 Q Okay. No further questions. I'm sorry. I have one more
4 question. Okay. I'm just going to make one question regarding
5 the discipline that the Respondent asked you. Was the
6 discipline that you received taken off your record?

7 MR. DRITSAS: Which discipline? Objection. Which
8 discipline?

9 JUDGE THOMPSON: Clarify, Counsel, would you. There were
10 two disciplines that Respondent brought up, so I need to know
11 which discipline you're referring or if it's both.

12 MR. DRITSAS: There was actually three, Your Honor. There
13 was one dealing with the button which was taken off and then
14 there were the two subsequent ones.

15 JUDGE THOMPSON: Well, you talked about -- I think you
16 were talking about the two subsequent ones.

17 MR. DRITSAS: I was.

18 JUDGE THOMPSON: So those, could you clarify with
19 regard --

20 MS. DAVILA: Right.

21 JUDGE THOMPSON: -- to the two subsequent ones you're
22 speaking of?

23 MS. DAVILA: I apologize.

24 JUDGE THOMPSON: That's okay.

25 Q BY MS. DAVILA: Was the discipline, this is when you had

1 the button on, was that taken off your record?

2 A They sent me -- the human resources manager gave me a
3 letter that said they would take away the discipline, the
4 suspension that was given when I wore the button and that they
5 apologized for having removed me from the hotel.

6 Q Okay. Now no further questions.

7 JUDGE THOMPSON: Okay.

8 MS. DAVILA: Thank you.

9 JUDGE THOMPSON: Mr. Aleman, thank you so very much for
10 your testimony. Please don't discuss it with anyone. Thank
11 you. Have a great day.

12 THE WITNESS: Thank you.

13 Ms. Davila, would you like to call your next witness?

14 MS. DAVILA: Yes, I will.

15 MR. DRITSAS: Your Honor.

16 JUDGE THOMPSON: Yes.

17 MR. DRITSAS: I mean I know it's a quarter until 11:00.
18 You said you usually take a morning break. Are we taking a
19 morning break?

20 JUDGE THOMPSON: Let's take a morning break.

21 MS. OVIEDO: I could use five minutes.

22 MS. DAVILA: I agree.

23 MR. DRITSAS: Thank you.

24 JUDGE THOMPSON: Let's come back around 11:00.

25 MS. OVIEDO: Oh, here.

1 MR. DRITSAS: Thank you, Your Honor.

2 MR. KRAMER: Thank you very much.

3 JUDGE THOMPSON: Off the record.

4 (Off the record at 10:43 a.m.)

5 JUDGE THOMPSON: We are back on the record. Ms. Davila,
6 would you like to call your next witness?

7 MS. DAVILA: Yes, Your Honor. The General Counsel calls
8 Anthony Wandick to the stand.

9 JUDGE THOMPSON: Okay. Mr. Wandick. Hi.

10 THE WITNESS: Hello.

11 JUDGE THOMPSON: How are you?

12 THE WITNESS: Good. Thank you.

13 JUDGE THOMPSON: Good. Mr. Wandick, I'm Judge Thompson.
14 I'm an Administrative Law Judge with the National Labor
15 Relations Board. I have been assigned to hear this case today.
16 You have been called as a witness on behalf of the General
17 Counsel in this case, but I need to swear you in. Would you
18 please raise your right hand?

19 Whereupon,

20 **ANTHONY WANDICK**

21 having been duly sworn, was called as a witness herein and was
22 examined and testified as follows:

23 JUDGE THOMPSON: Great. Thank you. Could you state your
24 name for the record?

25 THE WITNESS: Anthony Wandick.

1 JUDGE THOMPSON: Mr. Wandick, how do you spell your last
2 name?

3 THE WITNESS: W-A-N-D-I-C-K.

4 JUDGE THOMPSON: Almost had it right. Great. Thank you,
5 Mr. Wandick. Let me give you just a few instructions before
6 giving your testimony. Number one, we are recording the
7 proceedings today. That's why the mic is in front of you, but
8 the transcript doesn't understand uh-uh or uh-huh, so if you
9 could give us a verbal response we would appreciate that.

10 Second, if you don't understand a question that either
11 Counsel asks you, would you mind telling them, "I don't
12 understand what you're asking me," so that they can either
13 repeat the question or revise the question. If you respond to
14 a question, we'll assume that you understood it.

15 Third, if either Counsel object could you hold your
16 response until I can address and rule on the objection. And
17 lastly, sometimes you may get a sense of where Counsel are
18 headed in their question and may want to interject and answer
19 the question. Would you mind holding your response so that way
20 we can have the complete question in the transcript and then
21 your complete answer. Would you do that for us, please?

22 THE WITNESS: Yes.

23 JUDGE THOMPSON: Great. Thank you.

24 JUDGE THOMPSON: Ms. Davila or General Counsel, your
25 witness.

1

DIRECT EXAMINATION

2 Q BY MS. DAVILA: Thank you, Your Honor. Good morning, Mr.
3 Wandick. My name is Judith Davila, as you know, with the
4 General Counsel. This is my co-counsel, Elise Oviedo. Could
5 you please state your occupation for the record?

6 A I'm an operations manager at Southern Hills Hospital.

7 Q And when did you start working at Southern Hills Hospital?

8 A About two months ago.

9 Q And what was your immediate position before that?

10 A Housekeeping manager at Trump Hotel.

11 Q Okay. Okay. Do you know the dates that you worked at the
12 Trump Hotel?

13 A Not off the top of my head, no.

14 Q Did you work there -- when was the last month, if you
15 remember, that you worked there?

16 A July, I believe.

17 Q Of what year?

18 A Of 2014 or 2015, sorry.

19 Q Did you work at the Trump Hotel for more than a year?

20 A A little under a year. Probably about 11 months.

21 Q And what position did you hold there?

22 A Housekeeping manager.

23 Q And what were some of your duties as a housekeeping
24 manager?

25 A See the overall day to day operations, looking at

1 productivity, staffing, disciplinary actions, training, hiring,
2 on boarding, handle all due process hearing as far as
3 housekeeping associates.

4 MS. DAVILA: Your Honor, I'd like permission to proceed
5 under 611(c).

6 MR. KRAMER: Just our previous stated objection, the fact
7 that he's not demonstrated he's an adverse or hostile witness,
8 Your Honor.

9 JUDGE THOMPSON: I'll note that for the record, but I'm
10 going to allow Counsel to proceed.

11 Q BY MS. DAVILA: Mr. Wandick, you and I have spoken before,
12 correct?

13 A Yes.

14 Q How did we speak or why? Why did we speak?

15 A Regarding the allegations that the Union has filed against
16 the Trump.

17 Q Okay. You contacted me to file your own charge, correct?

18 A Correct.

19 Q What charge did you want to file?

20 MR. KRAMER: I'm going to object, Your Honor, as to
21 relevance.

22 JUDGE THOMPSON: Sustained. I don't think that his
23 charges are relevant.

24 MS. DAVILA: I just wanted to establish that I've known
25 him, that I've had interaction with him.

1 JUDGE THOMPSON: You've established it.

2 Q BY MS. DAVILA: Okay. Okay. Mr. Wandick, can you
3 describe the employee dining room?

4 A It's a big pretty much large area similar to this room.
5 Set up with tables, a cafeteria that employees eat. We also
6 conduct Trump talks in there as well as housekeeping trainings
7 and stuff.

8 Q Is the employee dining room a working area?

9 A It is not --

10 MR. KRAMER: Object --

11 THE WITNESS: -- no.

12 MR. KRAMER: I'm going to object to the foundation to the
13 extent -- we object on the grounds it's calling for a legal
14 conclusion, Your Honor. And, to that extent, I object to it.

15 JUDGE THOMPSON: She just asked whether -- I'm sorry,
16 Ms. Davila, what did you ask --

17 MS. DAVILA: If it was a working area.

18 JUDGE THOMPSON: Okay. I'm not certain that that calls for
19 a legal conclusion, so I'm going to overrule the objection.

20 But continue, Mr. Kramer. You object on that ground and --

21 MR. KRAMER: No. That's the only ground.

22 JUDGE THOMPSON: Oh, okay. Sorry. I'm going to overrule
23 the objection. Ms. Davila, you can continue.

24 MS. DAVILA: Okay. Thank you, Your Honor.

25 Q BY MS. DAVILA: Mr. Wandick, can you describe what the

1 Trump talks are?

2 A Some talks are pretty much morning houses where we go over
3 occupancy, VIP arrivals, anything that we need to communicate
4 to the staff during that day that's of relevance, importance.

5 Q Okay. And did you ever give these Trump talks?

6 A Yes.

7 Q Did you give them every day, every time you were on shift?

8 A Yes.

9 Q What times would you give the Trump talks?

10 A Trump talks normally took place -- we had one at -- what
11 was it -- 7:30 and then one at 8:00 and then 8:30 I believe
12 were the times. But it was three -- pretty much three a day.

13 Q Okay. You knew that the employees wanted to form a union
14 at the Hotel, correct?

15 A Yes.

16 Q Did you see -- you saw employees wearing union buttons,
17 correct, to work?

18 A Yes.

19 Q Did they wear these buttons on their uniforms?

20 A Yes.

21 Q I'm going to show you -- can you look up there to what's
22 GC Exhibit 16? Yes. Can you describe what's on there?

23 A It's the -- the badges that the employees wore.

24 Q Okay.

25 A They started with the red one and then solely but surely

1 the yellow one time into play.

2 Q Okay. Did you ever ask employees about these buttons?

3 A No.

4 Q How did you know the significance of these buttons?

5 A Because we knew it was tied to the Union obviously, just
6 because it was explained to me by other managers.

7 Q What did other managers tell you?

8 A That it's pretty much they're trying to start a union.

9 These are pretty much associates that are associated with the
10 Union, that support the Union.

11 Q Are there employees who don't wear the union button?

12 A Yes.

13 Q And you've seen employees do Union activities in the
14 employee dining room, correct?

15 A Yes.

16 Q What are some of those activities?

17 A They would chant (Spanish spoken), they would have
18 posters, walking around handing out fliers.

19 Q Did you ever look at these fliers?

20 A They tried to hand them to me and I've seen them on the
21 table.

22 Q Okay. Have you seen Union authorization cards being
23 signed at the -- in the employee dining room? Excuse me.

24 A Yes.

25 Q Okay. Has an employee ever been disciplined for doing

1 Union activities on work time?

2 A Not that I can recall, no.

3 Q Did you ever discipline an employee for doing Union
4 activity on work time?

5 A No.

6 Q The Trump Hotel is opposed to this union organizing
7 campaign, correct?

8 A Yes.

9 Q And it communicated to the employees that it was opposed
10 to the campaign, correct?

11 A Yes.

12 Q Were you ever given any instructions about what to say to
13 the employees about the union organizing campaign?

14 A Yes.

15 Q Who gave you those instructions?

16 A It came from Jeff Peterson.

17 Q Who is he?

18 A He is the director of human resources.

19 Q When did he give you these instructions?

20 A It came several times -- what was the date? It was a
21 couple of times where we had -- they brought in a group called
22 Cruz & Associates --

23 MR. KRAMER: Your Honor, at this point I'm going to
24 object --

25 JUDGE THOMPSON: Okay.

1 MR. KRAMER: -- to these conversations. Just as in earlier
2 on this, I mean we're talking about campaign strategy here
3 and -- you know, and privileged conversations among management
4 as to how to respond to the union campaign. And, you know, for
5 the reasons set forth and we've discussed earlier on this with
6 the discovery responses and all that, we believe these
7 conversations are privileged.

8 MS. DAVILA: Your Honor --

9 JUDGE THOMPSON: Ms. Davila?

10 MS. DAVILA: They're not privileged conversations, they're
11 not -- they're had with their employees. They're supervisors
12 and managers, not their legal -- I'm not asking for privileged
13 conversations.

14 JUDGE THOMPSON: What was the question that you asked,
15 Ms. Davila, if you can recall it?

16 MS. DAVILA: The instructions given to him about the Union
17 activity. I didn't ask if an attorney was present, but I can
18 ask.

19 JUDGE THOMPSON: No. Okay. Before I rule on the
20 objection, ask -- you can ask that question.

21 Q BY MS. DAVILA: Was an attorney present when they gave you
22 these instructions?

23 A When it came from Jeff Peterson, no. It was actually
24 through an e-mail.

25 JUDGE THOMPSON: For this limited purpose, Mr. Kramer, I'm

1 going to allow the witness to answer the question. I don't
2 know how far down the General Counsel's intending to go. But
3 I'm going to have the witness answer. But to the extent that
4 it gets further along, I want to revisit your objection. So
5 I'm going to overrule the objection.

6 Mr. Wandick, you can answer the question, if you recall it.

7 THE WITNESS: Okay. What was the question?

8 Q BY MS. DAVILA: So you got these instructions through an
9 e-mail?

10 A Correct, through an e-mail. Also through Deirdre Rosen,
11 who's the director -- or who is the Regional Vice President for
12 Trump. I know she came down as well. And through Matt
13 Vandegrift and Alejandra Magana. Matt Vandegrift the vice
14 president -- or what was Matt -- Director of Operations.
15 Alejandra Magana, the Director Of Housekeeping.

16 Q And did each of those individuals send you an e-mail?

17 A No. The e-mail came from Jeff Peterson to all the
18 management team, a general of what to say as far as Union --
19 Union activity that's going on. From Alejandra Magana, it was
20 a different subject as far as approaching people that we --
21 that we felt were unsure about which way to go with the Union.

22 Q Okay. What did Matt Vandegrift say?

23 A Vandegrift. It was just basically him and Brian Baudreau,
24 who's the General Manager, they were -- it was just a message
25 that, "Trump doesn't want the Union, the Corporation doesn't

1 want the Union. So we ask the managers support" -- "support
2 that. And we don't want the Union here at Trump."

3 Q And was that through an e-mail?

4 A No. That was all through verbal communication in
5 managers' meetings.

6 Q Okay. And Deirdre Rosen, did you get an e-mail from her?

7 A No. This was all through a managers' meeting that -- I
8 think as it got near to the elections, they called several
9 mandatory managers' meetings. Those manager -- mandatory
10 meetings were sent through e-mail that we all -- every manager
11 had to attend the meetings.

12 Q Okay. I'm going to go backwards. So with Jeff Peterson,
13 you said you got an e-mail. Do you remember about when that --
14 that e-mail was received?

15 A I don't know. I think I still have it saved on my phone
16 or I can --

17 Q Okay.

18 A I can --

19 Q But was it this year?

20 A It was this year, yes.

21 Q Okay. And was that sent to only managers?

22 A It was sent to all managers Trump wide for Las Vegas.

23 Q And I just want to clarify. We didn't talk about your
24 testimony here today, did we?

25 A No.

1 Q I didn't tell you what to say?

2 A No.

3 Q I didn't -- we didn't go over the order of my questions?

4 A No.

5 Q You didn't know what I was going to ask you about?

6 A No.

7 Q Okay. You've never given me a statement describing any of
8 these events ever, correct?

9 A No.

10 Q The only time we spoke was about a charge you wanted to
11 file, correct?

12 A Correct.

13 Q Okay. And that which you withdrew, correct?

14 A Correct.

15 Q Okay. Can you tell me about the instructions that
16 Alejandra Magana gave you?

17 A So basically this was a meeting between myself, Alejandra
18 Magana, Morgan Engle, who was a Housekeeping Manager as well,
19 Tom Stende as well. And it was just basically for us to --

20 MR. KRAMER: I'm going to --

21 THE WITNESS: -- talk to --

22 MR. KRAMER: -- object, Your Honor. I'll just renew my
23 objection on this.

24 JUDGE THOMPSON: I'm going to allow him to answer the
25 question. I'm going to allow him to answer the question.

1 Q BY MS. DAVILA: Can you tell us about --

2 MR. KRAMER: Can we get --

3 Q BY MS. DAVILA: -- that meeting?

4 MR. KRAMER: -- some foundation then, Your Honor? When,
5 where.

6 JUDGE THOMPSON: I think counsel is getting to that. So
7 I'm going to reserve a ruling on that.

8 Q BY MS. DAVILA: So back to your meeting with Alejandra
9 Magana, do you remember --

10 A Uh-huh.

11 Q -- about when it was?

12 A It was -- I can tell you for sure. I have a text message
13 from -- to Morgan about it.

14 Q Okay. Can --

15 A But --

16 Q Let --

17 A Okay. It was this year. Honest, I don't when.

18 Q Okay.

19 A I'd say probably around June.

20 Q Okay. And was the meeting held in person?

21 A Yes.

22 Q And was it held at the facility --

23 A It was --

24 Q -- the Trump Hotel?

25 A -- held in Alejandra Magana's office --

1 Q Okay.

2 A -- behind closed doors.

3 Q And who was there?

4 A Alejandra Magana, myself, Thomas Stende, who's a
5 Housekeeping Manager as well, and Morgan Engle, who's a
6 Housekeeping Manager as well.

7 Q Okay. Was it a weekly meeting?

8 A No. It was just a one -- one-time meeting about -- about
9 the Union.

10 Q And what was said?

11 A Pretty much it was basically for us to fill out associates
12 who -- who wasn't to -- wasn't sure whether they were going
13 with a Union. So my area was that I was supposed to talk to
14 pretty much the black people about the Union, Morgan was going
15 to handle our housemen and Tom and Cindy (phonetic) were
16 talking to the Ethiopians.

17 Q And what were you supposed to tell them?

18 A Just kind of just fill out where they -- where they are,
19 is what -- as far as the Union and kind of just tell them about
20 the benefits that they have here at Trump and if the Union
21 comes in, they risk losing that. "We don't need a third party
22 to kind of mediate for us, like the Trump can go without it."

23 Q Did you ever keep track of who was in favor of the Union,
24 what employees were in favor of the Union?

25 MR. KRAMER: Object, Your Honor, again, with regards to the

1 privilege and also with regards to relevance. It has nothing
2 to do with any of the charges, Your Honor.

3 JUDGE THOMPSON: I don't know that this particular area is
4 covered by the, quote, "privilege." So I'm going to have to
5 overrule the objection.

6 You can answer the question.

7 MR. KRAMER: Your Honor, just a question on the relevance
8 though.

9 MS. DAVILA: He's the direct agent -- or supervisor named
10 in the complaint regarding targeting Union activity.

11 JUDGE THOMPSON: Well --

12 MS. DAVILA: I'm asking him if he's keeping --

13 JUDGE THOMPSON: Okay. I think --

14 MS. DAVILA: -- track of the --

15 JUDGE THOMPSON: -- Mr. Kramer is saying what -- what
16 relevance is it how many employees were for or against the
17 Union.

18 MS. DAVILA: No, I'm not asking the number; I'm just asking
19 if he ever kept track.

20 MR. KRAMER: I think there's irrelevance as to, you know --
21 I mean there's specific allegations involving Mr. Wandick in
22 the complaint. Not one of these has anything to do with that.
23 So, you know, I don't see where we're -- where we're going
24 here. But we're -- we're spending time about something that's
25 not an allegation in the complaint, Your Honor. The

1 allegations involving Mr. Wandick were very specific incidents,
2 they were 8(a)(1) incidents and, you know -- I mean we can
3 delve into all this stuff. I mean and over -- obviously over
4 my objection, you can do that. But it's not relevant to the
5 complaint.

6 MS. DAVILA: My question would be a by-product of the
7 8(a)(1) allegations. If he surveilled, then he would have --
8 he would have kept track of who was pro-union and who wasn't to
9 my --

10 JUDGE THOMPSON: Not --

11 MS. DAVILA: -- very clear question.

12 JUDGE THOMPSON: -- really, because you can just ask him,
13 "Who did you surveil?" Or, you know, "Did you surveil?"
14 You're asking, "Who was pro-union and who was against" --

15 MS. DAVILA: I'm not asking --

16 JUDGE THOMPSON: -- "the union?"

17 MS. DAVILA: I will rephrase my question.

18 JUDGE THOMPSON: I don't know if it will help, but rephrase
19 it.

20 MS. DAVILA: Okay.

21 Q BY MS. DAVILA: Did you ever keep track of who was pro-
22 union and who wasn't?

23 MR. KRAMER: Objection, Your Honor.

24 JUDGE THOMPSON: It's the same question.

25 MS. DAVILA: It's -- Your Honor, it goes directly to

1 surveillance.

2 MR. KRAMER: No, Your Honor.

3 MS. DAVILA: That's how you surveil.

4 JUDGE THOMPSON: No. Actually, it doesn't. It just goes
5 to who was pro-union and who was against the union. And so
6 narrow the question.

7 I'm going to sustain the objection because you can ask him
8 specifically with regard to the specific allegations about what
9 happened in the employee dining room. You're just asking a
10 general broad question of who was pro-union and who was against
11 the union. I need to know who allegedly were surveilled and
12 who allegedly created an appearance of surveillance.

13 So, actually, I'm going to have to agree with Respondent
14 counsel and sustain the objection. I'm not sure if you can get
15 at what you're trying to get at in a different way though,
16 counsel.

17 Q BY MS. DAVILA: Mr. Wandick, you were aware of who was
18 pro-union, correct?

19 JUDGE THOMPSON: It's the same question; it's just phrased
20 differently. So I'm -- I know that Respondent hasn't objected
21 but it's the same --

22 MR. KRAMER: Objection, Your Honor.

23 JUDGE THOMPSON: -- it's -- it's the same question. So I
24 have to sustain it. Just come at it from directly what -- what
25 you're trying to allege, if you can, Ms. Davila. If you can.

1 Q BY MS. DAVILA: Did you ever keep notes about who was pro-
2 union?

3 MR. KRAMER: Objection, Your Honor.

4 JUDGE THOMPSON: It's the same question.

5 MS. OVIEDO: Your Honor --

6 MS. DAVILA: Your Honor --

7 MS. OVIEDO: -- if I may --

8 JUDGE THOMPSON: No. It -- just -- just move on,
9 Ms. Davila, because it's the same question. Talk about the
10 specific issues of this alleged surveillance that is the
11 subject of this case.

12 MS. OVIEDO: Respectfully, for the record, I think it needs
13 to be made clear that the question is if a supervisor ever kept
14 a record of who was pro-union or not pro-union. That goes
15 directly -- if they're recording this, that clearly goes to
16 surveillance, and surveillance is directly alleged in the
17 complaint, especially with this particular supervisor.

18 JUDGE THOMPSON: That's not what she asked.

19 MS. OVIEDO: That is what she asked. She asked
20 specifically if he ever recorded who was union or pro-union,
21 not who was or who wasn't. The --

22 JUDGE THOMPSON: The first question I thought was, "Who
23 was" -- "Did you ever keep a record of who was pro-union or
24 not?" That didn't -- that didn't say --

25 MS. OVIEDO: Right. It goes to a record.

1 JUDGE THOMPSON: -- anything about the --

2 MS. OVIEDO: A record.

3 MS. DAVILA: I didn't ask for the name. I don't want the
4 name.

5 JUDGE THOMPSON: I just don't want to get into that.

6 MS. OVIEDO: But if he's keeping records or notes, I mean
7 it's obviously keeping track. It's surveillance.

8 MR. KRAMER: That's not true, Your Honor. I mean employees
9 tell people what's going on and you have people that are
10 walking around every day wearing union buttons. I mean you
11 can't not see something. It's not surveillance.

12 MS. OVIEDO: If you're keeping a tally?

13 JUDGE THOMPSON: Let me do this, counsel -- I mean my -- my
14 inclination is to sustain the objection; however, I'll hold it
15 in abeyance and on a break between your direct and cross, I'll
16 think on it further.

17 But let me just -- my inclination is to sustain the
18 objection. Can we move past this until you finish your direct
19 and then I'll have an answer and allow you to come back if I
20 overrule myself?

21 MS. DAVILA: I'm allowed to come back?

22 JUDGE THOMPSON: You are.

23 MS. DAVILA: Okay. I don't even know how to not -- I mean
24 how do I ask him about surveillance and not --

25 JUDGE THOMPSON: I can't tell you how to try your case,

1 counsel.

2 MS. DAVILA: You can though.

3 Q BY MS. DAVILA: Were you ever told to keep track of who
4 was pro-union and who wasn't?

5 MR. KRAMER: Objection, Your Honor.

6 JUDGE THOMPSON: Ooh. To me, that's a slightly different
7 question.

8 Ms. Davila, I'm going to have to ask you to come back to --
9 I'm going to have to do some due diligence on this. So let me
10 put it in -- in abeyance.

11 MS. DAVILA: Okay.

12 JUDGE THOMPSON: Can we --

13 MS. DAVILA: With all due respect, most of my questions are
14 on this line. So I don't know if it would be better to take a
15 recess. I just --

16 JUDGE THOMPSON: Then let's take a recess.

17 MS. DAVILA: Okay.

18 JUDGE THOMPSON: Off the record.

19 (Off the record at 11:27 a.m.)

20 JUDGE THOMPSON: We are back on the record.

21 We took a short recess in order for me to resolve the issue
22 regarding the General Counsel's inquiry into whether
23 Mr. Wandick either was aware of or knew of any recordings of
24 Respondent housekeeping employees, either determination of
25 whether they are pro or antiunion. The Respondent objected to

1 the -- A, on the grounds of privilege, and, B, on the grounds
2 of relevance.

3 With respect to the grounds of privilege, I have to
4 overrule myself and overrule the objection upon my reading and
5 understanding of the Berbiglia case. Respondent does have a
6 protection against their discussion and strategies regarding
7 their views on the union or unionization. But the Board -- my
8 understanding from reviewing Berbiglia, is that those
9 discussions are limited to Respondent and managers with
10 counsel, such that any discussions between Respondent's
11 managers just in the general course of business are not
12 protected.

13 So I have to overrule it on the grounds of sort of a
14 privilege.

15 With respect to the relevance, I have to reverse my -- my
16 prior sustaining of the objection because it is arguably
17 relevant to the General Counsel's case to determine whether
18 this witness had been instructed to record or was aware of any
19 recordings of witnesses and their views regarding the Union.

20 So I have to allow the question to be asked and answered.
21 So I'm reversing my previous sustaining of Respondent's
22 objection and I'm overruling the objection and I'm allowing
23 counsel -- General Counsel to inquire down this road.

24 So, Ms. Davila, you can go back to where you were headed
25 with regard to your line of questioning for this witness.

1 Please proceed.

2 MR. KRAMER: Your Honor, just for the record, can we just
3 have a continuing objection to this line of --

4 JUDGE THOMPSON: Yes, you can.

5 MR. KRAMER: Thank you, Your Honor.

6 **DIRECT EXAMINATION (CONTINUED)**

7 Q BY MS. DAVILA: Mr. Wandick, were you ever given
8 instructions about what to say to the employees about the union
9 organizing campaign?

10 A They gave us pretty much talking points of stuff just to
11 talk about. But as far as with some associates that we felt
12 that weren't -- they weren't sure where to go with the Union,
13 it was kind of just to reinforce what Trump's doing for them.
14 I know we created fliers and stuff to pass out to associates.

15 Q What were you told to say just in general about the Union?

16 A As far as just to reinforce that we don't need a union
17 here at Trump, we don't need anyone to mediate between our
18 associates -- well, we don't need a third party to pretty much
19 act as a mediator between Trump and the associates, where they
20 can come and talk to the managers and there's no need for a
21 union and just that a union's pretty much going to add costs to
22 them.

23 Q Do you remember what Jeff Peterson said?

24 A I don't off the -- off the top of my head. But I know he
25 e-mailed out on June 25th some e-mails talking points, but I

1 don't --

2 Q Do you remember any of those talking points?

3 A No, not off the top of my head. No.

4 Q Okay. Do you remember what Jeff Peterson said?

5 A It was pretty much along with him, Brian Baudreau, the --
6 the same message of that, "Corporate doesn't" -- "doesn't want
7 the Union here. So we obviously follow what Corporate wants."
8 But then just to also kind of reinforce what the Trump is doing
9 for associates.

10 Q Okay. Now, back to that meeting with Alejandra Magana,
11 did she give you an instruction about how to talk to employees
12 about the Union?

13 A It was just basically to just kind of feel out associates
14 and kind of just -- kind much sway them for not voting for the
15 Union, just tell him just, "This is what we're" -- "this is
16 what we're doing for you here. If you have an issue, you can
17 come talk to us. You guys don't really need the Union." So
18 kind of trying to waiver their support more so as for a vote no
19 for the Union.

20 Q Did you ever keep track of what employees were pro-union?

21 A The management, no. But when Cruz & Associates came in,
22 we -- on around June 8th, we sat in a -- a mandatory -- or, no,
23 June 9th -- excuse me -- we sat in a mandatory training with
24 Cruz & Associates and basically we spent a couple of hours
25 going over rating, which employees were pro-union and which

1 employees weren't -- that weren't for the Union.

2 JUDGE THOMPSON: Mr. Wandick, you're reading something from
3 some notes that you've taken, and you can't have those. You
4 have to testify on your personal knowledge.

5 THE WITNESS: Well --

6 JUDGE THOMPSON: So I'm going to have to ask that you give
7 them to me or put them back in the back of the -- of the room
8 and I can give them to you when you --

9 THE WITNESS: That's fine.

10 JUDGE THOMPSON: -- leave. You have to testify on your
11 personal knowledge because none of the parties have this
12 information that you're testifying to --

13 THE WITNESS: Okay.

14 JUDGE THOMPSON: -- and if you don't know or don't recall,
15 it's fine to just, "Don't know," or, "Don't recall."

16 THE WITNESS: Okay.

17 JUDGE THOMPSON: But you can't use any aids other than what
18 counsel give you to --

19 THE WITNESS: Okay.

20 JUDGE THOMPSON: -- to respond to question.

21 THE WITNESS: That's all right.

22 JUDGE THOMPSON: But I'll give you this back at your -- at
23 the end of your testimony.

24 THE WITNESS: All right.

25 JUDGE THOMPSON: Proceed, Ms. Davila.

1 MS. DAVILA: Okay.

2 Q BY MS. DAVILA: Did you personally ever keep a record or
3 notes of who was -- who was pro-union and antiunion?

4 A No, we never kept notes, but we obviously knew in our
5 heads and kind of --

6 Q Did anyone instruct you to keep a record of who was pro-
7 union or antiunion?

8 A No. It's -- obviously they tell us not to -- to make sure
9 we don't write anything down because it can be perceived as
10 spying or whatever.

11 Q Who told you that?

12 A That came from Matthieu Vandegrift and Alejandra Magana.

13 Q To your knowledge, did other supervisors or managers keep
14 notes or records on who was pro or antiunion?

15 A No.

16 Q Okay. Let's go back to that meeting on June 9th with Cruz
17 & Associates. Can you explain to us how you went over each
18 employee?

19 A So basically Cruz & Associates pretty much, like you guys
20 had, they had laptops and they pretty much just go through
21 pretty much all the housekeeping associates and they ask you
22 from -- I think it was a number from one to five of five being
23 just pro-union, one not -- not for the union. And we kind of
24 -- it was just all the managers. And we would be like -- if we
25 felt there were five, we would say a five. If we felt that

1 they were lower than that, we would rate it lower than that.

2 JUDGE THOMPSON: Mr. Wandick, who is Cruz & Associates?

3 THE WITNESS: It was a -- a consulting group that Trump
4 brought in. Pretty much they held all these mandatory meetings
5 at the property for the staff to basically inform them on the
6 union, let them know pretty much that the union wasn't good for
7 them.

8 JUDGE THOMPSON: Okay.

9 Q BY MS. DAVILA: Were these meetings with the employees
10 held before or after that rating?

11 A It was -- it was during that rating.

12 Q Okay. And back to that rating, did you speak up during
13 this rating process?

14 A As far as?

15 Q Did you rate employees?

16 A Yes. We -- all the managers did.

17 Q What did you base your ratings on?

18 A It was just our day-to-day interaction with them as far as
19 kind of who they hung around with, pretty much --

20 Q As far as who they hung around with, was you -- do you
21 mean if they hung around with union-wearing-button people --

22 A Correct.

23 Q -- employees? Did you know that some of the employees
24 were committee leaders of the union organizing campaign?

25 A Yes.

1 Q And you knew this from their buttons, correct?

2 A Correct.

3 Q And you also knew this because you saw them speaking to
4 other employees, correct?

5 A Yes.

6 Q And you saw them speaking to other employees in the EDR,
7 correct?

8 A Correct.

9 Q Did you see committee leaders distribute fliers in the
10 EDR?

11 A Yes.

12 Q Okay. Did you see committee leaders ask their fellow
13 employees to sign authorization cards in the EDR?

14 A Yes.

15 Q Okay. Were you ever asked to take action against an
16 employee who was pro-union?

17 A No.

18 Q When you were going through and rating employees, was it
19 just housekeeping employees?

20 A Yes.

21 Q And who was in -- what managers were in this rating
22 process?

23 A It was Cruz & Associates. It was myself, Imelda Cretin,
24 Cherrie Gallagher, who else was there? Morgan Engle, I think
25 Thomas Stende. And that's about it.

1 Q And all of those are housekeeping managers?

2 A Correct.

3 Q Do you know if employees from other departments were rated
4 as well?

5 A Not that I'm aware of, no.

6 Q As side from this rating, did you ever talk to any of your
7 supervisors or managers about who you thought was pro-union and
8 who was antiunion?

9 A We've discussed it several times in office settings.

10 Q Can you describe one of those times?

11 A It was just normal -- just the housekeeping managers.

12 Normally we -- we go over like the -- the morning meeting and
13 stuff. And if we had a particular -- a particular issue or
14 something that came up as far as like the Union, we would -- we
15 would talk about it. But there's just -- it was various times.

16 Q Can you give me an example of an issue that you guys had?

17 A What would be an issue? I think it would be when they
18 were protesting outside the -- outside the drive, as far as
19 like when we were coming in, they would be out handing fliers
20 and it would be different associates. Some people who we
21 thought didn't support the Union were out there and then some
22 people who we knew supported the Union was out there. And so
23 we --

24 Q So you recognized that some of those people outside were
25 employees?

1 A Yes.

2 Q As the housekeeping manager, did you have the authority to
3 discipline housekeepers?

4 A Yes.

5 Q Did you ever issue verbal warnings?

6 A Yes.

7 Q Did you ever issue written warnings?

8 A Yes.

9 Q As the housekeeping manager, your job didn't include
10 cleaning the rooms, correct?

11 A They did not, no. Excuse me. Take that back. As a
12 training manager, yes.

13 Q Can you describe your duties as a training manager?

14 A So pretty much I was responsible for the hiring and the on
15 boarding that all new associates. And so they spend a total
16 of -- what was it -- probably about three days with myself, and
17 pretty much we're going over the on boarding of the
18 departments, the expectations. They spend another day going
19 over the -- what is it -- the employee that handbook as far as
20 housekeeping, the standards and stuff. And then they spend a
21 day with me. I clean a room and then I -- they watch me clean
22 a room and then they go and clean a room themselves with me
23 showing them pretty much how to correct what's wrong in the
24 room.

25 Q Would you ever clean a room for an employee who's been

1 there for more than a month?

2 JUDGE THOMPSON: Ms. Davila, why is that relevant for the
3 purpose of this case?

4 MS. DAVILA: Your Honor, some of his interaction in hotel
5 room -- if I may make an offer of proof? Some of his
6 interactions with -- with guest room associates had to do with
7 seasoned inside hotel rooms. So I'm --

8 JUDGE THOMPSON: Okay.

9 MS. DAVILA: -- trying to establish that he had no reason
10 to be there.

11 JUDGE THOMPSON: Well, can we get there without having to
12 give examples of how he cleaned the room and what he said and
13 when he -- because I just don't think that's relevant. I
14 understand you have to lay the foundation; I just don't need --
15 I don't know that I need to hear about all the intricacies of
16 training housekeeping employees on how to clean the room and
17 what to do and not to do.

18 MS. DAVILA: I'll try to not ask him those --

19 JUDGE THOMPSON: I --

20 MS. DAVILA: -- details.

21 JUDGE THOMPSON: -- appreciate that.

22 MS. DAVILA: Okay. Uh-huh.

23 Q BY MS. DAVILA: If you're ever giving an employer (sic) a
24 warning or a discipline, you wouldn't do it in front of another
25 hotel guest, would you?

1 A No.

2 Q Where do you normally discipline employees?

3 A They're conducted in the assistant director's office with
4 myself and another manager.

5 Q It would be improper for a hotel guest to see you
6 discipline an employee, correct?

7 A Correct.

8 Q Is there a policy that you can't discipline employees in
9 front of guests?

10 A Well, it's just standard practice that you talk to
11 associates in private when it's a disciplinary issue.

12 Q Do you know who Martha Guzman is?

13 A Yes.

14 Q Can you tell us who she is?

15 A She's a housekeeper.

16 Q Did you supervise her?

17 A Yes.

18 Q Were you there the day -- the day she went to the
19 hospital?

20 A Yes.

21 Q And that occurred this year in July, correct?

22 A Yes.

23 Q Were you working the day she went to the hospital?

24 A I was, yes.

25 Q And you saw her leave in an ambulance?

- 1 A I was notified by security.
- 2 Q You know that she was terminated, correct?
- 3 A Yes.
- 4 Q Were you involved in the decision to terminate her?
- 5 A Yes.
- 6 Q What was your involvement?
- 7 A I handled the -- I pretty much handled the disciplinary as
8 far as -- I think I -- I believe I did her write-up and did the
9 SPI.
- 10 Q You had a confrontation with her July 1st, correct?
- 11 A I'm not sure. What do you mean by confrontation?
- 12 Q She became upset and she had to be sent home?
- 13 A I'm -- honestly, I don't honestly remember that.
- 14 Q Okay. Fine. Did any supervisor or manager tell you why
15 she was terminated?
- 16 A No. I -- I did her -- I did her paperwork for her so I
17 was already aware of it.
- 18 Q And why was she terminated?
- 19 A Due to attendance I believe.
- 20 Q Okay. Do you know if Ms. Guzman supported the Union?
- 21 A Yes.
- 22 Q She supported the Union, correct?
- 23 A Yes.
- 24 Q She wore a union button, correct?
- 25 A No, Martha didn't.

1 Q You never saw Martha Guzman with a union button?

2 A I've never -- no, I've never seen Martha --

3 Q Martha Guzman wasn't a committee leader, correct?

4 A She was not, no.

5 Q Mr. Wandick, regarding the notes that you had in front of
6 you right now, did you have them in front of you before we went
7 to recess?

8 A No.

9 Q So you just got them after we came back from recess?

10 A Yes.

11 Q Okay. And you tried to file an unfair labor practice
12 claiming that the Trump Hotel fired you because --

13 MR. KRAMER: Objection, Your Honor. This was already asked
14 and you denied it.

15 JUDGE THOMPSON: Well, that one I'm going to sustain.

16 MS. OVIEDO: She didn't get to finish.

17 MS. DAVILA: I didn't get to finish my question, Your
18 Honor.

19 JUDGE THOMPSON: Go ahead --

20 MR. KRAMER: We know --

21 JUDGE THOMPSON: Go ahead. Finish your question.

22 Q BY MS. DAVILA: You tried to file an unfair labor practice
23 alleging that the Hotel terminated you for failing to take
24 action against Union employees, correct?

25 MR. KRAMER: Objection, Your Honor.

1 JUDGE THOMPSON: Sustained.

2 Q BY MS. DAVILA: When did you take the notes that were in
3 front you have?

4 A After recess. Well, after when you all today us to go to
5 recess.

6 Q Where did you get the information for those notes?

7 A I had it. It was just in my phone.

8 Q Are those notes e-mail communications?

9 A Yes. And some are notes that like I wrote down.

10 Q Are those official e-mail communications from the Trump
11 Hotel?

12 A Yes.

13 Q Who were they sent from?

14 A Alejandra Magana, Matthieu Vandegrift and Jeff Peterson.

15 JUDGE THOMPSON: Were they sent to you while you were
16 employed at Trump?

17 THE WITNESS: Yes.

18 MS. DAVILA: No further questions, Your Honor.

19 JUDGE THOMPSON: Mr. Kramer, any cross?

20 MR. KRAMER: Yes, Your Honor, I'll be having some cross.

21 MR. DRITSAS: Your Honor, could we see the notes, please?

22 Thank you.

23 I don't want to get to anything that's private in here. Is
24 it just on the back?

25 THE WITNESS: Just on --

1 JUDGE THOMPSON: It's just --

2 THE WITNESS: -- the back.

3 JUDGE THOMPSON: -- on the back.

4 MR. DRITSAS: Thank you. All right.

5 JUDGE THOMPSON: And let the record reflect that I handed
6 Respondent's counsel Mr. Wandick's checkbook, and on the very
7 back of the checkbook were some handwritten notes. And I have
8 not read them and do not know what they say.

9 MS. OVIEDO: May we see them too?

10 MR. DRITSAS: Oh, yeah. I'm sorry.

11 MS. OVIEDO: I just want to make sure --

12 MR. KRAMER: Mr. Wandick --

13 JUDGE THOMPSON: Let the record --

14 MS. OVIEDO: Okay.

15 JUDGE THOMPSON: -- reflect that Respondent's counsel have
16 handed those notes to the General Counsel.

17 MR. KRAMER: Are we ready, Your Honor?

18 JUDGE THOMPSON: Yes. Whenever you are.

19 MR. KRAMER: All right. Thank you.

20 **CROSS-EXAMINATION**

21 Q BY MR. KRAMER: Mr. Wandick, I'm one of the attorneys for
22 the Trump Hotel. I appreciate you coming down here today.

23 I have some questions and I'm just going to get started.

24 You said you didn't recall when you started working for the
25 Trump Hotel. Was it sometime perhaps in October of 2014?

1 A That's sounds about correct, yeah.

2 Q Okay. And you -- there's been some talk about the EDR.

3 Can you describe -- ask what does EDR stand for?

4 A Employee dining room.

5 Q Okay. And is that an employee dining room limited only to
6 hourly employees?

7 A No.

8 Q Who -- who goes to that dining room?

9 A The whole hotel. Management, executive team, the whole
10 hotel.

11 Q Okay. There's no separate dining room for management
12 employees?

13 A No.

14 Q Okay. And if you want to take a break and grab a cup of
15 coffee, is that a place you can do that as well?

16 A Yes.

17 Q All right. And you mentioned it's not a working area.

18 But you do hold daily -- you said you yourself held daily Trump
19 talks there; is that correct?

20 A Correct, yes.

21 Q And did you hold each of the Trump talks that you
22 mentioned, the 7:30, 8:00 and the 8:30?

23 A Correct.

24 Q All right. And you had actually presented those?

25 A Yes.

1 Q All right. Did -- sometimes did it rotate between
2 managers?

3 A It did, yes.

4 Q Okay. Would you be at the meetings if another manager was
5 giving it?

6 A Yes.

7 Q All right. And since -- when you started in October of
8 2014 until you left, did you basically attend almost every
9 Trump talk?

10 A While working, yes.

11 Q Okay. So there weren't occasions where you were working
12 but you didn't go to the Trump talk meeting even -- because you
13 didn't have to give it?

14 A No. Normally every day in the morning, all managers that
15 are working attends the -- attends the Trump talk.

16 Q Okay. And do you know why there is three separate Trump
17 talks?

18 A Because there's three different start times for different
19 associates. We have some that start at 7:00 -- or 7:00, 7:30
20 and then 8:00 or --

21 Q All right.

22 A -- somewhere along that time.

23 Q And I -- and how long do those Trump talks usually take?

24 A Trump talks, it depends. We try to get them down to five
25 minutes. But if there's questions, which normally there

1 usually is, it lasts anywhere from 15 to 20 minutes.

2 Q Okay. And can you describe for the -- the Judge what goes
3 on in a Trump talk?

4 A Yeah. It's just pretty much we give them what's going on
5 for the day, we give them the arrivals, the departure, hotel
6 occupancy and just anything that we need to communicate that
7 day to them.

8 Q Okay. And is that where they get their keys and their --
9 their iPods and all that other stuff?

10 A Correct.

11 Q Can you -- can you explain what that is and what that
12 process is for the Judge?

13 A You -- they pick up their keys -- they pick up their keys,
14 they pick up their iPods and pretty much on their iPods are
15 their floor assignments.

16 Q Okay. So that is where they get I guess the key that lets
17 them get into all the hotel rooms; is that correct?

18 A Correct.

19 Q And that has to be signed out; isn't that right?

20 A Correct.

21 Q And the iPods also have to be signed out?

22 A Correct.

23 Q So there's a process there; is that correct?

24 A Yes.

25 Q And do you -- would you normally wait until -- if the

1 meeting starts at 8:00, would you wait until 8:00 before you
2 handed those out?

3 A I'm sorry. When we --

4 Q Sure. To the extent that it -- one of your Trump talks
5 starts at 8:00; is that correct?

6 A Right.

7 Q If housekeepers get there before 8:00, would they -- would
8 they have to wait until 8:00 to get their keys and their iPods?

9 A No. Just because there's a large number of housekeeping
10 associates, they can start getting their keys and iPods
11 earlier. But everybody has to stay for the Trump talk.

12 Q Okay. And do they come to pick them up and do you all
13 hand them out to people?

14 A No. They come. They make a line and we hand them out.

15 Q Okay. In the -- in the EDR; is that correct?

16 A Correct.

17 Q And do you -- so if -- a meeting lasts from 7:00 to 7:35
18 or 7:40; is that correct? Approximately.

19 A Normally the 7:00 meetings go pretty fast because there's
20 normally not about -- probably about ten associates in there.

21 Q Okay.

22 A So these are normally the senior ladies that work for the
23 VIP team and our project team. They get their iPods and they
24 know what to do.

25 Q All right. And then the 8:00 meeting, how many people

1 attend that?

2 A The 8:00 meeting is the -- is the larger session. So
3 pretty much the remainder of the housekeeping team. Depending
4 if we're running high occupancy, there can be anywhere from
5 90 -- 95 associates in there.

6 Q Okay. All sitting in the EDR; is that correct?

7 A Correct.

8 Q And how much of -- I mean how many -- do you know
9 approximately how many people the EDR sits -- seats?

10 A No, I don't.

11 Q Okay. Is it -- when you were there in the high occupancy,
12 is the -- the EDR --

13 A Pretty packed, yes.

14 Q -- pretty packed? Okay. And do you wait until like
15 immediately 8:00 to walk into the EDR to hold those meetings?

16 A No. Normally -- sometimes managers would get there a
17 little bit earlier.

18 Q Okay. And -- and what do you do when you -- so there --
19 let's -- I want to focus on the 8:00 EDR, if we can. And if
20 there's variances, just tell me. But, in general, there's an
21 8:00 EDR meeting. You get there somewhat earlier; is that
22 correct?

23 A Right.

24 Q And then what do you do?

25 A We normally get with Vania. We talk with her and then we

1 kind of just round and talk to the employees, see how the
2 morning's going. Kind of just them juiced up for the day.

3 Q Okay. So you kind of -- it's kind of a bit of a rally
4 type thing; is that correct?

5 A Yeah, pretty much. So we walk around, talk to associates
6 and stuff.

7 Q Okay. And have you been doing that since you started in
8 October of 2014?

9 A Yes.

10 Q Okay. So you just don't stand off to the side to wait
11 until 8:00 before you can talk to people?

12 A No.

13 Q Okay. So you -- are you greeting employees?

14 A Yes.

15 Q Okay. Are you asking them how their day's going?

16 A Yes.

17 Q And in Trump talks, aren't there like some like quotes of
18 the day and things like that you give employees?

19 A Yes. We normally give them -- what do we give them in
20 Trump talks? In Trump talks, it's normally the focus of the
21 day and then depending on -- and like a safety topic.

22 Q Okay. Okay. So it's somewhat of an inspirational type
23 meeting?

24 A Yeah. Pretty much.

25 Q Okay. As opposed to all business; is that correct?

1 A Yes.

2 Q Okay.

3 MS. DAVILA: Your Honor, I just would like to have a
4 standing objection to leading questions, as it's not a hostile
5 witness to this -- to Respondent. I understand your position
6 on it, but I just want to note it for the record.

7 JUDGE THOMPSON: Well, it's not my position; it's the
8 Board's position. But so noted.

9 MS. DAVILA: Thank you.

10 Q BY MR. KRAMER: And just for qualification, you're walking
11 around before the Trump talk starts to greet people with
12 something that you in practice do basically every day you're at
13 a Trump talk meeting?

14 A Correct. Yes.

15 Q Okay. And -- and you would go to the EDR, I take it,
16 beyond Trump talks; is that right?

17 A Yeah. Sometimes we'd -- me and the front office manager
18 -- or one of the front office managers, we'd go in there for
19 lunch, but we didn't have lunch in there at 12:00.

20 Q Okay. All right.

21 MR. KRAMER: The next exhibit is 12?

22 JUDGE THOMPSON: Yes.

23 Q BY MR. KRAMER: Mr. Wandick, my co-counsel's going to be
24 handing you an exhibit, our Respondent's Exhibit 12.

25 Could you take a look at it and when you're ready, let me

1 know?

2 A Okay. I'm ready.

3 Q All right. And, actually there's two pages here, but
4 let's take a look at the first page. Do you recognize what
5 this depicts?

6 A Yes.

7 Q And can you tell us what this depicts?

8 A The -- the EDR at the Trump.

9 Q Okay. And I see up here at the top there's says something
10 like bench seats. Could you explain what that is?

11 A Bench seating, that's along the back of the room --

12 Q Okay.

13 A -- kind of where associates sit as well.

14 Q All right. And then I see these squares and all that
15 throughout here. Are these tables?

16 A I'm sorry. What's the --

17 Q Yeah. These --

18 A The ones in the middle?

19 Q Yeah.

20 A Yes, those are tables.

21 Q Okay. And there's a pop machine to the right?

22 A If you're in the entrance and you're looking straight
23 ahead, it's -- it's in front of you.

24 Q Okay. And can you point where the employee entrance to
25 the dining room here is?

1 A Right -- right here.

2 Q Okay. So you're -- and you're looking at it if you're --

3 oh, it says --

4 A I'm looking at --

5 Q Where it says entrance, is that an accurate portrayal of
6 where the entrance is?

7 A Yeah.

8 Q Okay. Thank you. And can you -- and is this a true and
9 accurate reflection of what the employee dining room looks
10 like?

11 A Pretty much, yes.

12 Q Okay.

13 MR. KRAMER: I'd like to move for the admission of
14 Respondent Exhibit 12.

15 JUDGE THOMPSON: General Counsel, any objection?

16 MS. DAVILA: No, objection, Your Honor.

17 MS. OVIEDO: Um --

18 MS. DAVILA: Oh, sorry.

19 MR. KRAMER: All right.

20 JUDGE THOMPSON: Wait. They're trying to decide if they
21 have an objection.

22 MS. DAVILA: Can I ask him a few questions, Your Honor?

23 JUDGE THOMPSON: Please.

24 **VOIR DIRE EXAMINATION**

25 Q BY MS. DAVILA: Do you know where this document came from,

1 Mr. Wandick?

2 A No.

3 Q Have you ever seen it before?

4 A No.

5 Q Do you know the measurements this document --

6 A No.

7 Q -- portrays? Do you know the scale of what it's trying to
8 portray on the document?

9 A Do I know?

10 Q As far as like one inch is one meter, that --

11 A No.

12 MS. DAVILA: We object on the basis that there's no scale
13 or legend to the document, Your Honor.

14 JUDGE THOMPSON: And he's testified it's an accurate
15 depiction, so -- and I understand where -- why you're
16 objecting, counsel, but I'm -- I'm going to overrule the
17 objection and admit Respondent Exhibit 12.

18 **(Respondent Exhibit Number 12 Received into Evidence)**

19 **CROSS-EXAMINATION (CONTINUED)**

20 Q BY MR. KRAMER: Mr. Wandick, when you would hold your
21 8:00 -- and I'm focusing on the 8:00 Trump talks -- where would
22 that meeting -- where would the employees be seated?

23 A They'd be seated all over the EDR.

24 Q Okay. And then where would you -- when you gave your
25 Trump talk, where would you be?

1 A We would sit at the -- the front of the room, like pretty
2 much right here between this walkway right here and the
3 railing.

4 Q Okay. And you're pointing just near the entrance; is that
5 correct?

6 A Yeah. So right here by the food line, we'd stand in front
7 of there and there's a railing right there.

8 Q Okay. And there's a food line right to the -- the other
9 side of the dish room; is that correct?

10 A Correct.

11 Q Okay. Could you put an X where the food line is in your
12 exhibit or write food line?

13 All right. Thank you.

14 JUDGE THOMPSON: But the record can't really see that, so
15 it would be best if you could just describe it as you did --

16 MR. KRAMER: Okay.

17 JUDGE THOMPSON: -- because the record can't see where he
18 put the X.

19 THE WITNESS: Oh.

20 Q BY MR. KRAMER: So --

21 A This says food line.

22 Q Yeah. So right near where the line -- where it says food
23 line, that's where you talk?

24 A Yeah.

25 Q Okay.

1 A Pretty much.

2 Q Thank you. That's -- that's --

3 JUDGE THOMPSON: It's just difficult to -- because that --

4 THE WITNESS: Oh.

5 JUDGE THOMPSON: When the transcript is read, it's unclear
6 as to where you were marking. So I was just instructing
7 counsel to pull that out.

8 MR. KRAMER: Okay.

9 Q BY MR. KRAMER: Now -- now, you -- I think you testified
10 that you -- when you were in the employee dining room you would
11 see employees with buttons; is that correct?

12 A Correct.

13 Q And you would see employees handing out materials; is that
14 correct?

15 A Correct.

16 Q Did you take any action to prevent employees from handing
17 out materials?

18 A No, we didn't because it was -- they had not yet clocked
19 in.

20 Q Okay. And so they weren't working at the time; is that --

21 A No.

22 Q -- correct? And did you do anything to stop, if when they
23 were chanting (Spanish spoken).

24 A No.

25 Q Okay. And in the times that you were in the EDR, did you

1 see any management -- any manager attempt to make any --
2 interfere with that in any way?

3 A No. We just notified HR.

4 Q That it was going on?

5 A Yeah.

6 Q Okay. It was part of your job to give the Trump talk
7 every day?

8 A Correct.

9 Q You mentioned an e-mail from Mr. Peterson; is that
10 correct?

11 A Correct.

12 Q And I think you said it was June 25th?

13 A Correct. I think so.

14 Q Okay. Was that the day the election was supposed to have
15 been held?

16 A I'm not exactly sure when the election day was.

17 Q Okay. Do you recall whether that e-mail came before or
18 after the Hotel learned that the election had been postponed?

19 A I don't recall.

20 Q Okay. Mr. Wandick, do you know an employee by the name of
21 Rodolfo Aleman?

22 A Yes.

23 Q Who is he?

24 A He was a housekeeper.

25 Q Okay. Was he one of the housekeepers you would supervise

1 from time to time?

2 A Correct.

3 MS. DAVILA: Objection, Your Honor, scope. I didn't go
4 into any other employee.

5 MR. KRAMER: Well, Your Honor, I think two things. One, I
6 believe that she asked questions specifically for that, and,
7 two, this witness has been -- well, and, two, this witness is
8 here and I mean I've subpoenaed him as well. I'd hate to have
9 to re-call him to ask questions that -- you know, it's your
10 call on how you want to deal with this.

11 JUDGE THOMPSON: On the second basis, I'm going to allow
12 it.

13 MR. KRAMER: Okay.

14 MS. DAVILA: Your Honor, I --

15 JUDGE THOMPSON: I mean the --

16 MS. DAVILA: The -- I mean the direct is not meant to go
17 outside the scope and I would just --

18 MR. KRAMER: Would you like me to finish the cross and then
19 we can put him on immediately --

20 JUDGE THOMPSON: I mean --

21 MR. KRAMER: -- out of order?

22 JUDGE THOMPSON: It -- counsel, I understand what you're
23 saying, but this trial is long -- it's going to be long enough
24 as it is. We already have time issues. So I'm trying to
25 preserve time and allow counsel to ask questions that he would

1 have asked. I don't think it's an efficient use of time to
2 require counsel to re-call this witness to ask the questions
3 that he can just ask right now. And I understand the proper
4 order of things, but for judicial efficiency, I'm just going to
5 allow counsel to ask the questions. And, by the way, I'm going
6 to do the same for you. If on -- when they ask their witness
7 -- if they have witnesses that you've called, I'm be glad to do
8 the same thing. I don't know that that's an issue for you, but
9 I'm going to do the same thing. I just need to try to, for
10 judicial --

11 MS. DAVILA: Your Honor --

12 JUDGE THOMPSON: -- judicial efficiency, to allow counsel
13 some latitude to ask the questions so that we don't disrupt
14 this witness to haul him back again for -- to ask the questions
15 that he can just ask right now.

16 MS. DAVILA: Your Honor, I understand your thinking, and
17 with all due respect, I reserve my right to object to this
18 because it is --

19 JUDGE THOMPSON: I understand.

20 MS. DAVILA: -- going outside the scope. And he wasn't --

21 JUDGE THOMPSON: I understand.

22 MS. DAVILA: -- subpoenaed by this Respondent. He was only
23 subpoenaed by us.

24 MR. KRAMER: That's not true, Your Honor.

25 MS. DAVILA: We can ask.

1 MR. KRAMER: Yeah.

2 Q BY MR. KRAMER: Mr. Wandick, did -- did you receive a
3 subpoena from the Company?

4 A I talked to Peterson and he said he was sending one over.
5 I've never actually received it.

6 JUDGE THOMPSON: Now we've got a problem.

7 MR. KRAMER: I have a certified mail receipt, for what it's
8 worth, category, Your Honor.

9 JUDGE THOMPSON: Can I see it, counsel?

10 MR. KRAMER: Sure.

11 MS. OVIEDO: Your Honor, we're willing to make a concession
12 in the interest of time. That since -- I mean it's been
13 communicated that they sent him a subpoena. We're fine with
14 proceeding with him on the stand as this so they don't have to
15 re-call him at a later time. However, we would ask again that
16 since he is a supervisor witness, an adverse witness, that they
17 not be allowed to ask him leading questions. Since, again, at
18 this point they're putting on direct, so it's beyond the scope
19 of our direct, if they're going to put on their case in chief
20 through this witness, then they should only be able to ask non-
21 leading questions.

22 JUDGE THOMPSON: I'm satisfied with the subpoena and I will
23 allow you to ask -- go beyond the scope. I'm going to agree
24 with General Counsel, if this is part of your case in chief,
25 you -- you need to ask more open ended questions. So proceed,

1 Mr. Kramer.

2 MR. KRAMER: Thank you, Your Honor.

3 Q BY MR. KRAMER: And I take it, Mr. -- was Mr. Aleman one
4 of the employees who would attend Trump talks?

5 A Correct. Yes.

6 Q Okay. All employees -- are all employees required to
7 attend Trump talks?

8 A Yes.

9 Q Okay. Was Mr. Aleman one of -- do you know whether
10 Mr. Aleman wore a button?

11 A Yes.

12 Q And what kind of button did he wear?

13 A The union button similar to --

14 Q All right.

15 A -- people.

16 Q And do you know -- do you recall how long it was he'd been
17 wearing that button?

18 A Since the day I started working there.

19 Q Okay.

20 JUDGE THOMPSON: And, Mr. Wandick, make sure that you speak
21 up --

22 THE WITNESS: Oh. Sorry.

23 JUDGE THOMPSON: -- and enunciate as clearly as you can so
24 we can hear.

25 Go ahead, Mr. Kramer.

1 MR. KRAMER: Sure.

2 Q BY MR. KRAMER: Mr. Wandick, what, if any, actions did you
3 take to spy on Mr. Aleman's Union activities?

4 A None.

5 Q You didn't do anything?

6 A No.

7 MS. DAVILA: Objection; leading.

8 JUDGE THOMPSON: I'm going to allow the -- the witness to
9 answer.

10 Q BY MR. KRAMER: Now, you worked the week before the
11 election; is that correct?

12 A Yes.

13 Q Okay. And during that week, did you -- well, let me take
14 a step back. Have you ever observed Mr. Aleman handling
15 employees in the employee dining room?

16 A I'm sorry. Doing what?

17 Q Have you ever seen Mr. Aleman handing out materials to
18 employees in the employee dining room?

19 A Yes.

20 Q All right. And what, if any, action did you take to
21 interfere with that?

22 A None.

23 Q You didn't do anything?

24 A Nope.

25 Q Did you follow around behind him to try and intimidate

1 him?

2 A No.

3 Q Did you follow around behind him to try to interfere with
4 other employees taking --

5 MS. DAVILA: Objection --

6 Q BY MR. KRAMER: -- the handouts?

7 JUDGE THOMPSON: That's not leading. He's just asking a
8 direct question. So I'm going to have to overrule the
9 objection. Could you repeat the question --

10 MR. KRAMER: Sure.

11 JUDGE THOMPSON: -- counsel?

12 Q BY MR. KRAMER: Did you follow around behind Mr. Aleman to
13 interfere with him as he was handing out materials?

14 A No.

15 Q And have you observed Mr. Aleman talking to employees in
16 the employee dining room?

17 A Yes.

18 Q And including the week before the election?

19 A Yes.

20 Q At any point -- or what, if anything, did you do to
21 interfere with him talking to other employees?

22 A I didn't interfere. He was having a conversation with an
23 associate, which this happens to be a new associate, and just
24 his demeanor and the way he was coming off to her, just in his
25 (sic) face, like he was angry at her, I did approach him to

1 make sure everything was okay, there was no -- and my question
2 to him was, "Is everything okay here," because he looked like
3 he was yelling at this associate, who was a new young lady that
4 just started at the Hotel.

5 Q Okay. And do you remember the name of the associate?

6 A Yes.

7 Q Who was it?

8 A Her name is Janet Quizar (phonetic). I don't remember the
9 correct spelling of her last name.

10 Q Okay. And what was it -- I mean -- so do you recall what
11 you were doing when you noticed this going on?

12 A I don't -- I don't recall what I was doing, no.

13 Q Okay. And -- and how long was it -- what did you notice
14 going on at the time that led you to go up there and ask if
15 everything was okay?

16 A Just -- just by the look on her face and then him seeming
17 that he was upset and just going like this (indicating) to her,
18 not poking her, but doing his hand like this (indicating).

19 MR. DRITSAS: Can you -- I don't know if the Judge saw it,
20 but --

21 JUDGE THOMPSON: Let Mr. Kramer --

22 MR. DRITSAS: Oh, I'm sorry.

23 JUDGE THOMPSON: -- ask the questions, counsel.

24 MR. KRAMER: Yeah.

25 Q BY MR. KRAMER: So you were motioning that you saw

1 Mr. Aleman like a tomahawk truck with his hands?

2 A Kind of just pointing at her.

3 Q Pointing?

4 A Yes.

5 Q With his whole hand? Not in a fist or a finger but his
6 whole hand --

7 A No. But just --

8 Q -- straight out?

9 A -- pointing kind of like this. Yes.

10 Q Okay. And was that --

11 MS. OVIEDO: Let the record reflect that it was open
12 handed.

13 JUDGE THOMPSON: Thank you.

14 MR. KRAMER: Yeah, I -- I apologize. That's what I was
15 trying to get at.

16 Q BY MR. KRAMER: And did you have any idea at the time what
17 they were talking about?

18 A Not at that time, but I did speak to the associate later
19 just to make sure that she was okay.

20 Q Okay. And so you saw that and then you went up. Now, why
21 is it you -- why is it again that you went up there?

22 A Because of the look in her face and then the way he was
23 pointing at her like he was angry. He had an angry look on his
24 face as well.

25 Q Okay. So you walked up there. And, as best as you

1 recall, who did you -- what did you say to whoever and what did
2 they say back to you?

3 A I just asked was -- was everything okay. And at that
4 point Janet -- Janet walked away and then Rodolfo walked away.

5 Q And no one responded to you?

6 A No one responded. But I did speak to Janet --

7 Q Okay.

8 A -- later on that day and she told me what happened.

9 Q All right. And I would just -- if you -- if you answer
10 only the questions, you'll probably get out of here quicker.
11 So if you could just try and focus on the -- the questions I'm
12 asking.

13 But let me ask you this: So did you -- after that, did you
14 go after Mr. Aleman to say, "What's going on?"

15 A No.

16 Q Okay. And outside of that, in the week prior to the
17 election at any point did you go up to Mr. Aleman and interfere
18 with -- strike that. At any point prior to the election, did
19 you ever go up to Mr. Aleman and ask him what was going on?

20 A No.

21 Q At any point prior to the election, did you stand behind
22 Mr. Aleman for, say, five minutes just observing him?

23 A No.

24 Q Okay. Did you ever stand behind him within one meter of
25 him for a period of time of up to five minutes?

1 A It could have possibly be in Trump talk, but, no.

2 Q Okay. And in Trump talk -- what do you mean in Trump
3 talk?

4 A Because normally in Trump talk, if I'm not talking, I'm
5 normally around -- walking around the room, just making sure
6 that employees are -- are paying attention and not having side
7 conversations.

8 Q Okay. So after the employees would have started their
9 workday, if you weren't the one talking, you might have been
10 standing around somewhere in the room as the -- as the other
11 manager was giving the Trump talk?

12 A Correct.

13 Q Okay. And you said so they weren't talking. Are
14 employees allowed to talk about other things during Trump
15 talks?

16 A Well, during Trump talk, they're supposed to be focused on
17 what the manager is saying. And obviously with a large
18 department, it kind of gets unruly when everybody's having side
19 conversations.

20 Q Okay. And at any time -- I mean we were talking about the
21 week before the election. But since you've been employed, at
22 any other point was there an occasion where you in the employee
23 dining room went up to Mr. Aleman to inquire as to his
24 conversations with other employees?

25 A No.

1 Q Okay. And was there any time, since you've been employed,
2 where you stood within a meter of Mr. Aleman for a period of up
3 to five minutes outside of perhaps while a Trump talk was
4 actually going on?

5 A It's possible, uh-huh.

6 Q And do you have -- and for what purpose would that have
7 occurred?

8 A Because if we're just standing in a room, I'm not like --
9 we're standing -- if we're standing in a room or in Trump talk,
10 it's not -- I'm not sure what --

11 Q Okay.

12 A -- would be the purpose of it.

13 Q Would you have ever done that for purposes of trying to
14 interfere with whatever he was doing -- doing?

15 A No.

16 Q Okay. Did anyone ever -- strike that.

17 You were asked some questions about your room cleaning
18 experience. As a manager, what is your responsibility with
19 regards to the housekeepers in terms of them doing their rooms?

20 A I'm sorry. What is --

21 Q Sure.

22 A What is your responsibility --

23 Q Maybe -- I'll ask it a little bit broader here. After the
24 Trump talk, what do you do for your day?

25 A It just varies. I have room inspections to do, I have VIP

1 room inspections to do. We look at the staffing for the next
2 day. Let's see. And any and everything else. Deal with guest
3 complaints, GRA complaints, anything else that comes up
4 throughout the day.

5 Q Okay. So if there's a guest complaint, I mean that's
6 something that a manager's responsibility for taking care of?

7 A Correct.

8 Q And guest complaint I take it -- I mean what types of
9 guest complaints do you get?

10 A It varies. It can be from a dirty room to their room not
11 being cleaned that day, dirty sheets being placed on the bed,
12 the glasses not being cleaned. Any and everything that has to
13 do with housekeeping.

14 Q Okay. And during the course of your day as a manager,
15 will be on the floors?

16 A Yes.

17 Q Why?

18 A It's part of our job. We -- we're inspecting -- we're
19 inspecting VIP rooms, we're doing room inspections on the GRAs,
20 we're doing inspections on the housemen just to make sure
21 everybody's doing what they need to do in -- in correct areas.

22 Q So you will inspect the -- you'll inspect GRAs as they
23 perform their functions?

24 A Correct. It's called a quality inspection.

25 Q Okay. Now -- and you would do those for more than just

1 VIP rooms?

2 A Yeah. We do quality inspections for all the GRAs.

3 Q Okay.

4 A So we just randomly pick GRAs and do --

5 Q All right.

6 A -- inspections.

7 Q And -- and just so I'm clear, because I mean there was
8 some testimony earlier -- there's a -- are you familiar with
9 the position called housekeeping inspector?

10 A Yes.

11 Q Okay. Do housekeeping inspectors inspect rooms?

12 A They do as well, yes.

13 Q Okay. But you, as a manager, do too?

14 A Yes.

15 Q Okay. And if -- if employees have questions or concerns
16 with anything, is that something that you would address as
17 well?

18 A Yes.

19 Q All right. Now, you -- are you familiar with an employee
20 by the name of Celia (sic) Vargas?

21 A Yes.

22 Q And can you tell us who she was?

23 A She was a housekeeper as well.

24 Q Okay. And do you recall an occasion where you had
25 opportunity to be present in a room with her and another

1 employee by the name of Ms. Rivera (phonetic)?

2 A Yes.

3 Q And do you remember approximately when that occurred?

4 A I don't know the date, no.

5 Q Okay. Do you recall whether it was before the election?

6 A I don't recall when, sir.

7 Q Got it. And do you remember how it was you came to be in
8 that room?

9 A Yes.

10 Q How did you come to be in that room?

11 A We had -- Cecilia had called down to status because this
12 particular guest had requested a sofa bed set up, and
13 particularly the sofa beds are -- aren't that good. So we
14 normally put a foam mattress. So she had called down saying
15 that the foam mattress had not come up yet. And so status
16 dispatcher called us to -- well, the status dispatcher called
17 to a manager. I took the call. I went to that particular
18 room, I noticed that it was Cecilia and another associate in
19 the room. Cecilia --

20 Q Okay. All right. So that's how you came to be in the
21 room; is that correct?

22 A Yes.

23 Q And is that -- I mean so why is it that you ended up --
24 you said you took the call?

25 A Right.

1 Q Can you explain that?

2 A It comes over the radio. So if there's an issue, an
3 escalated issue, with a room attendant, it goes up to a
4 manager. And so we take the call.

5 Q And the issue here was that they couldn't get the foam
6 mattress the guest wanted?

7 A They couldn't get the foam mattress and she was --

8 MS. DAVILA: Objection --

9 THE WITNESS: -- waiting around.

10 MS. DAVILA: -- leading.

11 JUDGE THOMPSON: Sustained.

12 Q BY MR. KRAMER: So what was the issue?

13 A She couldn't get a foam mattress and she was waiting
14 around in this room.

15 Q Okay. And was this a complaint -- do you know who the
16 complaint came from?

17 A It came from -- I don't know which one was assigned to the
18 room, honestly.

19 Q Okay. But it was one of the housekeepers?

20 A It was one of the -- one of the two that was in the room.

21 Q Do you know whether or not the guest had also made a
22 complaint?

23 A No, the guest didn't make a complaint.

24 Q Okay. So you then went up to the room. I think that's
25 where I stopped you; is that correct?

1 A Correct.

2 MS. DAVILA: Objection --

3 Q BY MR. KRAMER: And --

4 MS. DAVILA: -- leading.

5 JUDGE THOMPSON: He just was clarifying. I'm going to
6 overrule that objection.

7 Q BY MR. KRAMER: And can you tell me what you saw when you
8 got to the room -- first of all, do you recall what room --
9 type of room it was?

10 A It was a one bedder -- one bedroom corner.

11 Q Okay. And do you -- can you tell us what you saw when you
12 got to the room?

13 A When I walked in -- when I walked into the room, Cecilia
14 was talking with another housekeeper. And I don't -- don't
15 even know what they were talking about, but it was like, "Hey,
16 what's going on?"

17 Q Okay. And did you even hear what they were talking about?

18 A No.

19 Q Okay. And did you -- how long was it by the -- well, how
20 long was it from when you got to the room that you had -- that
21 you announced your presence and asked them what they were
22 doing?

23 A As soon as I walked into the room. When I walked in the
24 room, they stopped talking.

25 Q Okay. You weren't standing out there waiting a while?

1 A No.

2 Q Okay. And, as best as you recall, what did you say to
3 them?

4 A I said, "Hey, what's" -- "Hey, what's going on?" Because
5 there was only one person supposed to be assigned to this room,
6 so --

7 Q Okay. And where did you say that from in relationship --
8 where were they and where were you when that happened?

9 A They were -- they were in the living room pretty much and
10 I was by the kitchen.

11 Q And the kitchen is near the entrance; is that correct?

12 A Correct.

13 MS. DAVILA: Your Honor, in this brief break, I'd ask to
14 see the subpoena that was supposedly signed by Mr. Wandick and
15 ask that he confirm his signature to the realty of it.

16 MR. KRAMER: I --

17 JUDGE THOMPSON: I don't believe that it was signed. But
18 you just agreed to stipulate that -- are you going to stipulate
19 that he was subpoenaed? So I don't want to revisit this. I
20 mean you can see it, but I'm not going to entertain any
21 objection --

22 MS. DAVILA: Can I see it, please?

23 JUDGE THOMPSON: -- regarding it.

24 MS. OVIEDO: We thought it had been signed. So that it had
25 been --

1 MS. DAVILA: They indicated --

2 MS. OVIEDO: -- they received a certificate.

3 MS. DAVILA: -- that it was signed. I just want to note it
4 on the record that it wasn't signed.

5 MR. KRAMER: No, I'm not saying -- no. We -- we showed
6 that it was mailed. I don't have a return receipt, if that's
7 your question.

8 MS. OVIEDO: Oh, I thought that that's what --

9 MR. KRAMER: I'm not saying that --

10 MR. DRITSAS: Jackie, what's our next in order?

11 JUDGE THOMPSON: 13.

12 MR. DRITSAS: Thank you.

13 Q BY MR. KRAMER: Mr. Wandick, I'd like you to take a look
14 at this for a minute and when you finish, let me know and I
15 have some questions for you.

16 A Okay. Go ahead.

17 Q All right. Do you recognize the layout that's on the
18 first page here of Respondent's Exhibit 13?

19 A Correct. Yes.

20 Q And could you tell us what this is?

21 A It's a corner suite.

22 Q Okay.

23 A One bedroom.

24 Q And is this similar to the type of room that was the room
25 at issue that you'd been talking about?

- 1 A Yes.
- 2 Q Okay. And is the living room as it's described here?
- 3 A Yes.
- 4 Q Is the kitchen as it's described here?
- 5 A Yes.
- 6 Q And the master -- the main bathroom, is it as it's
7 described here?
- 8 A Yes.
- 9 Q And the bathroom as well?
- 10 A Yes.
- 11 Q And the bedroom is in the corner; is that correct?
- 12 A Yes.
- 13 Q Okay. All right. And if you take a look at the third
14 page in, can you describe the first photograph?
- 15 A That's the master bedroom.
- 16 Q That's the master bathroom?
- 17 A The master bedroom.
- 18 Q Master bedroom. Okay. Which picture are you into?
- 19 A You said the third -- oh.
- 20 Q The first photo. I apologize. The third page, first
21 photo.
- 22 A That is -- that's the guest bathroom.
- 23 Q Okay. This is the one that's just right off the living
24 room slash dining room?
- 25 A Correct.

1 Q Okay. And then the second photo, what is that?

2 A That is the master bedroom.

3 Q Okay. And the third photo, could you describe that for
4 us?

5 A That is the living room area.

6 Q Okay. And from what view is that photo taken?

7 A This looks like it's from the doorway.

8 Q Okay. So it's from near the doorway looking in. And off
9 to the right, do you see that little hallway there? Could
10 you -- or the little doorway there? Can you tell us what that
11 is?

12 A That leads into the bedroom.

13 Q That leads into the bedroom. And then where -- where
14 outside of the photo would the guest bathroom be?

15 A It's -- like it's right here.

16 Q Got it. Just to the right of the photo?

17 A Just to the right of the --

18 Q Okay. And there are how many bathrooms in this --

19 A There's two.

20 Q Okay. That's the -- and then the other one you call what?

21 A The master bathroom.

22 Q Got it. And then there's a -- can you tell us what the
23 next photo is?

24 A That is the door popped open by the hinge, the night
25 latch.

1 Q Okay. And is there -- when -- when housekeepers are
2 cleaning a room, is there any sort of policy regarding the
3 door?

4 A Correct. It's supposed to be closed for safety reasons.

5 Q Okay. Is it locked?

6 A No.

7 Q Okay. So how is it closed but not locked?

8 A Because when you got -- well, when you close the door, it
9 automatically -- it automatically --

10 Q Locks?

11 A -- locks. Yeah. I'm sorry.

12 Q Okay. So when a housekeeper's in a room, does it -- is it
13 automatically closed?

14 A It should unless they prop it open by the night latch.

15 Q Okay. Is that something housekeepers can do?

16 A What, prop it open?

17 Q Yeah.

18 A It's against policy.

19 Q Okay. Got it. And can you take a look at the next photo
20 for us?

21 A Yes.

22 Q Can you describe what this is?

23 A You have pretty much the -- the little breakfast nook in
24 the kitchen.

25 Q Okay. And the two doorways there, could you tell us where

1 they lead to?

2 A The first doorway is to the first rest room.

3 Q Is that the doorway on the left?

4 A Yes -- or, no.

5 Q The doorway on the right?

6 A The doorway on the right, yes.

7 Q Okay. And then the doorway on the left?

8 A Is to the master bedroom.

9 Q Okay. And is this photo taken from near the entrance to
10 the unit?

11 A Yes.

12 Q Okay. And then can you tell us what the next photo is?

13 A A picture of the kitchen.

14 Q Okay. And the photo after that?

15 A A picture of the living room.

16 MS. OVIEDO: Can I just ask a quick question? Can we mark
17 these 13(a), (b) (c) and so on so when we're referring to
18 pages --

19 MR. KRAMER: Sure.

20 MS. OVIEDO: -- that way it's clear?

21 MR. KRAMER: Sure.

22 JUDGE THOMPSON: Certainly.

23 MR. KRAMER: The first one would be (a), the second page of
24 the layout would be (b), the first photo would be (c), the
25 second photo would be (d), the third photo would be (e), and

1 the door photo would be (f).

2 Don't happen to have a been up here, do you, Mr. Wandick?

3 THE WITNESS: Oh, I'm sorry.

4 MR. KRAMER: If you could, that would make it easier
5 perhaps.

6 THE WITNESS: Okay.

7 MR. KRAMER: All right. And the photo after the door would
8 be (g), the photo of the kitchen would be (h), the photo of the
9 living area would be (i) and then the last photo would be (j).

10 Q BY MR. KRAMER: So, Mr. Wandick, if you could --

11 JUDGE THOMPSON: Just a second, Mr. Kramer.

12 Let the record reflect that the witness didn't have a pen -
13 - or does have a pen but I'm handing him my copy which I
14 identified.

15 MR. KRAMER: Thank you, Your Honor.

16 JUDGE THOMPSON: Proceed.

17 Q BY MR. KRAMER: And I believe you -- I apologize if I
18 already asked you. Did you identify the photo on page (i)?

19 A That's a photo of the living room.

20 Q Okay. All right. And then page (j), could you tell us
21 what this is a photo of?

22 A A photo of the master bedroom.

23 Q Master bathroom?

24 A Or master bedroom -- bathroom. Excuse me.

25 Q Got it. And is this a true and accurate reflection of the

1 layout and the -- and the insides of the -- the suite in which
2 you encountered Ms. Rivera and -- and the other employee?

3 A Correct. Yes.

4 MR. KRAMER: I'd like to move for the admission of
5 Respondent's Exhibit 13.

6 MS. DAVILA: I'd like to make the same questions, if
7 possible.

8 JUDGE THOMPSON: Certainly.

9 **VOIR DIRE EXAMINATION**

10 Q BY MS. DAVILA: Mr. Wandick, have you ever seen these
11 documents before today?

12 A No.

13 Q Were you involved in the production of this packet of
14 documents?

15 A No.

16 Q Do you know the measurements indicated in these documents?

17 A No.

18 Q Do you know the scale represented in these documents? The
19 size?

20 A Oh, no.

21 Q No. Okay.

22 MS. DAVILA: With those questions, I object, but --

23 JUDGE THOMPSON: So noted. But I'm going to receive the
24 Respondent's -- or I'll overrule the objection and receive
25 Respondent's Exhibit 13 and it's part into evidence.

1 **(Respondent Exhibit Number 13 Received into Evidence)**

2 MR. KRAMER: Thank you, Your Honor.

3 **CROSS-EXAMINATION (CONTINUED)**

4 Q BY MR. KRAMER: So, Mr. Wandick, if you could, with the
5 first page, page (a), here, could you tell us -- again, can you
6 point to us where you were when you first started speaking with
7 the two housekeepers and where the housekeepers were?

8 A I walked in. So it would be to -- I guess to the right in
9 front of the kitchen, entrance of the kitchen.

10 Q Okay. So you're just past the entrance in front of the
11 kitchen?

12 A Correct.

13 Q And where were the housekeepers?

14 A They were in the living room by the pull-out sofa.

15 Q Okay. And at the time you entered, was there anyone else
16 in the unit?

17 A No.

18 Q Okay. You didn't see --

19 A Not that I remember. Not that I remember.

20 Q Okay. You didn't see anyone else?

21 A No.

22 Q Do you know where the guest was?

23 A I do not.

24 Q Okay. And as best as you can recall then, can you tell us
25 what you said to them and what they said to you?

1 A I walked in the room and I was kind of like, "Hey, was
2 going on?" And then Cecilia just told me that they were --
3 they were waiting on the -- the memory foam to make the sofa
4 bed and the houseman hadn't got there yet.

5 Q Okay. And -- and Ms. Vargas told you that?

6 A Yes.

7 Q Okay. And did you have any conversations with Ms. Rivera?

8 A No.

9 Q Okay. Did you ask them why there were two people in the
10 room?

11 A I didn't ask them, no.

12 Q Okay. And was there anything else to this conversation
13 that you can recall?

14 A I just told them I'd rush up -- I'd rush up the memory
15 foam, which we got a houseman to bring it up.

16 Q Okay. All right. And then what happened?

17 A The -- the housemen had to locate -- had to locate one.
18 But then once they confirmed that our VIP houseman was looking
19 for it, I left the room.

20 Q Okay. So you were in the room -- let me take a step back
21 here. How did -- so you went into the room, you had this brief
22 conversation, they explained they were waiting for the memory
23 foam; is that right?

24 A Right.

25 MS. DAVILA: Objection; leading.

1 MR. KRAMER: I'm just trying to --

2 MS. DAVILA: I understand. I just have to object.

3 JUDGE THOMPSON: Overruled.

4 Continue, Mr. --

5 MR. KRAMER: Thank you.

6 JUDGE THOMPSON: -- Kramer.

7 Q BY MR. KRAMER: And then --

8 JUDGE THOMPSON: I mean, you don't have to object, but,
9 okay. I understand.

10 Go ahead, Mr. Kramer.

11 Q BY MR. KRAMER: And in response to that, you said that you
12 then contacted who?

13 A The VIP housemen.

14 Q And how did you contact the VIP houseman?

15 A Via radio.

16 Q Okay. And because you have a radio; is that correct?

17 A Correct.

18 Q And the housemen do as well?

19 A Correct.

20 Q And what did the housemen tell you?

21 A They told me they were trying to locate one.

22 Q Okay. And then after that, what did you do?

23 A I told them to rush one up to this room and then I left.

24 Q Okay. Do you recall whether or not you had any
25 conversation with Ms. Vargas in the hallway?

1 A No.

2 Q Okay. At any point did you return to the room?

3 A Did I return? I'm not -- I'm not sure, honestly, if I
4 came back to the room.

5 Q All right. Did you give any instructions during that
6 conversation at all to Ms. Vargas regarding anything?

7 A No, I don't recall giving her any --

8 Q All right.

9 A -- instructions.

10 Q Did you ever tell her that she couldn't talk to guests?

11 A No, I've never --

12 Q Have you ever given anyone that instruction?

13 A No.

14 Q Are you aware of any policy regarding employees talking to
15 guests?

16 A No.

17 Q Do you prohibit it?

18 A Not at all.

19 Q Okay. And I apologize, did you return to the room at some
20 point?

21 A I don't remember returning to the room, honestly.

22 Q Okay. Did you do anything to confirm whether the foam was
23 delivered?

24 A Honestly, I don't remember. I honestly don't remember.

25 Q Okay. Did you issue Ms. Vargas any discipline that day?

1 A I honestly don't remember.

2 Q All right. Did you -- let me ask you this: Did you issue
3 her any discipline for whatever -- what she did in the room
4 that day?

5 A No.

6 Q Okay. Did she do any -- did you -- did you come to any
7 conclusions as to whether she had engaged in any misconduct in
8 the room that day?

9 A Not that I can recall.

10 Q That you can't recall whether you came to a conclusion?

11 A That I gave her any discipline --

12 Q Okay.

13 A -- that day.

14 Q Did you have any belief that she was doing anything wrong
15 in the room?

16 A No.

17 JUDGE THOMPSON: Counsel, you've asked --

18 MR. KRAMER: Okay.

19 JUDGE THOMPSON: -- that question a hundred different ways.

20 MR. KRAMER: I'm -- I'm sorry. I'm trying to avoid
21 leading, Your Honor.

22 JUDGE THOMPSON: I'm just saying.

23 MS. DAVILA: Those are all lead questions.

24 JUDGE THOMPSON: "I walked in, I said what I said and I
25 walked out."

1 MR. KRAMER: Fair enough. We'll leave it at that.

2 Q BY MR. KRAMER: Mr. Wandick, you -- during Trump talks,
3 have you ever -- let me take a step back.

4 Do you know a person by the name of Matthieu Vandegrift?

5 A Yes.

6 Q Can you tell us who he is?

7 A He was my boss, the VP of -- or Director of Operations.

8 Q Okay. And at any point did he ask you about your
9 conduct -- did he -- at any point did he ask you to explain
10 your conduct in the employee dining room after -- during a
11 Trump talk shortly before the election?

12 A We -- we've had conversations.

13 Q Okay. Do you recall -- do you know an employee by the
14 name of Jacqueline Contreras?

15 A Yes.

16 Q Has -- have you had any -- has she ever complained to you
17 about the Union in the employee dining room?

18 A Yes.

19 MS. DAVILA: Objection; leading.

20 MR. KRAMER: I'm trying to get to the point where I can ask
21 open-ended questions.

22 MS. DAVILA: Leading does do that, but it's -- again, it's
23 the rules of evidence.

24 MR. KRAMER: It's not a leading question if you're -- if
25 you're putting a person in a place where you can then ask him

1 open-ended questions, Your Honor.

2 MS. DAVILA: That is my objection.

3 JUDGE THOMPSON: Let me go off the record, please.

4 (Off the record at 12:53 p.m.)

5 JUDGE THOMPSON: We're back on the record.

6 Go ahead, Mr. Kramer.

7 Q BY MR. KRAMER: Mr. Wandick, do you recall having a
8 conversation with that employee?

9 A Yes.

10 Q All right. And where did that occur?

11 A Probably -- most likely outside of the EDR.

12 Q Just outside the EDR? Was it --

13 A Yes.

14 Q -- around the time of the Trump talk?

15 A Yes.

16 Q Okay. And, as best as you can recall, what did she say to
17 you and you say to her?

18 UNIDENTIFIED SPEAKER: Objection; hearsay.

19 THE WITNESS: She was upset that the Union people kept
20 coming to her house and harassing her.

21 Q BY MR. KRAMER: And what -- do you -- do you recall what
22 you said in response?

23 A Yeah. "If you want this to stop" --

24 MS. DAVILA: Objection --

25 THE WITNESS: -- "vote" --

1 MS. DAVILA: -- hearsay with this line of questioning.

2 JUDGE THOMPSON: Overruled. Continue.

3 Q BY MR. KRAMER: You could -- do you remember the question?

4 A Yeah. "If you want this to stop, vote no."

5 Q Okay. Did you -- do you recall anything else about that
6 conversation?

7 A No. She was just upset about that.

8 Q Okay. That day, did you have -- do you recall during that
9 meeting, did you tell any other employees to vote no?

10 A Pretty much every employee that were complaining with the
11 Union coming to their house. That was the message we were
12 supposed to say.

13 Q Okay. So if an employee complained to you about the
14 Union, you would suggest that they vote no?

15 A Yes.

16 Q Okay. Did you affirmatively go up to employees at any
17 point and say, "Vote no?"

18 A No.

19 Q Okay. Now, at some point did you submit an e-mail to
20 Mr. Wandick (sic) regarding your conversation -- excuse me --
21 an e-mail to Mr. Vandegrift and Ms. Magana regarding your
22 conversation with Ms. Contreras? Do you recall that?

23 A I don't recall if I sent it.

24 Q Okay. Do you recall having conversations with
25 Mr. Vandegrift regarding this incident?

1 A Yes.

2 Q And do you recall how that came about?

3 A I think I seen Matt was in that particular Trump talk and
4 I mentioned it to him --

5 Q Okay.

6 A -- that employees were upset about the Union coming to
7 their house.

8 Q All right. If I showed you an e-mail that you sent to
9 Ms. Magana and Ms. Vandegrift -- Mr. Vandegrift, might that
10 help refresh your recollection?

11 A It would, yes.

12 Q Okay. I'll hand you what's been marked as Exhibit 14.
13 I'd like you to take a look at it and when you're done, let me
14 know.

15 A Yes, this is an e-mail that was sent over by me.

16 Q And if you can just put that down and don't look at it.
17 Do you recall -- does this help your recollection as to how it
18 is you came to send that e-mail?

19 A Matthieu told me a write a statement and send it over.

20 Q Do you remember if he told you why?

21 A No. The -- I don't remember.

22 Q Okay. And is that -- is this document, Respondent's
23 Exhibit 14, is this the e-mail you sent along with a statement?

24 A Correct. Yes.

25 Q All right. And was this statement, written the day that

1 the incident happened with Ms. Contreras?

2 A Uh-huh.

3 Q And is it a true and accurate description of what
4 happened?

5 A Yes.

6 MR. KRAMER: Okay. I'd like to move for the admission of
7 Respondent Exhibit 14.

8 JUDGE THOMPSON: General Counsel, any objection?

9 MS. DAVILA: If I may ask him some questions, Your Honor?

10 JUDGE THOMPSON: Certainly.

11 **VOIR DIRE EXAMINATION**

12 Q BY MS. DAVILA: Did you attach this statement to the e-
13 mail that you sent?

14 A Yes.

15 Q Did you write out the text that's in this statement?

16 A Yes.

17 Q Did you type it out or did you write it by hand?

18 A I don't actually recall how I --

19 Q Did you keep a copy of the statement that you made -- of
20 this statement that you submitted?

21 A Yes. It was probably saved on my computer.

22 Q Okay. So you don't know if this is the one that you
23 submitted because you don't know if it was handwritten or
24 typewritten?

25 A Well, no, no, no. These are my words in here.

1 Q Okay. Do you know if it's the complete statement that you
2 gave?

3 A Yes.

4 MS. DAVILA: I object on relevance.

5 JUDGE THOMPSON: What's the purpose of this, counsel?

6 MR. KRAMER: Well, there's an allegation in the complaint
7 regarding this witness and what happened in the EDR that day.
8 If the General Counsel is dropping that part of the complaint,
9 then I agree this is not relevant and we can remove it.

10 JUDGE THOMPSON: What part of the --

11 MS. DAVILA: What part of the complaint?

12 JUDGE THOMPSON: -- complaint does it go to, counsel?

13 MR. KRAMER: There's an allegation that Mr. Wandick and
14 Mr. Vandegrift were in the EDR telling everyone to vote no.
15 Let me see if I can find it, Your Honor.

16 It's 5(n), Your Honor. "On about June 24th, Respondent
17 Wandick, by Matthieu Vanderbilt" -- it would be Vandegrift --
18 "was standing in the employee dining room greeting its
19 employees and telling them to vote no in an upcoming union
20 election campaign, creating an impression among employees that
21 the Union activities were under surveillance."

22 JUDGE THOMPSON: And is this purporting to show that this
23 was the purpose of the interaction?

24 MR. KRAMER: That that was the interaction that occurred
25 that day. Yes.

1 JUDGE THOMPSON: To that end, I'm going to overrule the
2 objection because it is relevant and it's been properly
3 authenticated. So I'm going to admit Respondent Exhibit 4
4 (sic).

5 **(Respondent Exhibit Number 14 Received into Evidence)**

6 JUDGE THOMPSON: Proceed, Mr. Kramer.

7 **CROSS-EXAMINATION (CONTINUED)**

8 Q BY MR. KRAMER: Mr. Wandick, just simply so we're clear
9 here since General Counsel had some confusion, outside of your
10 conversation with this particular employee that's in
11 Respondent's Exhibit 14, on June 24th, did you have any other
12 conversations with employees at or near the dining room where
13 you told them to vote no in the election?

14 A It's possible, because various employees were voicing
15 their upset about the Union coming to their houses.

16 Q Okay. And, again, if employees came up to you and said
17 that, then you would say, "Why don't you vote no?"

18 A Correct. I said, "If you want this to stop, vote no."

19 Q Okay.

20 JUDGE THOMPSON: If I may clarify the record, I believe I
21 said Respondent Exhibit 40 (sic), but I intended 14.

22 MR. KRAMER: All right.

23 MS. OVIEDO: Could I ask -- or do you know how much longer?
24 Just because I was trying to figure out lunch.

25 MR. KRAMER: If you -- maybe very, very short at this

1 point.

2 MS. OVIEDO: Okay.

3 MR. KRAMER: If I could just have a minute off the record,
4 we'll --

5 JUDGE THOMPSON: Certainly. Off the record.

6 (Off the record at 1:02 p.m.)

7 JUDGE THOMPSON: Now, we're back on the record.

8 Continue --

9 MR. KRAMER: Thank you.

10 JUDGE THOMPSON: -- Mr. Kramer.

11 MR. KRAMER: Thank you.

12 Q BY MR. KRAMER: Mr. Wandick, I'm going to hand you
13 Respondent's Exhibit 15 and ask you if you can take a look at
14 that and see if you can identify that for us.

15 A Yeah. It's a hot SOS order request.

16 Q And could you explain to the Judge was a hot SOS order
17 request is?

18 A It's a system that we use to put in requests, the guests
19 requests. So pillows, bedding. Anything that a guest requests
20 we put it in through hot SOS.

21 Q All right. And just for clarification, that's not your
22 handwriting at the bottom, is it?

23 A No.

24 Q Okay. So I want to focus on the stuff that's typed. And
25 can you tell us what this hot SOS request is for?

1 A It looks like for Room 5107. It's for extra padding or
2 the sofa bed.

3 Q Okay. And can you recall, based upon the number, what
4 type of room that was?

5 A It's a one bedroom corner.

6 Q Okay. And can you explain to us basic -- in your -- the
7 room that you talked about with Ms. Vargas and Ms. Rivera, was
8 a one bedroom corner; is that correct?

9 A Correct.

10 Q Does it refresh your recollection as to what room that
11 might have been?

12 A It looked like 5107.

13 Q Okay. And can you tell us -- describe for us what these
14 entries are here and what this means?

15 A So SO was created by Starr Ramacus. So it was a service
16 order created --

17 JUDGE THOMPSON: Wait a minute. Mr. Wandick, you've got to
18 slow down because we can't understand what you're saying. So
19 can you start again?

20 THE WITNESS: So the SO is a service order request, what's
21 created by Starr Ramacus, who's a status clerk.

22 MR. KRAMER: Okay.

23 THE WITNESS: She entered comments, "GRA is waiting in
24 room. QA deadline was changed from empty." And then they
25 inserted comments, "No foam padding available." And then other

1 comments entered, "Per runner, none available." It was voided
2 by Javier Aguilar (phonetic).

3 Q BY MR. KRAMER: Okay. And can you explain -- can you
4 translate for us in English what all those things mean?

5 A So basically that Starr put in the hot SOS -- put in the
6 hot SOS request that the guest was requesting or the GRA was
7 requesting, that extra padding for the sofa bed. One houseman
8 said there was no foam -- no foam padding available. And then
9 I guess another runner confirmed there was no foam padding
10 available.

11 Q Okay. And so that's what the top part of that says; is
12 that correct?

13 A Correct.

14 Q And then can you tell us what the bottom part of that
15 says?

16 A Pretty much the same request, for padding.

17 Q Is it at a different time?

18 A 6:13. Yes.

19 Q Okay. And can you explain -- 1758, is that military time?

20 A Yes.

21 Q Okay. So it's basically, what, almost 6:00 in the
22 evening?

23 A Correct.

24 Q All right. And then what happened in the second part of
25 this?

1 A So the same thing. Status order's request was placed for
2 foam padding. The QA deadline was -- was changed. It is
3 assigned to Michael Diaz, it was completed by Michael Diaz,
4 called back down by Maria Garcia and the service order was
5 closed.

6 Q Okay. Maria Garcia's another housekeeper?

7 A Maria Garcia is -- no. She actually works in either PBX
8 or reservations.

9 Q Got it. And do you recall which time you were there
10 dealing with this?

11 A It would have been for the earlier call, where it said,
12 "No padding was available."

13 Q Okay. Ms. Rivera and -- and the other housekeeper work on
14 the day shift; is that right?

15 A Correct.

16 Q As do you -- as did --

17 A Correct.

18 Q -- you? Okay.

19 MR. KRAMER: I'd like to move for the admission of
20 Respondent's Exhibit 15.

21 JUDGE THOMPSON: General Counsel, any objection?

22 **VOIR DIRE EXAMINATION**

23 Q BY MS. DAVILA: Mr. Wandick, do you recognize this
24 handwriting down here?

25 A No, I don't.

1 Q Did you -- you don't. Do you know what it says or --

2 A "Dora" -- "Dora Rivera from Wandick on June 13. Dispatch
3 logs for room request. EDR."

4 Q And you didn't write this, correct?

5 A No.

6 MS. DAVILA: I object to the admittance of this.

7 MR. KRAMER: Your Honor, we'd be happy to substitute a
8 clean copy of this, you know, and really I'm talking about the
9 actual -- everything but the bottom corner. Or we could have
10 it admitted without that part of it.

11 JUDGE THOMPSON: If we could substitute a clean copy or
12 redact this or erase -- well, I don't want to erase it. If we
13 could -- well, this is part of how the -- is this part of how
14 this exhibit looked, with this writing on it?

15 MR. KRAMER: I -- I don't believe so, Your Honor.

16 JUDGE THOMPSON: All right. Let me put this in abeyance
17 until we can get a determination as to whether this is the
18 actual copy or if this is a -- or a clean copy is the real
19 copy, if you understand what I'm saying.

20 MR. KRAMER: Sure. Sure.

21 JUDGE THOMPSON: So I'm not going to rule it -- I'm not
22 going to strike it, but I'm just going to hold it in abeyance
23 until we can figure -- figure it out.

24 MR. KRAMER: In like two questions I might be able to solve
25 that, Your Honor.

1 JUDGE THOMPSON: Okay.

2 **CROSS-EXAMINATION (CONTINUED)**

3 Q BY MR. KRAMER: Mr. Wandick, are these -- is thank a
4 computer-generated report?

5 A It is.

6 Q Okay. So when it was generated from the computer, there
7 would not be handwriting on it; is that right?

8 A Correct.

9 Q If you know, do they keep paper logs of these hot SOS
10 calls or is it all just kept on the computer?

11 A No. It's electronic.

12 Q Okay.

13 MR. KRAMER: Your Honor, with that, I would submit that the
14 handwriting came after the fact and it's not part of the
15 official record.

16 JUDGE THOMPSON: Okay. Then can I get a clean copy of
17 this?

18 MR. KRAMER: Certainly, Your Honor.

19 MS. DAVILA: If I may object again and ask him another
20 question?

21 JUDGE THOMPSON: Certainly.

22 **VOIR DIRE EXAMINATION**

23 Q BY MS. DAVILA: Did you print this out, Mr. Wandick?

24 A No.

25 Q Do you -- did you know if this is an accurate

1 representation of the log?

2 A No.

3 MS. DAVILA: I further object. No foundation.

4 JUDGE THOMPSON: Mr. Kramer, do we have someone that can
5 attest that this is how the log is minus the writing?

6 MR. KRAMER: I -- I -- I certainly could, Your Honor. I
7 believe Mr. Wandick just testified as to just exactly that.

8 MS. DAVILA: He also said he didn't know if it was
9 complete, if that's what it looked like.

10 MR. KRAMER: I don't think he said that.

11 JUDGE THOMPSON: Yeah, he did when she --

12 MR. KRAMER: Okay.

13 JUDGE THOMPSON: -- voir dired him.

14 I'm going to hold it in abeyance. Counsel, if you could --

15 MR. KRAMER: All right.

16 JUDGE THOMPSON: -- get me a clean copy and we'll revisit
17 this.

18 MR. KRAMER: Fair enough.

19 JUDGE THOMPSON: Go ahead.

20 MR. KRAMER: No further questions, Your Honor.

21 JUDGE THOMPSON: Okay. Counsel, let me stop here so that
22 we can go to lunch.

23 Do you have any idea, for the witness' purpose, how long
24 you may take to redirect? I know there was a lot covered.

25 MS. DAVILA: I don't have that many questions. I'm happy

1 to ask them as fast as I can.

2 MS. OVIEDO: Are we on the record right now?

3 JUDGE THOMPSON: We are. Do you want to proceed --

4 MS. DAVILA: If I have may have five minutes?

5 MS. OVIEDO: Are you guys --

6 JUDGE THOMPSON: Do you want to proceed --

7 MR. KRAMER: We're --

8 MS. DAVILA: Proceed, yes.

9 JUDGE THOMPSON: -- on and then do the lunch after?

10 MS. DAVILA: Yeah. If I could --

11 JUDGE THOMPSON: If you feel like --

12 MS. DAVILA: Yeah.

13 MS. OVIEDO: And that way you can leave.

14 JUDGE THOMPSON: -- it won't --

15 MS. DAVILA: That way he can leave.

16 JUDGE THOMPSON: Okay.

17 THE WITNESS: Thank you.

18 JUDGE THOMPSON: Let's do that then.

19 MS. OVIEDO: I can see -- I can see you're --

20 JUDGE THOMPSON: Let's do that then.

21 Ms. Davila, continue with redirect.

22 **REDIRECT EXAMINATION**

23 Q BY MS. DAVILA: Mr. Wandick, you know that Rodolfo Aleman
24 supported the Union, correct?

25 A I'm sorry. What?

1 Q You know that Rodolfo Aleman, Mr. Aleman, he supported the
2 Union?

3 A Correct.

4 Q You know that Cecilia Vargas supported the Union --

5 A Correct.

6 Q -- correct? You know that Dora Rivera supported the
7 Union --

8 A Yes.

9 Q -- correct?

10 MR. KRAMER: I'm sorry. I -- I'm just having a hard time
11 with the names.

12 MS. DAVILA: Rodolfo Aleman.

13 MR. KRAMER: I got the first two.

14 MS. DAVILA: Cecilia Vargas.

15 MR. KRAMER: Yeah.

16 MS. DAVILA: And Dora Rivera. Dora.

17 MR. KRAMER: Dora.

18 MR. DRITSAS: Dora.

19 MS. DAVILA: Dora Rivera.

20 MR. KRAMER: Okay.

21 Q BY MS. DAVILA: And Jacqueline Contreras did not support
22 the Union correct?

23 A Correct.

24 Q Okay. You testified to Respondent's questions that you
25 didn't stop employees from doing Union activity, correct?

1 A Correct.

2 Q You were given instruction not to interfere with their
3 Union activity, correct?

4 A Correct.

5 Q But you said that you reported it to HR, correct?

6 A Correct.

7 Q Who did you report it to in HR?

8 A To Gustavo and Jeff Peterson.

9 Q Were you given instruction to report it?

10 A Yes. When stuff like that takes place, to --

11 Q What kind of information would you give them?

12 A Just tell them that they're -- that they're chanting in
13 the EDR.

14 Q Would you tell them who was involved?

15 A Well, they pretty much knew who the ring leaders were,
16 so --

17 Q So did they know who the ring leaders were?

18 A Because it's normal. The people that wore the union pins.

19 Q Were you instructed to report it to HR?

20 A Yes.

21 Q Who told you to report it to HR?

22 A Alejandra. Because when I informed her, she was like,
23 "Just let HR know that it's going on."

24 Q Did you make a handwritten report or you gave a verbal
25 report?

1 A No. A verbal report.

2 Q Did you see them taking notes of your verbal report?

3 A No.

4 Q Mr. Wandick, you know that these employees who are trying
5 to unionize are very passionate about it, correct?

6 A Correct.

7 Q You know that this campaign has been going on for longer
8 than a year, correct?

9 MR. KRAMER: Objection; outside the scope.

10 MS. DAVILA: Is there a scope at this point?

11 JUDGE THOMPSON: Well, you sort of introduced that when you
12 started talking about did things happen before or after the
13 campaign. So even though the door was just slightly cracked,
14 it was cracked. So I'm going to let counsel squeeze in. So
15 I'm going to overrule the objection.

16 Counsel, restate your -- or repeat your question.

17 Q BY MS. DAVILA: Employees were passionate about this
18 campaign, correct?

19 A Correct.

20 Q And this campaign has been going on for longer than a
21 year, correct?

22 A Correct.

23 Q You know that Rodolfo Aleman is passionate about wanting
24 to organize, correct?

25 A Yes.

1 Q I didn't catch the name of the person you were standing
2 with in the EDR telling employees to vote for -- no for the
3 Union. Can you say that name again?

4 A Matthieu Vandegrift.

5 Q Vandegrift?

6 A Yeah.

7 Q And one last line of questioning. Housekeepers -- there
8 are some times that housekeepers can enter rooms, correct?

9 A Yes.

10 Q So housekeepers are assigned a slot of rooms every
11 morning, correct?

12 A Correct.

13 Q And now they use iPads to get that assignment, correct?

14 A Correct.

15 Q And so in the iPad, it indicates close or open room or,
16 you know, if some -- if there's a guest there, basically?

17 A Vacant --

18 JUDGE THOMPSON: Can you ask the question, counsel?

19 MS. DAVILA: Yeah.

20 Q BY MS. DAVILA: So there are times when housekeepers have
21 nothing to do? Because --

22 A If they can't get into a room, yes.

23 Q Because they cannot get into the room. And isn't it true
24 that sometimes they work in pairs when they have nothing else
25 to do?

1 A Correct.

2 Q Okay.

3 MS. DAVILA: No further questions, Your Honor.

4 MS. OVIEDO: Wait.

5 JUDGE THOMPSON: Mr. Wandick, thank you so very much for
6 your testimony.

7 THE WITNESS: All right.

8 JUDGE THOMPSON: Please don't discuss it with anyone. We
9 appreciate your time. Have a great day.

10 THE WITNESS: Thank you.

11 MR. DRITSAS: We have this for you, Mr. Wandick.

12 JUDGE THOMPSON: Oh, or -- I'm sorry. We're going to hand
13 your --

14 THE WITNESS: Oh, my checkbook?

15 JUDGE THOMPSON: -- checkbook back.

16 MS. OVIEDO: Well, it's actually good that you brought that
17 because that way they can reimburse you and we can reimburse
18 you.

19 THE WITNESS: Uh-huh.

20 MS. OVIEDO: They have to pay you too.

21 MR. DRITSAS: We do?

22 MS. OVIEDO: Well, you just used --

23 MS. DAVILA: You just used --

24 MS. OVIEDO: -- him as your witness. So, yeah.

25 MR. KRAMER: We just said we do.

1 THE COURT REPORTER: Off the record?

2 JUDGE THOMPSON: No. It's on the record.

3 MR. KRAMER: I don't think --

4 MS. OVIEDO: We'll go with. Just give us one second.

5 JUDGE THOMPSON: You're good, Mr. Wandick.

6 We're going to break for -- for lunch.

7 MR. DRITSAS: Your Honor, we're --

8 JUDGE THOMPSON: Oh, wait. No, we're not.

9 MR. KRAMER: We're still on the record?

10 JUDGE THOMPSON: Yes, we're on the record.

11 MR. KRAMER: I don't think I'm going to need to need to,

12 but if I need to, we're subject to recall him --

13 JUDGE THOMPSON: Yes.

14 MR. KRAMER: -- in our case.

15 JUDGE THOMPSON: Yes.

16 MR. KRAMER: And I'll give you, Mr. Wandick, an appearance

17 fee.

18 JUDGE THOMPSON: May I have one as well?

19 MR. KRAMER: There's a lot of trouble I can get into for

20 that.

21 If you can hold on for one second, I just want to make sure

22 you get the actual subpoena --

23 THE WITNESS: Oh.

24 MR. KRAMER: -- if you could. I'm sorry, Your Honor.

25 Have you seen it?

1 MS. DAVILA: No, we haven't seen it yet.

2 JUDGE THOMPSON: Is there anything else before we are
3 recessed for our lunch break?

4 MR. KRAMER: Not from us, Your Honor.

5 JUDGE THOMPSON: Okay. Ms. Davila?

6 MS. DAVILA: Not from the General Counsel, Your Honor.

7 JUDGE THOMPSON: Okay. Let's return back at 2:15 for
8 General Counsel's next witness. Off the record.

9 (Off the record at 1:15 p.m.)

10 JUDGE THOMPSON: We are back on -- on the record after our
11 brief lunch recess. We're continuing with the General
12 Counsel's case. And she -- Miss -- now, I was doing well all
13 this time and now I just have a blank -- Davila, please call
14 your next witness.

15 MS. DAVILA: Thank you, Your Honor.

16 The General Counsel calls Cecilia Vargas to the stand.

17 Is that Cecilia Vargas?

18 MS. BLANCO: No. I am Eleuteria Blanco.

19 MS. DAVILA: Eleuteria Blanco. I'm so sorry.

20 JUDGE THOMPSON: Okay.

21 MS. DAVILA: Eleuteria Blanco to the stand.

22 JUDGE THOMPSON: Okay. Blanco --

23 MS. DAVILA: Yes.

24 JUDGE THOMPSON: -- is the last name?

25 MS. DAVILA: Yes.

1 JUDGE THOMPSON: Okay. Great. Hi, Ms. Blanco.

2 MS. BLANCO: Hi.

3 JUDGE THOMPSON: Please come forward. And let the record
4 reflect that Ms. Sanchez, our interpreter, is also approaching
5 the stand. Please have a seat.

6 THE INTERPRETER: Okay. Thank you.

7 JUDGE THOMPSON: Good afternoon, Ms. Blanco.

8 MS. BLANCO: Good afternoon.

9 JUDGE THOMPSON: My name is Judge Thompson.
10 Hold on one second.

11 And I'm an Administrative Law Judge with the National Labor
12 Relations Board. And I've been assigned to hear this case.
13 You have been called as a witness on behalf of the General
14 Counsel. But I need to swear you in. Would you please raise
15 your right hand?

16 Whereupon,

17 **ELEUTERIA BLANCO**

18 having been duly sworn, was called as a witness herein and was
19 examined and testified, by and through an interpreter as
20 follows:

21 JUDGE THOMPSON: Great. Thank you.

22 And, Ms. Sanchez, let me swear you in as well.

23 THE INTERPRETER: Yes, Your Honor.

24 JUDGE THOMPSON: If you'd raise your right hand?

25 THE INTERPRETER: Yes, Your Honor.

1 (Interpreter sworn)

2 JUDGE THOMPSON: Great. Thank you so much.

3 Ms. Blanco, would you please state your name for the
4 record?

5 THE WITNESS: Eleuteria Blanco.

6 JUDGE THOMPSON: Would you please spell your first name?

7 THE WITNESS: E-L-E-U-T-E-R-I-A.

8 JUDGE THOMPSON: And would you please spell your last name?

9 THE WITNESS: B-L-A-N-C-O.

10 JUDGE THOMPSON: Great. Thank you.

11 Let me give you a few instructions before providing your
12 testimony. Number one, there is a microphone in front of you
13 that we are using to record the proceedings. If you could
14 please remember to give us a verbal response and try to avoid
15 saying huh-uh and uh-huh. It's hard for the transcript to
16 recognize those terms.

17 Second, if you don't understand a question that either
18 counsel ask you, would you please say so so we can have the
19 question repeated or rephrased?

20 THE WITNESS: Perfect.

21 JUDGE THOMPSON: Great. If you answer the question, we
22 will presume you understood it.

23 Third, if either counsel object, could you hold your answer
24 until I rule on the objection? Fourth, could you make sure to
25 speak as loud as you can so we can capture your testimony?

1 Last, would you please wait for counsel to complete their
2 entire question before you answer. Could you do that for us
3 please.

4 THE WITNESS: Understood.

5 JUDGE THOMPSON: Perfect, thank you.

6 Ms. Davila, your witness.

7 **DIRECT EXAMINATION**

8 Q BY MS. DAVILA: Good afternoon, Ms. Blanco.

9 A Good afternoon.

10 Q My name is Judith Davila with the General Counsel. This
11 is my co-counsel, Elise Oviedo.

12 Could you state your occupation for the record?

13 A Housekeeping.

14 Q Where do you work?

15 A Trump Las Vegas.

16 Q When did you start working at Trump Las Vegas?

17 A April 5th, 2008.

18 Q Are you a full-time employee?

19 A Full time.

20 Q Can you tell us your schedule?

21 A From 8:30 to 5:00, Monday through Thursday; and Sunday, I
22 work from 9:00 to 5:30.

23 Q And do you support the Union campaign?

24 A Very well with a lot of pleasure.

25 Q Okay.

1 MS. DAVILA: I'd like to introduce GC Exhibit -- I don't
2 know what number we're on.

3 JUDGE THOMPSON: 17.

4 Q BY MS. DAVILA: I'm going to show you what's marked GC
5 Exhibit 17. Do you recognize this form?

6 A Yes, ma'am.

7 Q How do you recognize it?

8 A Because I accordingly signed to be a member of the Union.

9 Q Can you read us the date on this card, please.

10 A 7/1 of 2014.

11 Q Do you see a paper up there that says GC Exhibit 16? If
12 not, I'll hand you a copy.

13 A This one, uh-huh.

14 Q Can you describe what's on that paper?

15 A This button -- this button that I have on permits me to be
16 a member, a leader or representative that enter inside --
17 inside the property of the Trump Hotel.

18 JUDGE THOMPSON: Let the record reflect that the witness
19 was pointing to her left lapel, and she was referencing a
20 button that appears to be the same as the first button in GC
21 Exhibit 16. And she also referenced a second button on her
22 lapel that represents and appears to be similar to the second
23 button on GC Exhibit 16.

24 MS. DAVILA: I move to admit GC Exhibit 17 into evidence.

25 MR. KRAMER: No objection, Your Honor.

1 JUDGE THOMPSON: Hearing no objection, I'll receive GC-17.

2 **(General Counsel Exhibit Number 17 Received into Evidence)**

3 Q BY MS. DAVILA: And so you've been a committee leader
4 since July 2014?

5 A Yes, ma'am.

6 Q If you would just let the interpreter finish her
7 interpretation.

8 A Yes.

9 Q Do you see what's been marked as GC Exhibit 6 up there?

10 JUDGE THOMPSON: She has it, Counsel.

11 MS. DAVILA: Okay.

12 Q BY MS. DAVILA: Can you turn to page 3 on this form. Do
13 you recognize that paper?

14 A Yes.

15 Q How?

16 A This is in accordance that was made, the Labor Board,
17 federal law with the Trump Hotel where they will not interfere,
18 where they will not bother us. They will not threaten us, nor
19 will they interrupt our campaign inside the property.

20 Q Did you see this posted at the hotel?

21 A It was posted for 60 days.

22 Q Okay, thank you. Have you continued organizing this year?

23 A Yes, young lady.

24 Q Are you at this moment organizing?

25 A Yes.

1 Q What are some of the things that you do to talk to your
2 employees -- your coworkers, I'm sorry -- about the Union?

3 A I speak with my coworkers. I attend reunions. I hand out
4 flyers for the Union campaign. I sign up cards in accordance
5 without forcing anybody. It is all to have an organization for
6 the Union.

7 Q And you've been doing this for more than a year?

8 A Yes, sir (sic).

9 Q Okay. We're going to talk about your housekeeping duties.
10 Who's your supervisor in housekeeping?

11 A Alejandra Magana.

12 Q Do you know her title?

13 A She's the housekeeping director.

14 Q Do you have any managers?

15 A There's another man named Kelvin. He's her second
16 assistant. There's a manager named Tom, that's his name,
17 Christina, another lady named Alma. The other one, I don't
18 remember the name of the other one.

19 Q Do you know where -- do you know Christina's last name?

20 A No, I don't remember.

21 Q Do you know where her office is?

22 A They have it at the entrance. They have it there -- at
23 the counter, they have their desks.

24 Q And do you know anything else about Christina's title
25 aside from the fact that she's a manager?

1 A I just know that she's a supervisor, like a floor
2 supervisor, something like that.

3 Q Are we talking about the Christina in Status?

4 A Oh, Christina in Status, yeah, I do know what she does,
5 uh-huh. She's the one that makes the schedules.

6 Q So they're two separate people?

7 A Yes.

8 Q Okay. And the Christina who makes the schedules?

9 A And Christina, the other one, the supervisor.

10 Q The one who makes the schedules, do you know her title?

11 A No.

12 Q Does she make your schedule?

13 MR. DRITSAS: Objection, foundation.

14 JUDGE THOMPSON: Wait, just a second. I think -- I think
15 she's established that she makes the schedule, so I think it's
16 sufficient. I'm going to overrule the objection.

17 Could you repeat the question, Counsel?

18 Q BY MS. DAVILA: Does Christina make your schedule? That
19 is the one for Status?

20 A Christina, the one for Status? It seems as if she's the
21 supervisor from Status, and she's the one that makes the
22 schedules.

23 Q Can you describe to us why you think she's a supervisor of
24 Status?

25 A Because whenever there's a problem for the schedule, one

1 goes there to her.

2 Q Do you tell her when you're not going to come in to work?

3 A I call her when I -- I call when there's a -- what do they
4 call it? Christina, I will call her and tell her, Christina,
5 are you hotel --

6 MS. DAVILA: Sorry to interrupt. I'll ask her to explain.

7 THE INTERPRETER: Yes.

8 Q BY MS. DAVILA: Okay. Can you explain what a hotel out
9 is?

10 A Hotel out is if there's not sufficient rooms, there's a
11 lot of maids, and so then you take leave to your house without
12 points, and you take off --

13 MR. KRAMER: Your Honor?

14 JUDGE THOMPSON: Okay.

15 MR. KRAMER: I am totally --

16 THE WITNESS: -- without problems.

17 MR. KRAMER: I mean, can we have some separation here? I
18 don't understand what's being said because everyone's talking
19 at the same time.

20 JUDGE THOMPSON: Okay. Ms. Sanchez?

21 THE INTERPRETER: Yes, ma'am.

22 JUDGE THOMPSON: If there's a way that you can kind of
23 wait a little bit --

24 THE INTERPRETER: Yes, Your Honor.

25 JUDGE THOMPSON: -- and then translate so that we can

1 hear --

2 THE INTERPRETER: Yes, Your Honor.

3 JUDGE THOMPSON: -- both of you.

4 THE INTERPRETER: Yes.

5 JUDGE THOMPSON: I understand you're trying to do it
6 verbatim.

7 THE INTERPRETER: I understand.

8 JUDGE THOMPSON: But if there's a way we can sort of get
9 her to say something and then you speak it in English, and then
10 she says more additionally, and then you speak in English, and
11 then we can hear you clearly.

12 THE INTERPRETER: Yes, Your Honor. I apologize.

13 JUDGE THOMPSON: Perfect. No, that's okay.

14 MR. KRAMER: And, I apologize.

15 JUDGE THOMPSON: No, no.

16 MR. KRAMER: And if we could just repeat the question and
17 have her answer again so I can --

18 JUDGE THOMPSON: Perfect. Ms. Davila --

19 Q BY MS. DAVILA: Can you --

20 JUDGE THOMPSON: -- can you repeat.

21 Q BY MS. DAVILA: Can you explain what a hotel out is?

22 A It's when there's a little bit of rooms and there's a lot
23 of maids. So then there's not sufficient rooms to cover for
24 the maids. So then you could stay at home without any points,
25 without any problems.

1 Q Okay. But you could tell anybody in Status, is that
2 correct, that you -- you ask about a hotel out?

3 A But somebody has to authorize it. In this case, if it's
4 Christina, Christina could say okay.

5 Q Has Christina every authorized a hotel out for you?

6 A Yes, uh-huh. Yes, yes.

7 Q Has a status clerk ever authorized a hotel out for you?

8 A I don't remember that, but I do remember having talked to
9 Christina. She's the one that -- she's the one that has said
10 yes, stay at your house without problems.

11 Q Now I'm going to talk about an incident that happened in
12 March of this year.

13 Do you remember an incident that happened while you were
14 passing out Union flyers?

15 A Yes.

16 Q Do you remember what month it was?

17 A March.

18 Q Were you working that day?

19 A I want you to remind me because there are two cases.

20 Q The day that you weren't working.

21 A In March, I wasn't working.

22 Q Okay. And can you tell us a little bit about that day?
23 Where would you work?

24 A In March, I was signing up cards to one of my coworkers.

25 Q I would ask that you let me ask the question so we don't

1 get you telling a whole long story.

2 A Okay.

3 Q So you were at the Trump facility, correct?

4 A Yes.

5 Q Where were you on the property?

6 A In the outside part of the hotel.

7 Q Were you on the street?

8 A No, no, I was at the part where all the cars park right
9 there outside.

10 Q Is that an employee parking lot?

11 A No, it's a parking lot for anyone in the world that gets
12 there to park.

13 Q And where were you standing?

14 A Almost at the corner.

15 Q Okay. And what were you wearing?

16 A I had on -- if you permit me, I'm going to grab my purse.

17 JUDGE THOMPSON: Counsel, just ask her to just tell you
18 what she had on.

19 Q BY MS. DAVILA: If you could just describe what you were
20 wearing.

21 A I had on my button from the committee.

22 MS. DAVILA: If the record could reflect that she's
23 pointing to her red and white button on her chest and the
24 yellow button.

25 THE WITNESS: I had my work badge.

- 1 Q BY MS. DAVILA: Okay. And what else?
- 2 A And I was signing up a card for a coworker.
- 3 Q Were you wearing your uniform?
- 4 A No, because that's my day off.
- 5 Q Okay. So you were collecting a signature?
- 6 A Yes.
- 7 Q What happened?
- 8 A A person arrived. He's big.
- 9 Q Was he wearing a uniform?
- 10 A He had on a blue T-shirt. Pardon me, he had on a blue
11 shirt, sort of blue pants, and his coat -- and his coat was
12 also somewhat blue.
- 13 Q Was it like a business suit?
- 14 A It looked like a business suit.
- 15 Q Did you recognize him?
- 16 A I didn't recognize him.
- 17 Q Was he wearing a nametag?
- 18 A Nothing.
- 19 Q Okay. And then what happened?
- 20 A He gets there, and with his arm, left arm, he gets there
21 first, and he tells me in English -- I understand a little bit
22 of English. And he says, "Don't do that." He says, "Don't do
23 that, don't do that."
- 24 Q Was he speaking to you or the employee you were talking
25 to?

1 A To me, to me.

2 Q Let's hold off for one second. The person you were
3 talking to, you said it was a coworker?

4 A Yes, he speaks Spanish.

5 Q Okay. And was your coworker in uniform?

6 A I don't remember. I don't remember.

7 Q Do you remember his name?

8 A Not that either.

9 Q Okay. Go on with your story.

10 A So then he gets there and he tells me, "Don't do that. Go
11 to the office of security." And he again repeats it to me, "Go
12 to the office of security."

13 Q Excuse me, sorry. Was your badge visible while he was
14 talking to you?

15 A Repeat the question.

16 Q Was your badge visible when he was talking to you?

17 A My -- yes, it was hanging. It was hanging, my badge.

18 Q Can you describe the size of your badge?

19 Ma'am, the record doesn't have video, so I need you to
20 verbally describe it.

21 A It's long.

22 Q The size of a --

23 A And it's a little -- yes.

24 Ms. OVIEDO: Let the reflect that the witness pointed --

25 JUDGE THOMPSON: Wait, everybody can't talk. Go ahead.

1 MS. DAVILA: Let the record reflect that the badge is
2 about the size of a --

3 JUDGE THOMPSON: Credit card.

4 MS. DAVILA: -- government ID.

5 MS. OVIEDO: Three by -- Three by five.

6 JUDGE THOMPSON: See, this is the problem because we
7 can't --

8 MR. KRAMER: Your Honor, the witness is now pulling out
9 the card so --

10 JUDGE THOMPSON: She has to describe it. Ma'am, you can't
11 pull --

12 MS. DAVILA: She has her badge with her.

13 JUDGE THOMPSON: Oh, do you have your badge with you?

14 THE WITNESS: Yes.

15 JUDGE THOMPSON: Counsel.

16 MS. DAVILA: Let the record reflect that the witness took
17 out her badge and put it around her neck. It's on a long,
18 black lanyard that goes about just under her chest. The badge
19 is white. It is about the size of a credit card or large -- a
20 little bit larger than a credit card. It says "Trump" and it
21 has a barcode at the bottom.

22 JUDGE THOMPSON: Thank you. Continue.

23 MS. DAVILA: Okay.

24 Q BY MS. DAVILA: Okay, so you were wearing the badge around
25 your neck that day?

1 A Yes. And at the moment when he gets there and goes to
2 security two times, I was telling my coworker where to put his
3 name, where he worked, giving him instructions on how to fill
4 out the card.

5 MS. DAVILA: Let the record reflect that she is pointing
6 to GC Exhibit 17, the Union authorization card. She's pointing
7 to the information line.

8 JUDGE THOMPSON: So noted. Continue, Counsel.

9 Q BY MS. DAVILA: Continue.

10 A So then when he gets there, as I turned around, he was
11 insisting for me to go to security. I'm leaning over like this
12 talking to my coworker. I look back to see him because he's
13 tall, and I tell him, excuse me, you're security? He said yes.
14 I'm going to repeat again because I didn't recognize him. I
15 had not seen him. I asked him, you're security? And he said
16 yes.

17 JUDGE THOMPSON: Ms. Sanchez, can you translate what she
18 just said?

19 THE INTERPRETER: Yes, ma'am. Yes, ma'am.

20 Q BY MS. DAVILA: Did you --

21 JUDGE THOMPSON: Wait, wait, wait.

22 MS. DAVILA: Oh, sorry.

23 JUDGE THOMPSON: Ms. Sanchez, can you translate what she
24 just said.

25 THE INTERPRETER: Yes, ma'am.

1 THE WITNESS: At the moment when I turned around to see
2 him and showed him my badge to tell him that I worked at the
3 Trump, and, at that moment -- and at this moment, I'm at a
4 Union activity.

5 JUDGE THOMPSON: Thank you.

6 Ms. Davila.

7 MS. DAVILA: Okay.

8 Q BY MS. DAVILA: Just to be clear, you were in a public
9 parking lot?

10 A Yes, it's public. It's part of the hotel, but the people
11 can park there that get there.

12 Q Okay. When you told him you were doing a union activity,
13 then what happened?

14 A He said, "Go to security." He pushed me. He pushed me
15 with his left arm against my arm.

16 MS. DAVILA: Let the record reflect that she lifted her
17 left arm in a -- she made a fist, and she folded her arm and
18 pushed it up to the air, and then she patted her right arm.

19 JUDGE THOMPSON: So noted.

20 Continue, Ms. Davila.

21 Q BY MS. DAVILA: And then what happened?

22 A So then my coworker was frightened. He told him -- and
23 then I told him to not be afraid because it's legal what we're
24 doing, and him, the person that said was security, he yells at
25 him again, "No, no, don't do it." And he answers, "No." And

1 then he says, "No," and he takes off running.

2 Q And then what happened?

3 A I stayed there standing with my cards and my notebook that
4 I had in my hand. And he was, "Go to security, go to
5 security." I was able to see how angry that man was with me.

6 Q Were you afraid?

7 A I was. I was scared. I remember it and I live it.

8 Q And then what happened?

9 A I was scared, and then I told him, "Okay, you go to
10 security. I will follow you."

11 Q And then what happened?

12 A He took me to security, mad.

13 Q Did you speak to anybody inside security?

14 A The security office of that department is on the right,
15 and the supervisor of security is on the left. There's a
16 hallway in the middle. He took me, and he asked one of the
17 securities that where is this boss of security.

18 Q Ma'am, if you want to take a minute, you just let me know.

19 A No, no, that's fine.

20 Q Okay, and then what happened?

21 A He told me angrily for me to stay there a while. You
22 wait, you stay here. I was so embarrassed that I felt as I was
23 going to drop of embarrassment there.

24 Q And then what --

25 A I waited there. The man goes and talks to the boss of

1 security, and I'm standing there with my documents like this
2 waiting for the man to come out. I waited for him for about
3 eight minutes there, I think. So then he tells me and he signs
4 signals with his hand, "Lady, go. You go."

5 So then I -- he wasn't coming -- he was not coming towards
6 me, and I passed where he was, and I asked him or I told him,
7 "Sir, what is your name?" And he said, "What?" And I said,
8 "Please, what is your name, please?" And he would not give me
9 his name.

10 Q Does security wear business suits?

11 A They're black. They are formal suits, yes.

12 Q So they're not blue suits?

13 A No.

14 Q At this point --

15 A They are black. Their uniforms -- their suits are black.

16 Q At this point, did you know who he was?

17 A I didn't know who he was.

18 Q And then what happened?

19 A So then I told him, "Please give me your name." He said,
20 "No, no." So then I passed where the supervisor of security is
21 at. I told him, hello, and I told Mr. Cline --

22 THE INTERPRETER: Mr. Cline?

23 Q BY MS. DAVILA: Is that Clyde?

24 A That's his name, Clyde. I told him, "Hello," and I said,
25 "I need this person's name, please." And he says, "Lady, why

1 do you want it?" He said, "That's okay. You go, no problem."

2 I asked him for it twice. I said, please, I just want
3 this person's name, and he didn't give it to me, so then I
4 left. I was embarrassed because everybody that was there on
5 break saw what had happened.

6 JUDGE THOMPSON: Ms. Davila. Oh, no, I was just --

7 MS. DAVILA: Oh, okay.

8 JUDGE THOMPSON: So you can ask another questions.

9 MS. DAVILA: Okay, yeah.

10 Q BY MS. DAVILA: Ms. Blanco, do you do Union activities in
11 the employee dining room?

12 A Yes, yes.

13 Q Is that where you speak to your coworkers?

14 A Yes.

15 Q Do you also pass out flyers there?

16 A Yes.

17 Q Have you ever been told that you can't pass out flyers?

18 A Yes.

19 Q Can you tell us about that?

20 A Once of the securities.

21 Q Do you know his name?

22 A They tell him Dia (phonetic) or Dennis or something like
23 that. I don't remember --

24 Q It starts with a "D"?

25 A -- his name very well. Uh-huh.

1 Q Okay. And what did he tell you?

2 A D and B or something like that.

3 Q Well, before you start telling me what happened, when this
4 happened, were you -- was this during your shift?

5 A When he tried to stop me from passing out flyers in the
6 dining hall?

7 Q Yes.

8 A Yes, young lady, I was working. On that day, I was
9 working, and that day, it was my break. It was my lunch.

10 Q Okay. And then what happened?

11 A I get there. To get to lunch, you have to clock out.

12 Q Did you punch out?

13 A Yes.

14 Q Okay. Then what happened?

15 A I ate my ten or fifteen minutes, and I start to hand out
16 flyers and to talk to my coworkers. And I'm handing a flyer
17 out to one of my coworkers, and there was a security there
18 eating at the table where I was handing out a flyer to one of
19 my coworkers.

20 Q They were both sitting at the same table?

21 A Yes.

22 Q Were they next to each other? Was it the opposite side?

23 JUDGE THOMPSON: Wait, you got to let her finish.

24 MS. DAVILA: Okay.

25 THE WITNESS: He was -- he was him on the -- with him on

1 the left side.

2 Q BY MS. DAVILA: On the same side of the table?

3 A Yes, at the same side of the table, both of them were
4 there.

5 Q Sorry, go on.

6 A So then I left the flyer there for my coworker, and the
7 security tells me, "You can't do that because this is private
8 property." I couldn't understand that we were a few days away
9 from the election and a person -- a security person was asking
10 me to do that. I told him, pardon me, oh, let's say, excuse
11 me. So then I asked one of my coworkers, what is this man
12 telling me? I wanted another person to listen to see what this
13 person was telling me.

14 Q Is it because -- why did you want someone else to hear it?

15 A It's because I wanted a witness.

16 Q And what's the name of this coworker?

17 A His name is Mino, Meno.

18 Q Can you spell it, if you know?

19 A No.

20 Q Does it start with an "M"?

21 A "M," Meno, Mino.

22 Q Keep going.

23 A So then I said coworker, what is he saying; what is this
24 person telling me? And the security goes and repeats it to my
25 coworker. My coworker is also on the committee as well.

1 Q Were you wearing your buttons?

2 A Yes.

3 Q Both of them?

4 A Both of them.

5 Q Was your coworker wearing a button?

6 A Yes. My coworkers, they had the button on, the one that
7 he had, Mino. Mino is on the committee and he had the buttons
8 on on that day.

9 Q Okay. Then what happened?

10 A So he repeated to him, what did you say? He said that she
11 can't do that because this is private property.

12 Q And then what happened?

13 A She replied to him, it's legal what she's doing because
14 she can do it before she starts to work on her break and after
15 she gets off of work.

16 MS. DAVILA: No further questions.

17 JUDGE THOMPSON: Thank you. Mr. Kramer?

18 MR. KRAMER: Can we see the Jencks statement?

19 JUDGE THOMPSON: Let the record reflect that the General
20 Counsel has handed Respondent Counsel the Jencks statements.

21 We'll go off the record for about five minutes --

22 MR. KRAMER: Thank you.

23 JUDGE THOMPSON: -- for Counsel to review. Off the
24 record.

25 (Off the record at 3:04 p.m.)

1 JUDGE THOMPSON: We're back on the record. Mr. Kramer?

2 MR. KRAMER: Thank you.

3 **CROSS-EXAMINATION**

4 Q BY MR. KRAMER: Good morning, Ms. Blanco. I'm one of the
5 attorneys for the hotel.

6 A Good morning.

7 Q (Spanish spoken). Good afternoon. So you became -- you
8 signed up for the Union in July of 2014; is that correct?

9 A On 7/1 of 2014.

10 Q Okay. And have you been wearing a union committee leader
11 button since that day?

12 A Yes, sir.

13 Q And you talked about some of your organizing activities.
14 I think you said that you speak with employees; is that
15 correct?

16 A Yes.

17 Q And that you hand out flyers; is that right?

18 A Yes.

19 Q And you had employee sign up cards; is that right?

20 A Repeat it, please.

21 Q Sure. You try to convince employees to sign union
22 organization cards?

23 A Yes.

24 Q You mentioned a fourth thing, and I didn't quite follow.
25 You said something about going to reunions?

1 A Yes, sir.

2 Q What's a reunion?

3 A The reunion is where they give us the information to
4 participate -- to participate in a syndicate.

5 Q Okay. So they're meetings?

6 A Yes.

7 Q Thank you. And during the course, since July of 2014, how
8 many times were you out in the parking lot soliciting
9 employees?

10 A A lot of times.

11 Q Okay. And with the exception of the incident that you
12 described, no one from the hotel interfered with you?

13 A Just him.

14 Q Okay. And how often did you hand out flyers in the EDR?

15 A Morning, at midday, and in the afternoon.

16 Q Pretty much every day?

17 A Yes.

18 Q And --

19 A Before I go in to work, at my lunch, and then after
20 getting off work.

21 Q Okay. And outside of the situation you described with the
22 security guard, at all other times, you were able to do that
23 without interference; isn't that correct?

24 A That's correct.

25 Q Now you talked about Christina, the clerk that does the

1 schedules; do you recall that?

2 A Yes.

3 Q Okay. And I think you indicated that you can -- there are
4 these hotel outs you can call for; is that right?

5 A Yes.

6 Q Is this a situation where you're told that you can take
7 off if you want to, or is this a situation where you're
8 thinking you want to take off, and you're calling to see if you
9 can?

10 A It's a situation when there is a lot of housekeeping, and
11 there's a little bit of rooms. And it doesn't cover all of the
12 housekeepers that get there.

13 Q Okay.

14 A That's when one person, a housekeeping could ask for a
15 hotel out or could say a request, a request off without points.

16 Q Okay. And how does -- how do you know that there's a
17 hotel out situation where you can request off?

18 A Because I have asked for it.

19 Q And I guess my question is, is how is it that you know
20 that there are too few guests and too many housekeepers so that
21 you can ask for hotel out?

22 A Because when one calls in, they tell you there's a lot of
23 housekeeping and very little rooms.

24 Q Okay. And when you say you call in, are you calling in to
25 status?

1 A Status? The ones from status, they will tell Christina,
2 and she will either say yes or no.

3 Q Okay. But you're calling on the phone to Status?

4 A Yeah, uh-huh. Yes, sir.

5 Q So how is it that you know that the people that you talk
6 to in Status talk to Christina?

7 A Because I have called. I have called directly to
8 Christina to assure myself that I could stay at home without
9 any problems.

10 Q Okay. So I know that sometimes you call Christina to find
11 out if you could stay at home; is that correct?

12 A I call Status. Status connects me to Christina.

13 Q In those situations where you want to talk to Christina,
14 you ask Status to connect you to Christina?

15 A Correct.

16 Q Okay. But there are other times when you don't ask to
17 talk to Christina and you just talk to Status?

18 A If she says -- she says that there's an authorization that
19 there's a lot of housekeeping and a little bit of rooms, and
20 then -- but we have to verify it with her. One can't stay
21 because Status says that you can stay. One has to confirm it.

22 Q Okay. Do you know who decides when there are too many
23 housekeepers?

24 A No, I don't know. It could be Christina because Christina
25 is the one that's in charge there. We know that she is the

1 one.

2 Q You know that she's the one that can tell you; is that
3 right?

4 A Yes.

5 Q But you don't know how she knows that she can tell you, do
6 you?

7 A The question is, is there housekeeping?

8 MS. DAVILA: Objection to the translation of question.

9 I --

10 JUDGE THOMPSON: Just stand there.

11 Mr. Kramer, can you ask the witness to restate --

12 MR. KRAMER: Could maybe we have the court reporter
13 restate my question; would that help?

14 JUDGE THOMPSON: I can do that. Jacqui, can you restate
15 Mr. Kramer's question?

16 THE COURT REPORTER: Yes. But you don't know how she
17 knows?

18 THE WITNESS: Go ahead and repeat it for me again, please.

19 MR. KRAMER: Can you repeat the question again?

20 THE COURT REPORTER: But you don't know how she knows?

21 THE WITNESS: That I don't know how it is that she knows?

22 Q BY MR. KRAMER: Yes.

23 A I don't know how it is that she knows because I don't work
24 in her department. I work in housekeeping. I can't give him
25 information on how it is or how is Christina's post. I could

1 tell you how my department -- what it is that I do only.

2 Q Okay.

3 A Okay?

4 Q All right. So and just so that we're clear then, you
5 don't know what Christina does in Status with regards to the
6 other status clerks, do you?

7 A No. All I know is that when I call in and that she has
8 given me the authorization to stay without points without a
9 problem.

10 Q Okay. And you don't -- well, you know Christina does
11 something with the schedule. You don't know exactly how she
12 puts together the schedule, do you?

13 JUDGE THOMPSON: I think she kind of sort of answered
14 that.

15 MR. KRAMER: Okay. I'll withdraw the question, Your
16 Honor.

17 JUDGE THOMPSON: Thank you.

18 Q BY MR. KRAMER: All right. I want to spend a few minutes
19 with you on the incident in the employee dining room, okay?
20 This was during your lunchtime; is that right?

21 A From the person, I want you to be specific about which one
22 it is. There's two cases.

23 Q Yeah, the --

24 A I want him to tell me. Is it from the person that stopped
25 me from handing out flyers?

- 1 Q No, the person in the lunchroom, the EDR.
- 2 A Okay.
- 3 Q Okay?
- 4 A Okay.
- 5 Q That was during your lunchtime; is that right?
- 6 A Yes, sir.
- 7 Q And you were handing out flyers to employees in the
8 lunchroom?
- 9 A Yes, sir.
- 10 Q And were the employees seated at the tables in the
11 lunchroom?
- 12 A Yes, sir.
- 13 Q And the security guard you mentioned, was he seated at the
14 table as well?
- 15 A Yes, sir.
- 16 Q And he was eating his lunch?
- 17 A He was eating.
- 18 Q Okay. And you -- then you came next to him because you
19 were handing out a flyer to one of the people that was sitting
20 next to him; is that right?
- 21 A Correct, uh-huh.
- 22 Q Okay. And do you know the name of the person you handed
23 the flyer to?
- 24 A Yes, it's a committee. It's one of my companions from the
25 committee. He's on the union committee, but it's difficult for

1 me to pronounce the name.

2 Q No, I --

3 A Mino, his name is.

4 Q Okay. And I -- okay, let me -- so the person that was
5 sitting next to the security guard who you handed the flyer to
6 was also the person you asked as to what the security guard
7 told you about whether or not you could hand out flyers?

8 A Could you repeat the question again?

9 Q Sure. On your earlier testimony, you said that the
10 committee -- the employee on the committee named Mino was the
11 person you asked to witness what the guard was telling you. Do
12 you remember that?

13 A Yes.

14 Q Okay. And my question is, was that the employee that you
15 gave the flyer to who was sitting next to the security guard?

16 A Yes.

17 Q Okay. Do you remember anyone else who was sitting near
18 the security guard at that time?

19 A There was other coworkers, but I only know them by their
20 face, not by their name.

21 Q Okay. And why was it you were handing a flyer out to a
22 committee member? Wouldn't he have already had it?

23 A Because he had not assisted. For personal reasons, he had
24 not assisted to the meeting that we had had.

25 Q Okay. And Spanish is your native language; is that

1 correct?

2 A Yes, uh-huh.

3 Q And you have the assistance of the translator here so you
4 feel more comfortable understanding the questions; is that
5 right?

6 A Correct.

7 Q Okay. Now you handed the flyer, and then did you start to
8 proceed down the aisle to hand out more flyers?

9 A No, not in the aisle because I then went on to another
10 table to hand out more flyers.

11 Q Okay. And then when was it that you heard the security
12 guard say something?

13 A When I was giving my coworker the flyer, the one that was
14 next to him. I was passing by to where he was, and he said you
15 cannot do that because this is a private property.

16 Q Okay. And did he say that in English or Spanish?

17 A He told it to me in English.

18 Q Okay.

19 A But I couldn't --

20 Q There's no question pending.

21 JUDGE THOMPSON: That's okay. Go ahead, Mr. Kramer.

22 Q BY MR. KRAMER: And after that, what is it that you said
23 to -- and you then responded to him?

24 A I told him to repeat what he had just told me.

25 Q And did you do that in Spanish or in English?

1 A In English.

2 Q Okay.

3 A In the little bit of English, he tells it to me again and
4 I told my coworker, what is it that this person is saying.

5 Q And then what happened?

6 A My coworker asked him and he goes on to repeat the same
7 thing. She cannot do this because this is a private property.

8 Q Okay. And then what happened?

9 A My coworker said it's legal what she's doing. She could
10 do this before she goes into work on her break, and, at this
11 moment, she is on her break.

12 Q And then what happened?

13 JUDGE THOMPSON: Mr. Kramer, she's already testified on
14 direct as to what happened. So I know that you need to lay a
15 foundation, but I would prefer if you would ask whatever
16 question on cross as opposed to having her repeat what she's
17 already testified to.

18 Q BY MR. KRAMER: Ms. Blanco, did you review anything in
19 preparation for your testimony today?

20 A It is in my head.

21 Q Okay.

22 A Because I lived it.

23 Q And just like it happened yesterday; is that correct?

24 A Yes.

25 Q Okay.

1 A Because I suffered through it.

2 Q Okay.

3 A It's not hard for that to go away from me.

4 Q And you had an opportunity to provide an affidavit to one
5 of the people from the National Labor Relations Board; is that
6 correct?

7 A Yes.

8 Q And they asked you to tell you what happened that day,
9 didn't they?

10 A Yes.

11 Q And you told them everything that happened that day?

12 A What I'm telling you here is what happened. What I'm
13 telling you here is what I told them in the affidavit.

14 Q Okay. And you gave that affidavit. Do you remember when
15 you provided that affidavit?

16 A I don't remember.

17 Q Okay. If I told you signed it on July 17th, does that
18 sound about right?

19 A Yes, July 17th, I remember that well because it was two
20 days before the election, July 19th. Yes.

21 MS. DAVILA: Objection. She said --

22 THE WITNESS: Yes, I remember. Okay.

23 MS. DAVILA: What do I do?

24 JUDGE THOMPSON: Objection. Do you have a discrepancy --

25 MS. DAVILA: Objection.

1 JUDGE THOMPSON: -- with what --

2 MS. DAVILA: With the translation. She said "June" not
3 "July."

4 JUDGE THOMPSON: Okay. Could you repeat the question,
5 counsel or have it read back?

6 MR. KRAMER: Let me -- let me see if I can.

7 Q BY MR. KRAMER: So you remember that it occurred in July
8 because it was shortly after the election? Strike the
9 question. Withdraw the question. You remember the incident in
10 the employee dining room because it was shortly before the
11 election; is that right?

12 THE WITNESS: Si (In Spanish).

13 Q BY MR. KRAMER: Okay.

14 A Yes.

15 Q And you --

16 A Yes.

17 Q -- provided your affidavit to the Labor Board shortly
18 after the election date?

19 A Can you repeat the question, sir?

20 Q Sure. And you provided your affidavit in July after the
21 date when the election would have been scheduled?

22 A Yes, it was before the election. I don't remember it was
23 that same day, but I do remember, yes.

24 Q Were your -- and I apologize. You're remembering when the
25 event happened in the employee dining room; is that right?

1 A And then --

2 JUDGE THOMPSON: Counsel, that's not what you originally
3 asked her.

4 MR. KRAMER: Well, I know. I'm just trying to clarify
5 because I think that's what she's answering.

6 JUDGE THOMPSON: Okay.

7 THE WITNESS: The event where I handed out the flyer, and
8 the security stopped me.

9 Q BY MR. KRAMER: Okay. And I'm not asking about that
10 right -- oh, no, you're right. I'm sorry. That was in the
11 employee dining room?

12 A The dining where they --

13 Q Correct. Okay.

14 A I -- I eat there. That's where I eat. It's not
15 dinnertime.

16 Q All right. And do you remember when you provided the
17 affidavit to the Labor Board?

18 A It could have been, perhaps, that same day.

19 Q Very close in time to when the incident occurred?

20 THE WITNESS: (Spanish spoken)

21 Q BY MR. KRAMER: Okay.

22 THE WITNESS: (Spanish spoken).

23 Q BY MR. KRAMER: All right.

24 A I don't remember well because it was days before the
25 election. I only remember there was days before the election

1 left.

2 Q Okay. And you don't have much of a recollection as to
3 what happened then?

4 A What I just said. The man told me that -- he stopped me.
5 He said that I couldn't do this. You can't do this because
6 this is a crime of -- that was the only incident that happened
7 with me.

8 Q Okay. But when you spoke to the NLRB, you only told him
9 the security guard said that once, didn't you?

10 A One time, he told it to me. That is why I'm telling you.
11 I'm repeating to you, the moment that he told it to me.

12 Q Okay. But he never told it to you more than once, did he?

13 A He told me -- he told it to me twice. I didn't --
14 couldn't understand that they could stop me from handing out
15 flyer (sic) when there was no time left for the election.

16 MR. KRAMER: I'd like to move to --

17 THE WITNESS: My coworker shows --

18 MR. KRAMER: It's --

19 THE WITNESS: -- up and he says, what --

20 MR. KRAMER: -- not the --

21 THE WITNESS: -- is this man telling you?

22 MR. KRAMER: All right.

23 JUDGE THOMPSON: That's --

24 MR. KRAMER: And --

25 JUDGE THOMPSON: -- why you got to just ask and answer the

1 question.

2 MR. KRAMER: All right.

3 JUDGE THOMPSON: Because, I mean, you've kind of gone over
4 and over and over and over --

5 MR. KRAMER: Well, I -- let me --

6 JUDGE THOMPSON: -- again.

7 MR. KRAMER: Let me see if I can --

8 JUDGE THOMPSON: That's why --

9 MR. KRAMER: -- just get some --

10 JUDGE THOMPSON: -- you get the response --

11 MR. KRAMER: Fair enough.

12 JUDGE THOMPSON: -- that you get.

13 Q BY MR. KRAMER: Ms. Blanco, isn't it true you never
14 mentioned the coworker in the statement that you gave to the
15 NLRB?

16 A I don't remember.

17 Q You don't remember?

18 A I don't remember.

19 Q And isn't it true you told the Labor Board that you
20 responded directly to employee in Spanish, saying that you're
21 participating in the Union and you're doing the activities of
22 the Union?

23 A Repeat the question, sir?

24 Q Sure. Isn't it true that rather than have -- talking to
25 the coworker, that you responded directly to the security

1 guard, and told him that you were participating in the campaign
2 of the Union, and that you are doing the activities of the
3 Union?

4 A Repeat the last phrase, sir.

5 Q And that you are doing the activities of the Union?

6 A Repeat it me because I didn't -- repeat it to me because I
7 didn't understand it.

8 Q Okay.

9 MR. KRAMER: Can I -- do we have a Spanish version of this
10 available?

11 MS. DAVILA: Yeah.

12 MR. KRAMER: Can we have copies of it made?

13 MS. DAVILA: Yeah.

14 MR. KRAMER: And while we're at it, Your Honor, I think
15 for the completeness of the record, it might be good to get a
16 photocopy of both sides of Ms. Blanco's Trump ID so we have it
17 in the record so we know exactly what it looks like and what it
18 says. I'd request that.

19 JUDGE THOMPSON: Any objection, counsel?

20 MS. DAVILA: No objection.

21 JUDGE THOMPSON: Not a problem.

22 MR. KRAMER: And while you're at it, you might as well
23 make another -- copies, and give them cop- -- Spanish copies of
24 the other affidavit, as well.

25 MS. OVIEDO: I thought that there was one that was three

1 pages. We have -- there's a signature page to this one, but
2 it's the full statement. I think I've got a clean copy,
3 though.

4 MR. KRAMER: All right. Is that one I introduced in as
5 evidence, so I'm going to need it or admit -- have her read it?
6 Your Honor, may I approach the witness?

7 JUDGE THOMPSON: Sure.

8 MR. KRAMER: And I may need the assistance of the
9 translator on this.

10 Q BY MR. KRAMER: Ms. Blanco, I'm going to hand you, which
11 I've been told is the affidavit that you provided to the
12 National Labor Relations Board. I'd like you to take a look at
13 it for a minute, and when you're done, let me know.

14 JUDGE THOMPSON: Counsel, for the record, is the version
15 you handed Ms. Blanco in English or Spanish?

16 MR. KRAMER: It's the Spanish version that General Counsel
17 has represented as the one that she's actually signed.

18 JUDGE THOMPSON: Thank you.

19 THE WITNESS: Exactly what it says right here is what I am
20 saying.

21 Q BY MR. KRAMER: Okay. And can you, just for the record,
22 since I don't speak Spanish, could you read for us paragraph 2
23 of that affidavit?

24 A At approximately the 20th of June, I was in the EDR in the
25 dining hall with Patti and Eva and other coworkers. There was

1 about 15 or 20 people in the dining hall.

2 Q Can you please continue?

3 A Oh, I have to read it all?

4 Q Yes, please.

5 A I was with Eva and other coworkers. There was about 15 or
6 20 employees in the dining hall. I was handing out flyers for
7 the Union. I was on my break, and a security guard was there
8 eating. His numb -- his name appears to be Denny. The correct
9 way, I don't know how. He was eating in a table nearby where
10 the other coworkers were. He told me in English that I could
11 not do this because it was a private property. And I told him
12 in Spanish, pardon me? I am participating in a Union campaign,
13 and I am making a Union activity. The guard speaks a little
14 bit of Spanish. I went on -- I went on handing out more flyers
15 because nobody else told me anything. Nobody else told me. I
16 went on handing out flyers, and nobody told me that I couldn't
17 keep on handing out flyers, and nobody held me back.

18 Q Now, are we moving in -- it's just paragraph 2. Is that
19 all in paragraph 2?

20 JUDGE THOMPSON: He asked, was that all of paragraph 2?

21 THE WITNESS: That's all of it. I went on to 3.

22 JUDGE THOMPSON: Okay.

23 Q BY MR. KRAMER: Okay. And that's what happened to the
24 best of your recollection?

25 A Yes.

1 Q And --

2 A Yes.

3 A And the guard did not cite you any particular rule that
4 you were violating; is that right?

5 A No.

6 Q And you continued hand billing without interference?

7 A Yes.

8 Q Okay. Were Patti and Eva nearby when this occurred?

9 A Not nearby. They were on the lateral part of the dining
10 hall. I went over there to sit down with her because I
11 couldn't believe what was happening to me --

12 Q Okay.

13 A -- and when.

14 Q Could you -- and I'd like to talk now about the other
15 incident, the one in the parking lot. Okay. Now, you said
16 this occurred in March; is that right?

17 A March.

18 Q Okay.

19 A Yes.

20 Q And can you -- do you recall what you were wearing that
21 day?

22 A I had on my clothes, my badge. My committee button, and
23 my other Union button.

24 Q Okay. And were you wearing a jacket?

25 A No because it was hot.

1 Q Okay. And could you -- I apologize, but could you please
2 stand up with your badge on so we can -- so I can see where the
3 badge hangs? Okay. And it hangs by --

4 A You could --

5 Q I'm sorry?

6 A -- see my badge good right here.

7 Q Okay. It hangs down by about your belly button?

8 A Yes.

9 Q Okay. And the badge in -- is that the way you normally
10 have your badge with the other things attached to it?

11 A It's always this one, it's always.

12 Q Okay. And what else do you have attached to that there?

13 A It's a lamp.

14 Q It's a lamp? And on the other side?

15 A Oh, and it's another one that they gave me about seven
16 years. It says "Housekeeping."

17 Q Oh, it's your seven-year pin?

18 A They said that housekeeping is the heart of Trump.

19 Q Okay. And you're -- are you one of the founders?

20 A Found of what?

21 Q One of the first employees of the hotel?

22 A No, sir. I'm from the second part that they got because
23 the hotel opened in March, and I went in in April.

24 Q Got it. And on -- and one side of that card is blank; is
25 that correct?

1 A No. It's the same.

2 Q Got it. You can sit down now. Thank you.

3 MR. KRAMER: And we will get that into evidence, right,
4 Your Honor?

5 JUDGE THOMPSON: Yes.

6 MR. KRAMER: Thank you.

7 Q BY MR. KRAMER: So you were hand billing. Okay. And you
8 were -- was it about 1:45 in the afternoon when you were hand
9 billing?

10 THE WITNESS: (Spanish spoken).

11 THE INTERPRETER: When what, sir?

12 Q BY MR. KRAMER: When you were soliciting the employees?

13 A I wasn't soliciting employees. No.

14 Q Well -- okay.

15 A I was signing up cards for my coworkers.

16 Q Got it. And how long were you out there before you
17 encountered the man in the blue?

18 A I got there at 11:30 in the morning.

19 Q Okay. And you were out there, and it was about 11:00 --
20 1:45 then when you ran into the man in blue?

21 A I went in. I was there around 11:30 -- around 12:30. I
22 then went into the dining hall, and then I went out of the
23 dining hall because as a Union leader, I could go in to the
24 property to talk to the coworkers that want to volunteer. They
25 fill out a card. When I went out at around 1:45, that's when

1 that person got there to stop me outside.

2 Q Okay. And how long had you been out there after you were
3 in the employee dining room before the man came to you?

4 A When that man came to me, how long had I been there in the
5 dining hall?

6 Q No. How long had you been back out in the parking lot
7 after you had returned from the dining hall?

8 A Around five minutes.

9 Q Okay. And how was it that -- did you see him coming?

10 A I didn't see that he was coming. I knew that he was
11 coming because he was close to me.

12 Q Okay. And then what happened?

13 A He got there, and he told me -- he told me, don't do that,
14 but real loud. He was mad.

15 Q Okay. And then he asked you to go to the security office?

16 A He told me, go to security.

17 Q Okay.

18 A Twice.

19 Q All right. And you told him that you were doing Union
20 activity; is that right?

21 A I am helping my coworker. I tell him where to put his
22 name and his information correct on the card.

23 Q And you told him that?

24 A To who?

25 Q To the man in blue?

1 A No. It was important to me was my coworker --

2 Q Okay.

3 A -- and when.

4 Q And you didn't show him your badge, did you?

5 A I left my coworker. I stopped tending to my coworker.

6 Q Uh-huh.

7 A And I went back to see him because he's tall, and he told
8 me, go to security. And I said, are you security, sir? Yes.

9 I couldn't recognize him if he was security. I again repeated,
10 you're security? He said, yes. And I said, sir, me work here,
11 and I showed him my badge.

12 Q But --

13 A And he told me -- I told him, I work here. At this
14 moment, I'm at a Union activity. I gave him my back and went
15 on to tend on to my -- to tend to my coworker.

16 Q Okay. Now, just before you go on here, let me just
17 clarify. You'd never seen this man before; is that right?

18 A No.

19 Q Okay. And you were not wearing a housekeeping uniform?

20 A No.

21 Q Okay.

22 A That day I was off.

23 Q Okay. And he told you to go to security, and then you
24 turned around -- you turned your back to him; is that right?

25 JUDGE THOMPSON: Again, she's already -- you've asked, and

1 she's answered.

2 Q BY MR. KRAMER: Now, isn't it true that you never told the
3 NLRB that you showed him your employee ID card?

4 A I told him that I --

5 Q But when you spoke to the NLRB --

6 THE INTERPRETER: Sir.

7 Q BY MR. KRAMER: -- in June --

8 THE INTERPRETER: Sir. Sir, she's still responding.

9 MR. KRAMER: I'm sorry.

10 JUDGE THOMPSON: Thank you.

11 THE WITNESS: What is the answer -- what is it that he's
12 talking about right now, the parking of what took place outside
13 the hotel?

14 Q BY MR. KRAMER: The parking lot, yes.

15 JUDGE THOMPSON: Counsel, restate your question.

16 MR. KRAMER: Sure.

17 Q BY MR. KRAMER: Ms. Blanco, you provided a statement to
18 the NLRB regarding what happened in the parking lot, correct?

19 A Yes.

20 Q And you did that in June of 2015, right?

21 A I don't remember the date, because I would be lying if I
22 would give you the exact.

23 Q Okay. And you told the Board agent, the person taking the
24 affidavit, everything that happened that day, right?

25 A Yes.

1 Q Okay.

2 A The way -- the way that it was done.

3 Q Okay. And isn't it true that you told the Board agent --
4 or excuse me. Isn't it true that you showed -- that you told
5 the Board agent that when he asked you to go to security, that
6 you showed him your Union button?

7 A I told the one that my decoration -- that it is correct
8 without lying about anything.

9 JUDGE THOMPSON: I don't think that was responsive --

10 MR. KRAMER: No, it wasn't.

11 JUDGE THOMPSON: -- Ms. Blanco.

12 MR. KRAMER: Could you restate the question, please?

13 Could you please restate the question?

14 JUDGE THOMPSON: Isn't it true that you told the Board
15 agent --

16 THE WITNESS: Who's the Board, who --

17 JUDGE THOMPSON: Excuse me.

18 THE WITNESS: This group?

19 JUDGE THOMPSON: When he asked you to go to security, you
20 showed him your Union button?

21 THE WITNESS: Yes.

22 Q BY MR. KRAMER: Okay. And isn't it true that you never
23 told the NRLB that you showed the man in blue your Trump
24 identification?

25 A I told the one that took my decoration, that I showed him

1 my badge, that I worked on that property, and that I was at a
2 Union activity.

3 Q And you signed the affidavit -- the Board agent wrote up
4 that affidavit and had you sign it, didn't they?

5 A The best -- I don't remember.

6 Q I'm sorry. You don't remember the what?

7 JUDGE THOMPSON: Counsel, either you're going to have to
8 show her the --

9 MR. KRAMER: I -- I am.

10 JUDGE THOMPSON: -- affidavit so --

11 MR. KRAMER: May I approach?

12 JUDGE THOMPSON: -- you can walk her through it,
13 otherwise, we're going to be here forever.

14 MR. KRAMER: May I approach, Your Honor?

15 JUDGE THOMPSON: Certainly.

16 Q BY MR. KRAMER: Ms. Blanco, I'm going to show you the
17 affidavit that you provided with regards to the parking lot
18 incident.

19 THE WITNESS: (In Spanish).

20 JUDGE THOMPSON: Wait a minute, Ms. Blanco. Just read the
21 affidavit to yourself, and when you finish, let us know.

22 (Off the record at 3:54 p.m.)

23 THE WITNESS: (Spanish spoken).

24 JUDGE THOMPSON: Wait a minute, Ms. Blanco.

25 MR. KRAMER: I'm sorry. What was that?

1 JUDGE THOMPSON: She's finished reading.

2 MR. KRAMER: Thank you.

3 Q BY MR. KRAMER: Ms. Blanco, is that the affidavit -- is
4 that the statement you provided to the NLRB?

5 A Yes.

6 Q Okay. And you signed this as being true and accurate?

7 A Yes.

8 Q All right. And you told the Board agent everything?

9 A Yes.

10 Q And can you -- is it there -- nowhere in there does it say
11 that you showed the sec- -- the man in blue your Trump
12 identification, does it?

13 A I explained it to him. I don't know why he didn't put it
14 on there. As it is -- as it happened, I told him everything as
15 it happened --

16 Q Okay.

17 A -- and when.

18 Q And you said that in direct, something about an employee
19 running away?

20 A It was a coworker that was signing the card. He was
21 frightened because he talked to us loudly, and he took off.

22 Q Okay. Did he run?

23 A Took off running.

24 Q Okay. And you don't know the name of this employee?

25 A No. I told him not to be afraid, that what we were doing

1 was legal.

2 Q Okay. And you didn't put that in your affidavit either,
3 did you?

4 A I don't remember why they didn't put it in. I put
5 everything there.

6 Q All right. So --

7 (Counsel confer)

8 Q BY MR. KRAMER: Okay. You did sign this affidavit, didn't
9 you?

10 THE WITNESS: (Spanish spoken).

11 Q BY MR. KRAMER: Okay.

12 A Yes.

13 Q And you've indicated that the -- could you describe for us
14 again how he came into contact with you, the man in blue?

15 A Yes.

16 Q Please do.

17 A At the moment that he got there to me?

18 Q Uh-huh. Yeah. You said that he touched you. Could you,
19 again, show us how he touched you?

20 A At the moment when he got there, I was tending to my
21 coworker, and he gets there and says, no, don't do that, no.

22 And I go on to see -- to look at him back. The man is tall.

23 Q Very tall?

24 A Very big. Yes, I'm little.

25 Q Okay.

1 A And so then I told him -- and he was saying, go to
2 security. Go to the off- -- go to security. But that word, he
3 had it all the time, go to security. So then I told him,
4 you're security?

5 Q Yeah. And, Ms. Blanco, what I'm really wanting to say --

6 A Because I thought he was security.

7 Q -- is you described that he touched you and grabbed you.

8 Could you just tell us --

9 A Precisely, because I want to get to that moment.

10 Q Okay.

11 A So then I told him twice, I asked him twice if he was
12 security, and he said yes. He's got his coat like this.

13 Q Uh-huh.

14 A On his left arm. And he said -- I told him, are you
15 security, twice? You're security? He said, yes. Go to
16 security. So then I told him, sir, me work in here. And this
17 moment, activation for Union. I gave him my back. I go back
18 to tend my -- to my coworker. Yells at us to not do that, to
19 not do it. And the guy tells him no. He asks him no. And he
20 says no. And I feel embarrassed. He takes off running. So I
21 tell him, coworker, don't be afraid. It's legal what we're
22 doing. And he gets close to me, go to security, go to
23 security. I didn't listen to him. I stay there standing. I
24 didn't know what to do because I was angry. Go to security.
25 And I thought this man is going to hit me right here. I was

1 trembling. So then when I thought that he was going to hit me,
2 that's when he pushed me. And I told him I wanted -- that's
3 when we went to security.

4 Q And how did he push you?

5 A Like this.

6 Q With his arm up?

7 A Yes. He's big. He hit me right here.

8 Q Where?

9 MS. DAVILA: Objection.

10 JUDGE THOMPSON: Go ahead -- just a second. Objection --

11 MS. DAVILA: I would just like the record to reflect that
12 she's indicating her elbow. She's flinging it in the air.

13 JUDGE THOMPSON: Thank you, Counsel.

14 THE COURT REPORTER: One at a time.

15 JUDGE THOMPSON: One at a time again please.

16 MS. DAVILA: Yes. I object --

17 JUDGE THOMPSON: Thank you.

18 MS. DAVILA: -- and I would like the record to reflect
19 that that witness is pumping her elbow in the air.

20 JUDGE THOMPSON: What is the objection, counsel?

21 MS. DAVILA: To the translation -- or I'm sorry.

22 MS. OVIEDO: To their character -- to their
23 characterization.

24 JUDGE THOMPSON: One person is --

25 MS. DAVILA: Sorry.

1 JUDGE THOMPSON: -- objecting.

2 MS. DAVILA: My objection is as to the characterization of
3 her testimony.

4 JUDGE THOMPSON: I'm going to overrule the objection
5 because I'm not even sure counsel asked her anything --

6 MR. KRAMER: I was --

7 JUDGE THOMPSON: -- because it's difficult to get all this
8 together. And I'm going to overrule the objection. So Mr.
9 Kramer -- and again only one person talk. And at the moment,
10 it's me. Mr. Kramer, please continue.

11 Q BY MR. KRAMER: Ms. Blanco, did he grab you with his hand?

12 A He was on this part -- on this part standing here. I
13 don't know if he got me in the hand, but I did feel that he
14 pushed me.

15 Q Did -- was he behind you?

16 A He was on this part right here. He was big.

17 Q The right side of you?

18 A Yes. On this part here.

19 Q And he -- and you felt him come into contact with your
20 right arm?

21 A He was close -- close to being -- like being close to her.

22 Q Okay. What body part of yours did he grab or touch?

23 A This part.

24 Q Okay.

25 JUDGE THOMPSON: Let the record reflect the witness is

1 pointing to her left --

2 MR. KRAMER: Right.

3 JUDGE THOMPSON: -- right arm.

4 MR. KRAMER: Right upper arm.

5 JUDGE THOMPSON: Right upper arm.

6 Q BY MR. KRAMER: And did he just kind of bump up against
7 you?

8 A Yes.

9 Q Okay. He didn't grab you with his hands?

10 A I don't remember. I just know that I felt that touching.
11 That he was touching me, that he was pushing me.

12 Q Okay. And he did it one time?

13 A One time.

14 Q Were you turning at that time?

15 A I was close to him.

16 Q Okay.

17 A He was close to me.

18 Q All right.

19 JUDGE THOMPSON: Mr. Kramer, how much longer?

20 MR. KRAMER: Just a few more minutes, Your Honor.

21 Q BY MR. KRAMER: And, Ms. Blanco, after this incident you
22 were allowed to go?

23 THE INTERPRETER: Repeat your --

24 MR. KRAMER: Yeah.

25 THE INTERPRETER: -- question?

1 Q BY MR. KRAMER: After the -- after you spoke to the
2 security, you were allowed to go?

3 A Yes. They told me to leave.

4 Q Okay.

5 A And I went home.

6 Q Okay. And you --

7 A Very bad, very bad.

8 Q And you --

9 A I remember it, and I feel bad.

10 Q You were not disciplined for this; is that correct?

11 A No.

12 Q And you returned to handling out in the parking lot
13 without incident?

14 THE INTERPRETER: Pardon me, sir, again?

15 Q BY MR. KRAMER: You returned to getting employees to sign
16 cards out in the parking lot without incident?

17 A Yes.

18 Q And isn't it true that Mr. Turner told you you were free
19 to go out there and sign cards out in the parking lot?

20 A For you to repeat the question.

21 Q Sure. Isn't it true that the head of security told you
22 that it was okay for you to --

23 A No, it's not true. How is it?

24 JUDGE THOMPSON: Repeat the question, counsel.

25 MR. KRAMER: Sure.

1 Q BY MR. KRAMER: Isn't it true that the head of security
2 told you that it was okay for you to be out in the parking lot?

3 A I said I don't understand the question. Are you telling
4 me that, is it not true? No. I want you to tell me the
5 question right.

6 Q Strike -- just strike the question. Strike the question.
7 If you felt so violated by this, Ms. Blanco, how come you
8 didn't go to human resources and complain? Strike the
9 question.

10 You didn't go to human resources and complain about this,
11 did you, Ms. Blanco?

12 A No. I didn't go to human resources.

13 Q No. Ms. Blanco, there's no question pending. Ms. Blanco,
14 isn't it true --

15 JUDGE THOMPSON: Wait just a second. Just --

16 MS. DAVILA: Your Honor, --

17 JUDGE THOMPSON: -- a second.

18 MS. DAVILA: -- objection. The translation wasn't
19 complete.

20 JUDGE THOMPSON: Sustained. Repeat the question, counsel,
21 if you can remember it.

22 Q BY MR. KRAMER: Yes. The question was, you did not go to
23 human resources to bring a complaint, did you?

24 JUDGE THOMPSON: Ms. Blanco, can you answer that question?

25 THE WITNESS: Because I was going to go to the labor board

1 to put the -- to put the complaint here.

2 MR. KRAMER: Move to strike. Ms. Blanco --

3 JUDGE THOMPSON: Sustained. You have to answer the
4 question, Ms. Blanco.

5 Q BY MR. KRAMER: Ms. Blanco, you didn't go to human
6 resources to make a complaint, did you?

7 A No.

8 Q And you didn't complain to any of your human resources
9 managers, did you? Excuse me, housekeeping managers?

10 A No.

11 Q And you know the company has a workplace violence policy,
12 don't you?

13 THE INTERPRETER: Of what, sir?

14 MR. KRAMER: Workplace violence.

15 THE WITNESS: No, I don't know.

16 Q BY MR. KRAMER: You did receive a copy of the handbook,
17 didn't you?

18 A It's that they change it often.

19 Q All right. But you do have a copy?

20 A They're different because when I started it was one, and
21 now there's another.

22 Q You know it's against the rules for another employee to
23 touch someone against their will, don't you?

24 A Yes.

25 MR. KRAMER: Your Honor, I'd like to move for the

1 affidavits to be put into evidence.

2 JUDGE THOMPSON: Can we identify them, counsel?

3 MR. KRAMER: Well, hold on for a second.

4 JUDGE THOMPSON: You keep those, Ms. Blanco.

5 MS. DAVILA: Your Honor, we object as they contain hearsay
6 statements.

7 JUDGE THOMPSON: These statements come in all the time,
8 counsel.

9 MR. KRAMER: And, Your Honor, I just -- I would only like
10 to move in the affidavit regarding the incident in the parking
11 lot if I could.

12 JUDGE THOMPSON: Okay. Can we --

13 MS. DAVILA: I object on hearsay and the fact that they
14 contain some irrelevant --

15 MR. KRAMER: I don't believe the affidavit regarding the
16 parking lot incident contains anything other than the parking
17 lot incident.

18 JUDGE THOMPSON: Well, before I rule, I'd like to --

19 MR. KRAMER: See a copy?

20 JUDGE THOMPSON: -- see the document.

21 MR. KRAMER: Yeah. If I may approach, Your Honor.

22 JUDGE THOMPSON: Certainly. And you can approach at your
23 discretion, counsel. You don't have to ask. And this is going
24 to be Respondent --

25 MR. KRAMER: Respondent Exhibit 16, I believe, Your Honor.

1 THE COURT REPORTER: 16.

2 JUDGE THOMPSON: Where's 15? Oh, I got it. 16. And this
3 -- I'm sorry, counsel. This is the affidavit regarding which
4 incident?

5 MR. KRAMER: Parking lot.

6 JUDGE THOMPSON: Okay. Counsel, it's not hearsay. The
7 Board has a routine of admitting what we call Jencks'
8 statements. Is this the one that she signed?

9 MR. KRAMER: The Spanish one is signed, Your Honor. If
10 you'd like me to introduce both, I have no objection --

11 JUDGE THOMPSON: Yeah.

12 MR. KRAMER: -- to that.

13 JUDGE THOMPSON: I'm going to need to --

14 MS. OVIEDO: Your Honor, if I have one admitted, we ask
15 that the other admitted -- that the other statement that she's
16 given to the Board be admitted as well for completeness.

17 JUDGE THOMPSON: Counsel gets to decide which -- what he
18 wants to admit and what he doesn't want to admit. You're
19 certainly welcome to admit what you'd like to admit. But I'm
20 going to overrule the objection. And I'm going to receive
21 Respondent's Exhibit 16 in the Spanish -- in Spanish and in
22 English into the record.

23 **(Respondent Exhibit Number 16 Received into Evidence)**

24 JUDGE THOMPSON: Mister -- counsel, the court reporter's
25 going to also need a copy.

1 MR. KRAMER: Can we --

2 MS. DAVILA: I'll print.

3 MR. KRAMER: We can print some copies, Your Honor.

4 JUDGE THOMPSON: Certainly. Mr. Kramer, anymore
5 questions?

6 MR. KRAMER: No further questions of this witness, Your
7 Honor. Thank you, Ms. Blanco.

8 JUDGE THOMPSON: Ms. Davila, any redirect?

9 MS. DAVILA: Yes, Your Honor. If we may take five minutes
10 to print out copies --

11 JUDGE THOMPSON: Certainly.

12 MS. DAVILA: -- of her affidavit.

13 JUDGE THOMPSON: Certainly. Let's go off the record.
14 (Off the record at 4:11 p.m.)

15 JUDGE THOMPSON: We are back on the record. Ms. Davila,
16 redirect?

17 MS. DAVILA: Thank you, Your Honor.

18 **REDIRECT EXAMINATION**

19 Q BY MS. DAVILA: Okay. Ms. Blanco, do you know you have
20 rights to Union activity?

21 A Yes.

22 Q What are some of those rights?

23 A Talk with the coworkers, hand out flyers, sign up cards,
24 wear a Union button and assist meetings.

25 Q And who told you about these rights?

1 A The Union where we're participating.

2 Q And when these rights are violated, where do you go?

3 A I go -- I go to the Union to make my reports.

4 Q Do you fill out paperwork about incidents?

5 A Yes.

6 Q Do fill out paperwork immediately after they happen?

7 A If I'm working, I'll go after I get off work, or I'll go
8 on another day, but we try for it to be that same day.

9 Q About how many reports have you filled out with the Union?

10 A A lot of many.

11 Q And do all of those reports, do you then file them here as
12 well?

13 JUDGE THOMPSON: Can you clarify counsel what you mean
14 by --

15 MS. DAVILA: Here --

16 JUDGE THOMPSON: here?

17 MS. DAVILA: -- the -- with the National Labor Relations
18 Board?

19 THE WITNESS: Repeat the question.

20 Q BY MS. DAVILA: After you fill out those reports, do you
21 also file reports here with the National Labor Relations Board?

22 A Yes.

23 Q Do you come by yourself?

24 A Yes.

25 Q Does -- do you know if the Union files a charge on your

1 behalf?

2 A Perhaps, yes. Because I'm on a committee to make a -- as
3 to make a Union campaign.

4 Q Is the Union your representative?

5 THE INTERPRETER: Ma'am?

6 Q BY MS. DAVILA: Is the Union your representative?

7 A I will say yes because I am on a Union committee.

8 Q And the paperwork that you have there, Respondent's --

9 JUDGE THOMPSON: 16.

10 Q BY MS. DAVILA: -- 16, did information from that --
11 information you gave in that document, did you give it before
12 you gave it to that -- in that document?

13 MR. KRAMER: Objection, vague.

14 JUDGE THOMPSON: Can you rephrase, counsel?

15 Q BY MS. DAVILA: Have you documented the innocent that you
16 recounted in that paper before? Have you recounted the
17 incident that you described in that form before?

18 A Yes.

19 Q You've recounted it more than once?

20 A Yes. When it's the second time that I say that -- that I
21 say it here.

22 Q Did you tell the Union the story?

23 A Pardon me. It's when I went to the Union -- pardon me. I
24 didn't tell it to the Union. I wrote it down. And then they
25 call, and then I came here. And it's here that I'm -- here

1 right now with you all.

2 Q So you've told the story at least three times?

3 A Yes.

4 Q Okay. Thank you. Do most employees wear their badge
5 around their neck?

6 A No, just the name.

7 Q Do most employees wear their key -- strike that question.
8 The badge that you showed us, what's it for?

9 A With this badge I could go into the property.

10 Q Okay. Do you have a name tag aside --

11 JUDGE THOMPSON: Let her finish the question. Repeat it.

12 Q BY MS. DAVILA: Do you have a name tag aside from that?

13 A Yes. But I don't have it at this moment. It's at my
14 house. Yes.

15 Q Okay. Do you understand English?

16 A Very little.

17 Q Do you have managers -- do all of your managers at Trump
18 speak Spanish?

19 THE INTERPRETER: Speak what ma'am?

20 MS. DAVILA: Spanish.

21 THE WITNESS: Just Alejandra. The rest of them speak
22 English, but I understand them.

23 Q BY MS. DAVILA: So you can take directions in English?

24 A I would prefer it in Spanish to be sure.

25 Q Okay. Does the hotel give you paperwork to sign?

1 A Yes.

2 Q Okay. Is it in English?

3 A Yes.

4 Q Okay. I'd like to show you what's marked at GC --

5 THE COURT REPORTER: 18.

6 JUDGE THOMPSON: 18.

7 Q BY MS. DAVILA: -- 18. Can you turn it to the back? Or
8 sorry. Does it not have a back?

9 MR. KRAMER: Before we ask, can we just -- is this the
10 Spanish version of the English version of the EDR event?

11 MS. DAVILA: Yes. We'll have an English version and a
12 Spanish version. I can't authenticate it.

13 MR. KRAMER: You --

14 MS. OVIEDO: Can we just take two minutes?

15 JUDGE THOMPSON: Yes. Off the record.

16 (Off the record at 4:28 p.m.)

17 JUDGE THOMPSON: We are back on the record. Before I
18 return to Ms. Davila's redirect, I need to clean up something
19 from Respondent's cross. During his cross he intended to
20 introduce Respondent's Exhibit --

21 MR. KRAMER: 17.

22 JUDGE THOMPSON: -- 17 which Ms. Blanco testified was her
23 Trump ID badge. At the time we did not have a copy of it, but
24 Ms. Blanco testified extensively about it. At this point we do
25 now have a copy of Ms. Blanco's ID badge which is again marked

1 as Respondent Exhibit 17 which Respondent just moved to enter
2 into evidence. Ms. Davila, do you have any objections to
3 Respondent's 17?

4 MS. DAVILA: Other than the ones I've already made, no.

5 JUDGE THOMPSON: Okay. Okay. I don't think -- I don't
6 know if you made any, but to the extent you did, I'm going to
7 overrule the objection and admit Respondent's 17.

8 **(Respondent Exhibit Number 17 Received into Evidence)**

9 JUDGE THOMPSON: Now back to Ms. Davila's -- okay. Ms.
10 Davila's redirect. Continue.

11 Q BY MS. DAVILA: Ms. Blanco, I'm going to reshew you what's
12 been marked as GC Exhibit 18. Let me staple them together. Do
13 you recognize this document, Ms. Blanco?

14 A Yes.

15 Q Is that your signature on the second page?

16 A Yes.

17 MS. DAVILA: Your Honor, I'd like to move this into
18 evidence as GC Exhibit 18.

19 JUDGE THOMPSON: Counsel, any objection?

20 MR. KRAMER: No, Your Honor.

21 JUDGE THOMPSON: Hearing no objection, I'll receive GC
22 Exhibit 18.

23 **(General Counsel Exhibit Number 18 Received into Evidence)**

24 MS. DAVILA: I have no further questions, Your Honor.

25 JUDGE THOMPSON: Ms. Blanco, thank you so very much for

1 your testimony. Please don't discuss it with anyone. Take
2 care and have a great day. Thank you.

3 THE WITNESS: Thank you.

4 JUDGE THOMPSON: We're still on the record, counsel. Ms.
5 Davila, would you like to call your next witness?

6 MS. DAVILA: Yes, Your Honor. Can I go get her from the
7 witness room?

8 JUDGE THOMPSON: Certainly. Now we're off the record.
9 (Off the record at 4:45 p.m.)

10 JUDGE THOMPSON: We are back on the record, continuing
11 with the General Counsel's case.

12 Ms. Davila, call your next witness, please.

13 MS. DAVILA: Yes, Your Honor. The GC calls Maria
14 Jaramillo.

15 JUDGE THOMPSON: Good afternoon, Ms. Jaramillo.

16 THE WITNESS: Good afternoon.

17 JUDGE THOMPSON: My name is Judge Thompson. I am an
18 Administrative Law Judge with the National Labor Relations
19 Board. Do you understand some English?

20 THE WITNESS: Yes, ma'am.

21 JUDGE THOMPSON: Okay. We have a translator here, so if
22 you feel more comfortable speaking in Spanish, please do so and
23 Ms. Sanchez will translate for us.

24 THE WITNESS: Okay. You know, I can understand, but the
25 stuff I don't understand, can she translate it for me?

1 JUDGE THOMPSON: Yes, ma'am. That's why she's here.

2 THE WITNESS: All right. Thank you.

3 JUDGE THOMPSON: So whenever you feel more comfortable
4 speaking in Spanish, do so.

5 THE WITNESS: Thank you.

6 JUDGE THOMPSON: As I was stating, I'm the administrative
7 law judge with the National Labor Relations Board and I've been
8 assigned to hear this case today.

9 You have been called as a witness on behalf of the General
10 Counsel, but I need to swear you in before you give your
11 testimony, so could you raise your right hand.

12 Whereupon,

13 **MARIA JARAMILLO**

14 having been duly sworn, was called as a witness herein and was
15 examined and testified, by and through an interpreter as
16 follows:

17 JUDGE THOMPSON: Okay. Now, I'm going to make -- I'm
18 going to ask you to speak as loud as you can because there's a
19 microphone before us that we're using to record the
20 proceedings. You don't have to lean in. Relax and be
21 comfortable.

22 THE WITNESS: Oh, okay.

23 JUDGE THOMPSON: Just make sure you speak up so that we
24 can hear everything.

25 THE WITNESS: Oh, okay.

1 JUDGE THOMPSON: Ms. Sanchez, as I said, is behind you or
2 on the side of you and she'll translate if at any time you feel
3 more comfortable speaking in Spanish.

4 THE WITNESS: Okay.

5 JUDGE THOMPSON: Let me swear her in in the event that you
6 would like to use her. Ms. Sanchez, could you raise your right
7 hand.

8 THE INTERPRETER: Yes, Your Honor.
9 (Interpreter, Sworn)

10 JUDGE THOMPSON: Ms. Jaramillo, could you state your full
11 name for the record.

12 THE WITNESS: Maria Jaramillo.

13 JUDGE THOMPSON: Jaramillo? How do you spell your last
14 name?

15 THE WITNESS: It's J-A-R-A-M-I-L-L-O.

16 JUDGE THOMPSON: J -- okay. Hold on you type faster than
17 I think --

18 THE WITNESS: Okay.

19 JUDGE THOMPSON: -- talk.

20 J-A --

21 THE WITNESS: J-A-R-A-M-I-L-L-O.

22 JUDGE THOMPSON: Got it. Okay. Ms. Jaramillo, let me
23 just give you a few instructions before giving your testimony.
24 First, as I explained, there's a microphone in front of us, or
25 in front of you, that we're recording the proceedings. Would

1 you please give us a verbal response and try to avoid saying
2 uh-uh or uh-huh. And I know that it's very common place to do
3 so, it's just the transcript that we're creating doesn't
4 recognize uh-uh and uh-huh. So if you'll remember to give us a
5 verbal response to any question, we'll appreciate that.

6 Second, if you don't understand a question that counsel at
7 either table asks you, make sure to tell them so that they can
8 repeat the question for you or rephrase the question. If you
9 answer a question, we're going to assume you understood what
10 they were asking.

11 Number three, if you either counsel objects, would you
12 hold your response until I can rule on the objection.

13 Number four, if a -- would you please hold your answer
14 until the complete question has been asked. Often times, you
15 may know where they're about to go in their question and you
16 want to just jump in and answer, but that doesn't give us a
17 clear transcript or record. So if you would let them ask their
18 full question before you answer, we would appreciate it.

19 And number five, as I said before, make sure to keep your
20 voice up as loud as you can, because we want to hear everything
21 you have to say. Sound good?

22 THE WITNESS: Yes, Ms. Thompson.

23 JUDGE THOMPSON: Great.

24 THE WITNESS: Okay.

25 JUDGE THOMPSON: Thank you.

1 THE WITNESS: You're welcome.

2 JUDGE THOMPSON: Ms. Davila, your witness.

3 MS. DAVILA: Thank you, Your Honor.

4 **DIRECT EXAMINATION**

5 Q BY MS. DAVILA: Good afternoon, Ms. Jaramillo. Thank you
6 for being here.

7 A Thank you.

8 Q Can you state your occupation for the record?

9 A Housekeeping. It is room attendant.

10 Q Okay. And where do you work?

11 A Trump International, Las Vegas.

12 Q When did you start working there?

13 A February 19, 2009.

14 Q Are you a full time employee now?

15 A Yes.

16 Q Who's your supervisor?

17 A Alejandra Magana.

18 Q Do you have a manager?

19 A Yes.

20 Q Can you name them?

21 A I don't know the last name, but the name is Kelvin, Tom,
22 Christina, and Anita.

23 Q Do you know their titles?

24 A Well, I know Ms. Alejandra, she's the director of
25 housekeeping. Kelvin she's -- he is the second of Alejandra.

1 And then Tom, Anita, and -- and Christina are the managers.

2 Q Okay. And do you support the Union?

3 A Yes.

4 Q Do you see what's up there marked as GC Exhibit 16?

5 JUDGE THOMPSON: A collection of documents. See if we can
6 find them. No, that's not it. There we go.

7 Let the record reflect, I'm handing the witness what's
8 been marked as GC-16.

9 THE WITNESS: GC-16.

10 Q BY MS. DAVILA: Do you recognize what's on this --

11 A Yes.

12 Q -- paper?

13 A Yes.

14 Q Can you tell us what it is?

15 A Okay. The first one is the committee leader that I wear
16 every day. This means that I represent the Union, that I want
17 it. And then the second one is the yellow one, it says for
18 the -- my coworkers to support us, that they want a Union too.
19 So I wear that too.

20 Q And so you're part of the committee?

21 A Yes.

22 Q I'm going to show you what's been marked as GC Exhibit 19.
23 Do you recognize what's on this form?

24 A Yes.

25 Q How do you recognize it?

1 A Because it has my initial and my information.

2 MS. DAVILA: I'd like to move GC Exhibit 19 into evidence.

3 JUDGE THOMPSON: Any objections, counsel?

4 MR. DRITSAS: No objection.

5 JUDGE THOMPSON: Hearing no objection, I'll admit GC-19.

6 **(General Counsel Exhibit Number 19 Received into Evidence)**

7 Q BY MS. DAVILA: Can you read the date that's on this card,
8 please?

9 A It is 5/4/14.

10 Q Do you talk to your coworkers about the Union?

11 A Yes.

12 Q Can you describe where you talk to your coworkers about
13 the Union?

14 A I talk when I come in work before I enter to -- into my
15 shift, when I'm on lunchtime, and when I get out of work.

16 Q What other kind of Union activity do you participate in?

17 A I go to the meetings in the Union. I've participated in
18 the -- in the rallies, two of the rallies.

19 Q Okay. And these meetings are held where?

20 A The Union. The Union local 2000 -- 226.

21 Q Okay. Do you see what's up there marked as GC Exhibit 6?

22 JUDGE THOMPSON: Let the record reflect that Ms. Davila
23 handed the witness a copy of GC-6.

24 MS. DAVILA: Yes.

25 JUDGE THOMPSON: Thank you.

1 Q BY MS. DAVILA: Do you recognize what's on page three of
2 that document?

3 A Yes.

4 Q Where have you -- how do you -- how do you recognize it?

5 A It's because they post it by the entrance of security, by
6 the clock, and also by -- in front of the EDR where we do -- we
7 take lunch.

8 Q And what does that -- what does that paper say? Or what
9 does that notice mean?

10 A Well, it says that we're going to do our Union free.
11 Like, it was an open --

12 THE INTERPRETER: Could you help me?

13 THE WITNESS: Can she understand -- help me?

14 JUDGE THOMPSON: Yes, certainly.

15 THE WITNESS: Okay.

16 THE INTERPRETER: This is so that they can help us have an
17 open campaign that they already knew about. And that they were
18 not going to bother us, because they had already done it at the
19 labor board. They had already promised that they were going to
20 let us be without bothering us to go on with our campaign.

21 Q BY MS. DAVILA: Does the hotel support the Union campaign?

22 A No.

23 Q How do you know that?

24 A Because they don't want a third party in the hotel.

25 Q How do you -- ho told you that?

1 A Well, they're doing these meetings with Cruz and
2 Associates and every time they go introduce them, like
3 Mr. Brian the first time before the at the elections in June --

4 Q Let me stop you right there. Who's Brian?

5 A Brian Baudreau is the president of the hotel.

6 Q Okay. And you said you attended a meeting with him?

7 A We went to a meeting with Cruz and Associates.

8 Q Let me stop you there. Was this meeting at work?

9 A Yes.

10 Q Were you on the clock?

11 A Yes.

12 Q Okay. Go on.

13 A Okay. With were in the meeting and Mr. Brian present Cruz
14 and Associates and he told us that he didn't want a third party
15 in the company, that we were fine so that he didn't want no
16 Union.

17 Q Did he say anything else about the Union?

18 A No.

19 Q Was this meeting mandatory?

20 A Yes.

21 Q When did this meeting occur?

22 A Well, the first ones were in June before the voting,
23 then --

24 Q I'm sorry, ma'am, June of what year?

25 A 2015.

1 Q So this year?

2 A Yes.

3 Q And you said before the voting?

4 A Yes.

5 Q Voting for what?

6 A Because we were going to vote to see if we were going to
7 have a Union or not.

8 Q Okay. Do you remember when the election was scheduled?

9 A It was on June 25th and 26th I believe.

10 Q Okay.

11 JUDGE THOMPSON: Of 2015?

12 THE WITNESS: Of '15, yes.

13 Q BY MS. DAVILA: Do you remember an incident that happened
14 the month of June of this year with Alejandra Magana?

15 A Yes.

16 Q Okay. Before we get to that, can you please describe to
17 me the process for clocking out of a shift?

18 A Clocking out?

19 Q Uh-huh.

20 A Okay. When we finish our work, we come down, we go inside
21 the officer of housekeeping, we turn in the key and iPad to the
22 managers.

23 Q Can you describe to us the office? Is it just one office?

24 A It's one whole office.

25 Q Okay.

1 A It's like this room right here. You enter and to the
2 right is a desk that Vania sits there and then you walk a
3 little bit and there's the status position that answer the
4 phone and then you turn a little bit there's Christina's office
5 outside.

6 Q Christina, and who is she?

7 A I don't know her position, but she does the scheduling and
8 the status. She takes care of the status.

9 Q And she has her own desk?

10 A Well, she had a desk outside the office.

11 Q Okay.

12 A And then there's a door and there's Kelvin and Morgan in
13 one office.

14 Q And Kelvin is?

15 A Kelvin is -- I think he's the second of Alejandra,
16 manager.

17 Q Okay.

18 A Okay. And then --

19 Q And Morgan?

20 A Morgan? He's a manager from housekeeping.

21 Q Okay. Can you describe the room a little better? I'm
22 just imagining one big room. Is it cubicles or is it doors?

23 A No. There's doors, but like when enter they have the
24 doors open.

25 Q Okay. So that's Alejandra -- Alejandra's office and on

1 the side there's a managers' computers when they take out our
2 keys and iPads. And then when I --

3 Q Let me stop you right there. So at the end of the shift,
4 what things do you turn in?

5 A The key and the iPad.

6 Q And what's the iPad for?

7 A The iPad is -- is when we get all the assignments like the
8 rooms, the guests names, when did they enter, when are they
9 leaving, if they have any specific things that they want.

10 Q Okay. Go on. So you -- so the -- at the side of the room
11 is where you turn them in when you're leaving?

12 A Yes.

13 Q Okay. So back to the incident in June. Can you tell us
14 what happened that day when you were clocking out?

15 A Okay. I came down and I went to turn in my iPad and my
16 key and I saw Alejandra's office open and Antonia was there.

17 Q Is her office normally open?

18 A Yes.

19 Q Okay. Go on.

20 A Okay. And so --

21 Q And who's Antonia?

22 A Antonia, she's my coworker.

23 Q Okay. In housekeeping?

24 A Yes.

25 Q Okay. Go on.

1 A Okay. So I went to turn in my key and my iPad. I was
2 next to HR office. And the thing I heard it was Alejandra
3 telling Antonia that she was -- that she feels betrayed.

4 Q Okay.

5 A So I -- they just told me to leave my key in my --
6 MR. KRAMER: I just couldn't hear that. I'm sorry.

7 JUDGE THOMPSON: Okay. Can you repeat when you said that
8 you overheard Ms. Magana say. Could you repeat what you said?

9 THE WITNESS: Yes. When I turned in my key and my iPad to
10 my manager, I heard Alejandra tell Antonia, my coworker, that
11 she was a traitor. You know, that she traited, because she was
12 wearing the yellow button of the Union, that she support us.

13 Q BY MS. DAVILA: And then what happened?

14 A And then when I finished turning in my key, my manager
15 told me to leave. You know, the day was -- you know, that I
16 had -- that I had to go clock out. So I had to leave and clock
17 out. And then after I went to the parking lot, Antonia told
18 me, did you heard what Alejandra told me and I told her, you
19 know, I only saw that she said that, you know, that she was --
20 that she was a traitor, because she was wearing the yellow
21 button of the Union, that she was supporting us.

22 Q That who was a traitor?

23 A That Antonia was a traitor --

24 Q Okay.

25 A -- because she was wearing the yellow button.

1 Q Okay. And then what did Antonia tell you.

2 MR. DRITSAS: Well, I object. The first part I understand
3 she's testifying under hearsay to what her manager said. This
4 is clearly hearsay as to what another hourly employee said.
5 I'm going to object on the grounds of here say to that
6 statement; to the communications that she's raising with and
7 telling in the parking lot.

8 JUDGE THOMPSON: Counsel, are you asking what the coworker
9 said back to this witness?

10 MS. DAVILA: No.

11 JUDGE THOMPSON: You're asking what the coworker told this
12 witness the coworker said to Ms. Magana?

13 MS. DAVILA: Correct.

14 MR. DRITSAS: It's still hearsay, Your Honor.

15 JUDGE THOMPSON: It is, but I'm going to allow it. So I'm
16 going to overrule the objection. Could you repeat the question
17 so the witness can answer?

18 Q BY MS. DAVILA: So you told Antonia -- what did you tell
19 Antonia?

20 A After I left the office?

21 Q When you saw her in the parking lot.

22 A I told Antonia, because Antonia came to me and she saw --
23 she told me that if I heard what Alejandra told her. That she
24 was a --

25 Q Right. And what did you respond?

1 A I told her that I only heard that she was a traitor,
2 because she was wearing the yellow button. That's all what I
3 say to her.

4 Q Okay. And just to clarify, you heard Alejandra Magana
5 call Antonia a traitor?

6 A Yes.

7 MS. DAVILA: No further questions, Your Honor.

8 MR. DRITSAS: Do you have a Jenks statement for this
9 witness? Can we go off the record Your Honor?

10 JUDGE THOMPSON: Let the record reflect that the General
11 Counsel handed Respondent counsel what has been commonly
12 referred to as the Jenks statements for this witness. And
13 we'll go off the record briefly for five minutes.

14 MR. DRITSAS: Thank you, Your Honor.

15 JUDGE THOMPSON: Off the record.

16 (Off the record at 5:05 p.m.)

17 JUDGE THOMPSON: We're back on the record. Mr. Dritisas,
18 cross.

19 MR. DRITSAS: Thank you.

20 **CROSS-EXAMINATION**

21 Q BY MR. DRITSAS: Good afternoon, Ms. Jaramillo.

22 A Jaramillo.

23 Q I'm one of the lawyers for the hotel. I'm going to ask
24 you a few questions.

25 Before you testified here today, did you speak with anyone

1 from the National Labor Relations Board about your testimony
2 here?

3 A Yes.

4 Q Okay. Who did you speak with?

5 A With Judy.

6 Q And when did you do that?

7 A Thursday.

8 Q How much time did you spend?

9 A Like 40 minutes.

10 Q Okay. And did you review any documents at that time?

11 A No.

12 Q Did you review a statement that you signed as a
13 confidential witness affidavit? Did you review that at the
14 time that you met with Ms. Davila?

15 A Yes.

16 Q Okay. So that's the document. Did you --

17 A I'm sorry.

18 Q Did you review any other documents besides the
19 confidential witness affidavit?

20 THE WITNESS: Can you translate it?

21 THE INTERPRETER: Sure. Repeat the question.

22 Q BY MR. DRITSAS: Did you review any other documents to
23 prepare for your testimony here today besides the confidential
24 witness affidavit?

25 THE INTERPRETER: Sure. Repeat the question. We just

1 overlooked the one that she mentioned, the buttons, the one
2 that she -- this one shows.

3 JUDGE THOMPSON: And let the record reflect the witness is
4 pointing to GC Exhibit 16.

5 THE INTERPRETER: Sure. Repeat the question. Also she --

6 JUDGE THOMPSON: And the witness is also pointing to GC-
7 19.

8 THE INTERPRETER: Sure. Repeat the question. And she
9 just also asked me the same questions that she asked of me
10 right now.

11 Q BY MR. DRITSAS: Okay. Now, you have I have in your
12 statement here, I think you said there were 19 committee
13 leaders?

14 A At that time, yes.

15 Q How many are there now?

16 A I don't know the total, but we are a little bit more.

17 Q Okay. You're one of them?

18 A Yes.

19 Q Did you talk to any of the committee leaders about the
20 fact that you were going to be coming and testifying in this
21 case against the Trump Hotel?

22 A I just told them that I have an appointment for today.

23 Q Okay. Did you speak with -- who did you speak with?

24 A I spoke with -- with -- it's difficult. Eleuteria, the
25 lady that was here before, the first one.

1 Q Okay. Eleuteria Blanco?

2 A Yes. And Ofelia, that she was waiting for me -- was with
3 me in the waiting room.

4 Q Anyone else?

5 A And Carmen.

6 Q And was Carmen here or did you speak with her some other
7 place?

8 A No. We were at work.

9 Q Okay. And when did you speak to Eleuteria?

10 A Today right now in the waiting room.

11 Q Before or after she testified?

12 A No. It was in the morning.

13 Q Okay. And did you speak with I think you call her Antonia
14 or Antonia?

15 A Antonia.

16 Q Have you spoken with Antonia about anything you intend to
17 testify here today?

18 A No. I saw her in the morning, but we didn't talk about
19 the testimony I was going to do.

20 Q Okay. Did you let her know that you were going to be
21 testifying against the hotel?

22 A No. I told her that I was a witness at her case.

23 Q Okay.

24 Okay. Now, let me ask you about where -- where the people
25 were when you came into the room. Your affidavit says that you

1 came into the office on June 5 to turn in your keys and you saw
2 Lordis Antonia Gonzalez in Alejandra's office; is that right?

3 A Yes.

4 Q Okay. And the door was open; is that right?

5 A Yes.

6 Q Okay. And you turned your keys in. There was a desk
7 there that's right out in front that Christina Keeren sits at;
8 is that right? The -- there's a desk right in front of it --
9 in front of Alejandra's office; is that right?

10 A Okay. By the entrance of the office?

11 Q When you walk into the office and you see --

12 A Okay. This is the office right here --

13 Q And you see --

14 JUDGE THOMPSON: Wait. Let him finish the question.

15 THE WITNESS: Sorry.

16 Q BY MR. DRITSAS: When you walk in the office, towards --
17 at the back of the office is Alejandra's office; is that right?

18 A Yes.

19 Q Okay. And outside the door to the immediate right,
20 there's a desk; is that right?

21 A Yes.

22 Q Okay. And where do you turn in your iPad and keys?

23 A To the left side.

24 Q To the left side. Okay. And who do you turn -- who did
25 you turn them in to on June 15th?

1 A To Imelda.

2 Q Okay. And does Imelda, does she have a desk or does she
3 have an office or?

4 A No.

5 Q So is she standing there waiting for you or how does it
6 work?

7 THE WITNESS: Can I answer?

8 JUDGE THOMPSON: Certainly.

9 THE WITNESS: Okay. On the left side of the office --
10 this is Alejandra's office, at the left-hand side there's
11 computers there and the managers sit there and turn in -- we
12 turn in the keys to whoever is sitting in the -- at that time.
13 So Imelda was sitting next to Alejandra's office, that's why I
14 went in to her and turned in my stuff.

15 Q BY MR. DRITSAS: Okay. So did Imelda actually take
16 physical possession of the keys and of the iPad?

17 THE INTERPRETER: Yes.

18 Q BY MR. DRITSAS: Okay. And how many people were there
19 turning in their iPads and keys at that time?

20 A Well, we were a lot of people, but at the office, you
21 know, we just turn in the key and we leave and clock out, you
22 know, outside.

23 Q Right. So was --

24 A But today, like, you know, I don't remember how many
25 people, because I didn't count.

1 Q Were there -- was there a line of people waiting to turn
2 their iPad and keys in?

3 A Yes.

4 Q Okay. So you were in the office and you would kind of
5 wait in line until you got to your turn?

6 A Yes.

7 Q So there would maybe be 30 housekeepers in the office
8 waiting to turn in their iPads?

9 A No.

10 Q More or less?

11 A Less.

12 Q What would be your estimate?

13 A I can say probably, like, five or six.

14 Q Okay. And where were you, at the beginning, or the middle
15 or the end of that line?

16 A I was in the middle.

17 Q Okay. And how long did it take to turn in the keys?

18 A Like, approximately, like, five minutes.

19 Q You were -- the whole time you were in the office was
20 about five minutes?

21 A Oh, no. I was, like, around ten minutes. But you know,
22 it's like five minutes, because I talk to the managers
23 sometimes when I turn in my key.

24 Q Okay. Well, let's stick with June 15th. On that day
25 let's try to go in -- you're waiting in line and then let's

1 pick it up when you're actually turning in the computer and the
2 keys. How long does that transaction take?

3 A Like five minutes.

4 Q Five minutes? What do you do?

5 A I talk to the managers. I talk a lot to my manager every
6 time I come in and turn in my stuff. Like, if I have a DNDs
7 and they wouldn't replace it, so I tell them, you know what, I
8 called my inspector, they didn't show up, so I had to explain
9 all of what had happen -- you know what happened up in the
10 tower so I could have it in the record.

11 Q Did all of the people ahead of you spend five minutes
12 talking to the managers when they turn in their iPad?

13 A I don't know. You know, that's what I take, because I
14 talk to them and I explain what happened up in the tower so it
15 goes to my record. Because sometimes when they replace our
16 rooms, you know it can go to a drop and I don't want to appear
17 that into my file.

18 Q Okay. So if -- what did you say, there were six people?
19 How many people in the line? I can't remember what you said.

20 A Six.

21 Q Six. Okay. And you were in the middle?

22 A Yes.

23 Q So you waited in line 15 minutes before you could turn
24 your iPad in and then another five minutes while you were
25 talking to the manager; is that right?

1 A I can say, like, less, but you know, I didn't --

2 MS. DAVILA: Objection. Misstates her testimony.

3 JUDGE THOMPSON: Sustained.

4 Q BY MR. DRITSAS: Well, how much -- you took five minutes.

5 You said that was your practice. How much time did the people
6 ahead of you take?

7 A Maybe, like, three minutes.

8 Q Okay.

9 A Because, you know, they're just turned in the key and
10 left.

11 Q Well, that's what I'm trying to understand. If I come up
12 to the table and turn in my iPad and my key and leave, that
13 would seem to take 30 seconds. So what else is going on with
14 the people ahead of you to take three minutes?

15 A I don't know if they want to talk to the managers and
16 explain what happened, but I myself you know, I try to protect
17 my record so I explain everything that happened up in the tower
18 like I told you. If they would replace my DNDs like my rooms
19 that are do not disturb and I call the supervisor, and they
20 don't replace it I have to explain to her what happened and why
21 I didn't finish my work so it doesn't count as a drop.

22 Q Do you remember having any things that you needed to
23 explain on June 15 that would have taken five minutes?

24 A No.

25 Q Okay.

1 MR. DRITSAS: I think we're on 18, Respondent's 18?

2 JUDGE THOMPSON: Yes.

3 MS. OVIEDO: Is it okay if we do the same as before where
4 we mark it A, B, C and so on?

5 JUDGE THOMPSON: That works for me, counsel.

6 MR. DRITSAS: That's fine by me. Okay. I count through
7 18(j).

8 MS. DAVILA: Same.

9 JUDGE THOMPSON: Same.

10 Let the record reflect that I am handing the witness a
11 copy of what's been marked as Respondent Exhibit 18 where I
12 labeled each page from 18(a) through 18(j). And I'm going to
13 ask the witness to hand me her copy. Thank you.

14 Q BY MR. DRITSAS: Okay. Ms. Jaramillo, if you could take a
15 look, please, at the first page of -- take a look at the first
16 page, 18(a). And is this an accurate depiction of the
17 housekeeping office as you understand it?

18 A Yes.

19 Q Okay. So at the bottom where it says Vania, do you see
20 that?

21 A Yes.

22 Q Is that an entrance way, that's the doorway?

23 A Yes.

24 Q Okay. From there you walk in and on the left-hand side
25 it's written manager floor. Is that where Imelda was on the

1 left-hand side?

2 A Yes.

3 Q And then what's marked as number six on this document is
4 an entrance to Alejandra's office?

5 A Yes.

6 Q And then to the immediate right there's a desk? Well,
7 actually, to the immediate right there is a doorway into Kelvin
8 and Morgan's office and the outside there's a desk, correct?

9 A Yes.

10 Q Okay. So -- okay. Let's just kind of go through. Let's
11 go to 18(c). Is this a view from the doorway, Vania's door --
12 Vania's area, looking towards the back office?

13 A Yes.

14 Q Okay. And are you looking at -- would this be -- this
15 office that we see open, was that Alejandra's or Kelvin's?

16 A Kelvin's.

17 Q Kelvin's okay. So Alejandra's office would be to the left
18 of that, correct?

19 A Yes.

20 Q Let's turn to the next page, 18(b). Okay. So this is a
21 more close up picture of the back offices, correct?

22 A Yes.

23 Q The door that's open is the door for Morgan and Kelvin?

24 A Yes.

25 Q And the door that's closed is Alejandra's door, correct?

1 A Yes.

2 Q And then to the left there's an area there, you see a
3 computer, a couple computers, it looks like a pair of shoes or
4 something on the table top. What is that area?

5 A That's the managers where they pick up the keys and iPads.

6 Q Okay. Let's take a look at 18(b). This is another view
7 from looking towards what you call the managers desk, right?

8 A Yes.

9 Q And is there a particular chair or computer that Imelda
10 has. There's I can see one, two, I can see at least four,
11 maybe five computer monitors. Is there one that Imelda uses?

12 A I was everywhere, but the day I was turning in she was on
13 the last next to Alejandra's office.

14 Q Okay. Well, there's -- was she seated?

15 A Yes.

16 Q Okay. So you can see there's no -- there's no place to
17 put your knees on the far right. The only place you'll put
18 your knees in is to the left of the file cabinet; is that
19 right? Do you see that?

20 Take a look at -- let me rephrase the question. Take a
21 look at Alejandra's office. Immediately to the left of that
22 you see a black file drawer?

23 A Yes.

24 Q Okay. And does that file drawer go long to the chair
25 area?

1 A No.

2 Q Okay. And so it's just one file drawer?

3 A It's hard to see, but --

4 Q Okay. If you can't tell, that's fine. Maybe another
5 picture can sew us. Let's take a look at 18(f). So this is --
6 this is the view looking if you were standing at Calvin or
7 Alejandra's office looking the other way, 18(f).

8 MS. DAVILA: Objection. The document speaks for itself.

9 JUDGE THOMPSON: Well, he's asking her what direction is
10 this looking from and the document doesn't tell me that, so I
11 have to overrule the objection.

12 could you repeat the question, counsel?

13 MR. DRITSAS: Sure.

14 Q BY MR. DRITSAS: Can you just tell me where would this
15 perspective be? What would you be looking from Alejandra's
16 office towards the entrance or would you -- how would you
17 describe this particular view?

18 THE INTERPRETER: No. This here is wrong.

19 Q BY MR. DRITSAS: This is wrong? Is that on the other
20 side?

21 THE INTERPRETER: Okay. This one is better, the (e).

22 JUDGE THOMPSON: Are you saying -- oh, she's saying (e).

23 Q BY MR. DRITSAS: Okay. If you take a look at 18(h) it
24 looks like, if you take a look at 18(h), some of the pictures
25 on the wall look like the pictures on 18(f) and that's -- so

1 that's the other side from the manager's table; is that right?

2 A That's status.

3 Q Okay. So let's go back then to -- let's go back to --
4 let's start with 18(a). So you said there were approximately
5 six people at the time, June 15 when you were turning in your
6 computer, or your iPad and your keys, where were they standing?
7 Did they take up the space between -- well, you just tell me.
8 Where did the line -- kind of where was the line when you were
9 waiting to turn in your iPad?

10 A Do you want me to show you in here --

11 Q Yeah.

12 A -- or on the picture.

13 Q We're going to do both, but show me here first.

14 A Okay. The line was right here.

15 JUDGE THOMPSON: And the witness is pointing at --

16 THE WITNESS: You know, by this desk right here.

17 JUDGE THOMPSON: Yes.

18 Q BY MR. DRITSAS: Okay. 18(a). So that's the person who's
19 ready to turn their computer in?

20 A Alejandra -- I mean Imelda was here and we were waiting
21 right here.

22 Q Okay. Were you waiting in a line or were you all gathered
23 together?

24 A Sometimes we, like, get together and start talking, or,
25 you know, we do a big line. Sometimes it's all the way through

1 the door. It depends on the occupancy.

2 Q Okay. And who else was present on that day? Who were the
3 other five people with you?

4 A I don't remember.

5 Q You don't remember any of them?

6 A No.

7 Q Okay. And so let's go now to Exhibit 18-E. Is there some
8 place where the iPads and keys are stored? So you're coming
9 in, you're turning in your iPad and keys, what do they do?
10 Imelda takes them and what does she do with them?

11 A Well, I give it to them. They have a little box, like one
12 box here and another box here. They turn in the key, they put
13 the iPad, but they have to check in the computer if we're
14 finished or not.

15 Q Okay. And was there another manager there besides Imelda?

16 A No.

17 Q Okay. So there are approximately six people there waiting
18 to turn their iPad in and Imelda's the only one checking people
19 in?

20 A Yes.

21 Q Okay. And where were you when -- or strike that.

22 When you were waiting in line, could you see inside the
23 office of Alejandra?

24 A Yes.

25 Q And where was Antonia?

1 A Sitting in the chair.

2 Q With her back to you?

3 A Yes.

4 Q Okay. And point out on the picture on 18-E where you were
5 when you heard what you testified you heard Alejandra say?

6 A I was next to the door.

7 Q Okay. Well --

8 JUDGE THOMPSON: Let the record reflect the witness is
9 pointing to -- or pointing that she was standing next to the
10 first computer next to Ms. Magana's office, which also is in
11 front of a black file cabinet on 18(e).

12 MR. DRITSAS: Okay. Thank you, Your Honor.

13 Q BY MR. DRITSAS: And was there anyone to your right? You
14 said there was a line of people gathering. Were you at the far
15 end or were there people in between you and Alejandra's
16 office?

17 THE INTERPRETER: Could you repeat? No. Could you
18 interpret it?

19 MR. DRITSAS: Do you want me read the question? Oh.

20 THE INTERPRETER: For you to repeat it and you translate
21 it.

22 JUDGE THOMPSON: She's asking you to repeat --

23 MR. DRITSAS: Yeah. That's what I thought.

24 JUDGE THOMPSON: -- and then Ms. Sanchez will translate.

25 Q BY MR. DRITSAS: Was there anyone in between you and

1 Alejandra's office opening?

2 A No. I was standing here, Imelda was here, Alejandra was
3 inside the office sitting down, Antonia was in the chair that
4 was, behind, you know, the wall. So I was right there in the
5 door. I mean, next to the door.

6 Q Okay. So was this before or after you turned in your
7 iPad?

8 A No. When I was turning in my iPad. I was there. I was
9 standing right there.

10 Q Right. So did you hear a comment from Alejandra before or
11 after you turned in your iPad?

12 A When I was turning in my iPad.

13 Q So at the actual time you were handing over the iPad, you
14 heard Alejandra say that?

15 A Yes.

16 Q Okay. So that means you were not looking in the office at
17 that time, you were looking at Imelda, correct?

18 A When I was -- yes.

19 Q Okay. And could you hear what Antonia was saying?

20 A No.

21 Q Okay. Was Alejandra yelling?

22 A No.

23 Q Was she raising her voice?

24 A No.

25 Q Was Antonia talking at all?

1 A No.

2 Q Were they speaking English or Spanish?

3 A Spanish.

4 Q Okay. And did you hear Alejandra say anything else
5 besides the fact that she was a traitor?

6 A No.

7 Q Did you hear her say why she was a traitor?

8 A I only heard that she was a traitor, because she was
9 wearing the yellow button.

10 Q Okay. Now, you wear yellow and red and white buttons,
11 right?

12 A Yes.

13 Q Has Alejandra ever called you a traitor?

14 A No.

15 Q Okay. Did you understand that Alejandra was expressing
16 her opinion?

17 A I don't know.

18 Q Did -- did she -- did you hear Alejandra threaten Antonia
19 in any way?

20 A No.

21 Q Did you hear Alejandra say that you can't participate in
22 any Union activities?

23 A No.

24 Q Did you hear Alejandra say anything that caused you
25 concern besides the comment traitor?

1 A No.

2 Q Okay. Did you report what you heard to human resources?

3 A No. And I think you said after you left -- well, we'll
4 strike that.

5 Q Did you say anything to Imelda about what you had heard?

6 A No.

7 Q You were standing next to several other employees,
8 correct, at the time you were turning your iPad in?

9 A When I was waiting in line, yes.

10 Q Okay. Well you were -- you said you were in the middle,
11 so I assume there were people still behind you or near you who
12 had not yet turned in their iPad, right?

13 A Yes.

14 Q And you spent about five minutes talking to Imelda?

15 A I was there, like, five minutes, yes.

16 Q Okay. So during the five minutes you just heard the
17 director accuse someone of pregnant a traitor and you didn't
18 think of saying anything to Imelda who was standing right
19 there?

20 A I don't have to say nothing to her.

21 Q I didn't ask you if you had to. I said did you think of
22 saying anything to Imelda --

23 A No.

24 Q -- when you were standing right there hearing the director
25 say that?

1 A No.

2 Q Okay. Do you think that Imelda was close enough -- or
3 strike that. How close were you to Imelda when you turned in
4 your computer, or your iPad and your keys?

5 A I was next to her.

6 Q So as close as you and the interpreter?

7 A Yes.

8 Q So, like, a foot, a foot apart?

9 A Well, she was, like, I -- I can tell, like, she was here
10 and I was standing right here.

11 Q Okay. So what would be your estimate, one foot, two feet
12 away?

13 A I don't know. It was close.

14 Q Well, can you give me an estimate?

15 A It's get --

16 Q How would --

17 A -- the only --

18 Q How --

19 THE INTERPRETER: Tell him --

20 MR. DRITSAS: How --

21 THE INTERPRETER: Tell him that I don't know anything
22 about feet. It was in between the both of us that we were
23 close.

24 Q BY MR. DRITSAS: Okay. Let me ask another. Were you at
25 least an arm's length away from Imelda?

1 A No.

2 Q You were closer than an arm's length?

3 A Yes.

4 Q Okay. Now, so then if you heard what Ms. Magana said,
5 Imelda standing right there should have been able to hear the
6 same thing; is that right?

7 MS. DAVILA: Objection. Calls for speculation.

8 JUDGE THOMPSON: Sustained.

9 Q BY MR. DRITSAS: Was there any reason that you believe that
10 you had -- okay. I'm going to say this. Could you hear
11 clearly what Imelda said? Excuse me, what Alejandra said?

12 A Yes.

13 Q Okay. And when you heard that, did you react in any way
14 while you were turning in the computer?

15 A No.

16 Q Okay. And so you were talking. I think you said you like
17 to talk about what happened in the department in your rooms and
18 the check outs and the DNDs. That's part of your regular
19 routine?

20 A Yes.

21 Q Okay. So you were actually talking at the same time that
22 you say you heard Alejandra say something, right?

23 A Well, I heard Alejandra when I was turning in my key and
24 then I started talking with Imelda.

25 Q Okay. So you heard Alejandra talk before you said

1 anything?

2 A Yes.

3 Q You weren't talking to your coworkers?

4 A No.

5 Q Okay.

6 Okay. Now, you submitted a confidential affidavit to the
7 National Labor Relations Board, correct?

8 A Yes.

9 Q And did you submit it in English or Spanish?

10 THE INTERPRETER: In English.

11 Q BY MR. DRITSAS: And is it true that you did not mention
12 to the National Labor Relations Board that you had a
13 conversation with Antonio that same day about the traitor
14 comment?

15 A Antonio?

16 Q Antonia.

17 THE INTERPRETER: Antonio? I don't know any Antonio.
18 Antonia?

19 Q BY MR. DRITSAS: Antonia. Sorry.

20 A I don't report nothing.

21 Q Okay. But your testimony was you spoke to Antonia in the
22 parking lot, so what did she say to you and what did you say to
23 her?

24 A She just told me that she went inside the office if I
25 heard, because she saw me when I was in line. And I said that

1 I heard when she -- Alejandra told her that she was a traitor,
2 because she was wearing the yellow button.

3 Q Okay. That's all she said; nothing further on that
4 point?

5 A Well, I had to leave, because I had to go pick up my kids,
6 so I don't, you know I don't say that much in the parking lot.

7 Q Okay. Now, you -- you actually -- your declarations --
8 your affidavit says that you began -- you've been part of the
9 Union movement since November 2014; is that right?

10 THE INTERPRETER: '14 or '15, sir?

11 MR. DRITSAS: November 2014.

12 THE INTERPRETER: Yes.

13 Q BY MR. DRITSAS: Is that correct?

14 THE INTERPRETER: Yes.

15 Q BY MR. DRITSAS: And I gather from reading this affidavit
16 that you have freely spoken up in meetings about your views
17 about the Union; is that right?

18 THE INTERPRETER: Yes.

19 Q BY MR. DRITSAS: Okay. And you were part of these
20 meetings and someone was saying that we don't need a third
21 party and explained different things and you would speak up and
22 say why the Union is good for the workers, right?

23 A Yes.

24 Q Okay. And you did that most recently in 2000 -- I think
25 you said the meetings were around June 2015?

1 A Yes.

2 Q Okay. And since that time you have not been disciplined
3 by the hotel; is that correct?

4 A Yes.

5 Q Okay. And you're familiar with the point system for
6 attendance?

7 A Yes.

8 Q You were actively involved in supporting the Union in
9 March of 2015; is that right?

10 A Yes.

11 Q And do you recall that you had a -- on March 18th that you
12 had a -- a call out saying that you weren't coming to work and
13 you were scheduled to have two points and a written warning?

14 A March 18th?

15 Q March 18, 2015.

16 MS. OVIEDO: Objection. Beyond the scope of direct.

17 JUDGE THOMPSON: Mr. Dritsas, is this a witness that you
18 subpoenaed?

19 MR. DRITSAS: No. I have not subpoenaed, Your Honor,
20 but --

21 JUDGE THOMPSON: Then you're limited to --

22 MR. DRITSAS: But I certainly am entitled to call this
23 witness on my own if I want to and just to try to speed things
24 along and not have her brought back I've got one point I'm
25 trying to make. I would hate to have to bring her become just

1 for this one point.

2 JUDGE THOMPSON: Well, see, here's the deal, Mr. Dritsas,
3 I would allow you to do that and I don't -- I wholeheartedly
4 agree with regard to judicial efficiency -- let me ask this,
5 how long are you going to take on this point?

6 MR. DRITSAS: One more question.

7 MS. OVIEDO: Your Honor, I would ask that he explain the
8 relevance before he delves into this, perhaps right now, for
9 proof.

10 MR. DRITSAS: I'm fine with this.

11 JUDGE THOMPSON: Can you tell me what -- I think I know,
12 but for the record, counsel, why is whatever line of
13 questioning you're about to ask relevant?

14 MR. DRITSAS: Because we have an active Union supporter
15 who in March to April 2000 -- strike that.

16 Who in March of 2015 called off, had points under the
17 attend system assessed to her that were removed from Alejandra
18 Magana who is alleged to have taken discriminatory action
19 against somebody else.

20 JUDGE THOMPSON: So it's a compare -- you're alleging
21 she's comparable?

22 MR. DRITSAS: Yes. And with much greater Union activity
23 than you'll hear from Ms. Guzman(phonetic).

24 JUDGE THOMPSON: But you said one question, right?

25 MR. DRITSAS: That's it.

1 JUDGE THOMPSON: Okay. Go ahead --

2 MS. OVIEDO: Your Honor, just to renew --

3 JUDGE THOMPSON: -- and I'll rule on it.

4 MS. OVIEDO: Just to renew the objection. I mean, if
5 Respondent would like to issue subpoenas to all of our GC
6 witnesses that's fine, but beyond the scope --

7 JUDGE THOMPSON: Yeah, but I'm not going to make him do
8 that for one question. And I mean, I get it what you're
9 saying, but I'm trying to promote some level of efficiency. If
10 he was going to go into a whole panoply of questions, I would
11 sustain your objection and I would agree with you. It is
12 relevant so I have to overrule the objection, but since it's
13 extremely limited, I'm going to allow the opportunity to ask
14 the witness this question so that we're not inconveniencing
15 this witness by having to call her back again for this one
16 question. So --

17 MS. OVIEDO: Just for the record, GC objects also on the
18 basis of beyond the scope. So not just relevance, but also
19 beyond the scope of direct.

20 JUDGE THOMPSON: Got it.

21 MS. OVIEDO: Just for the record.

22 JUDGE THOMPSON: And I'm going to overrule the objection.
23 Mr. Dritsas, proceed.

24 MR. DRITSAS: Thank you.

25 Q BY MR. DRITSAS: If I'm mispronouncing your name I

1 apologize. Ms. Jaramillo, are you aware that on March 2015
2 Alejandra Magana removed the two points that were given to you
3 for failure to call off -- for calling off in violation of the
4 attendance policy?

5 A Yes.

6 MR. DRITSAS: Okay. I have nothing further, Your Honor.

7 JUDGE THOMPSON: Mr. Dritisas, are you moving Respondent
8 18?

9 MR. DRITSAS: Oh, I'm sorry. Thank you, Your Honor. I
10 am.

11 JUDGE THOMPSON: General Counsel, any objection?

12 Ms. Oviedo was objecting, so Ms. Oviedo, any objections?

13 **VOIR DIRE EXAMINATION**

14 Q BY MS. OVIEDO: Ms. Jaramillo, have you ever seen
15 Respondent 18(a) or 18(b) before? Have you ever seen the first
16 two pages of Respondent's document 18, which have been marked
17 as 18(a) and 18(b)?

18 THE INTERPRETER: That if I had seen it before at work or
19 just here?

20 Q BY MS. OVIEDO: Have you ever seen these images?

21 THE INTERPRETER: Yes.

22 Q BY MS. OVIEDO: Where have you seen these images before?

23 THE INTERPRETER: At the entrance of the office.

24 Q BY MS. OVIEDO: Are these two documents posted somewhere
25 on the wall?

1 THE INTERPRETER: No. This one is I think for I think
2 it's for whenever there's a fire or something they put it as an
3 exit, for an exit.

4 Q BY MS. OVIEDO: Did you help prepare this packet?

5 A No.

6 Q Did you take any of these pictures?

7 A No.

8 Q On page F, could you tell us whether or not the chair at
9 the very far end of the picture is pushed in or not?

10 A Yes.

11 Q Is there anything blocking it?

12 A No.

13 Q Are you personally familiar with all of these pictures,
14 what is depicted in these pictures?

15 A Yes.

16 Q Okay. Do you know the measurements of 18(a) and 18(b), or
17 the scale?

18 A No.

19 MS. OVIEDO: No further questions, Your Honor.

20 JUDGE THOMPSON: Is there still an object -- well, I don't
21 know if you have objected. You voir dired, but you haven't
22 told me whether you object or you have not -- you do not
23 object.

24 MS. OVIEDO: We object to 18(a) and 18(b). There is no
25 scale or legend to show the measurements or the square footage.

1 JUDGE THOMPSON: I'm going to have to overrule you on that
2 objection, counsel. I think the witness has -- I'm satisfied
3 that the witness is at least testifying based on her personal
4 knowledge such that I think authentication has been
5 established, so I'm going to admit Respondent 18 into evidence.

6 **(Respondent Exhibit Number 18 Received into Evidence)**

7 I think Ms. -- or I should say General Counsel, any
8 redirect?

9 MS. DAVILA: Yes, Your Honor.

10 **REDIRECT EXAMINATION**

11 Q BY MS. DAVILA: Ms. Jaramillo, you know that you have
12 rights to do Union activity, correct?

13 A Yes.

14 Q What are some of those rights?

15 THE WITNESS: Can I say it is Spanish?

16 JUDGE THOMPSON: Yes, you can.

17 THE INTERPRETER: We could make them for the Union. I'm
18 asking her is there things that we can do to the Union, to
19 support the Union?

20 Q BY MS. DAVILA: What rights do you have to do Union
21 activity?

22 THE INTERPRETER: What rights I have that we are protected
23 federally to make the Union campaign.

24 Q BY MS. DAVILA: And how can you -- what activity can you
25 participate in?

1 THE INTERPRETER: In marches, in meetings, to hand out
2 fliers.

3 Q BY MS. DAVILA: And who told you about these rights?

4 THE INTERPRETER: When we go to the meetings at the Union.

5 Q BY MS. DAVILA: And if your rights were violated, who
6 would you go to?

7 THE INTERPRETER: I think it's the labor board.

8 Q BY MS. DAVILA: Okay. Do you know if Imelda Kratene
9 (phonetic) supports the Union?

10 A No. I don't know.

11 Q You don't know?

12 MR. DRITSAS: I'm sorry, I'm having trouble with your
13 accent.

14 MS. DAVILA: Imelda Kratene.

15 MR. DRITSAS: Imelda. Okay. Thank you.

16 Q BY MS. DAVILA: How many housekeepers does Imelda
17 supervise?

18 A Everybody.

19 Q And when you check out of your shift, are you the only
20 person checking out at that time?

21 A No.

22 Q As you mentioned, there were more people there, correct?

23 A Yes.

24 Q And they were all there handing their stuff to Imelda?

25 A Yes.

1 Q Do employees get their points removed, their attendance
2 points removed?

3 A Every --

4 MR. DRITSAS: Objection. Never mind. Go ahead.

5 JUDGE THOMPSON: Repeat the question, Ms. --

6 Q BY MS. DAVILA: Do employees get their attendance points
7 removed?

8 A Every month.

9 Q Is there a manager that can remove points?

10 A Yes.

11 Q Who can remove points in housekeeping?

12 A Alejandra.

13 Q Alejandra Magana?

14 A Yes.

15 Q Is there any other manager in housekeeping who can remove
16 points?

17 A Not that I know.

18 Q Do all employees get fired when they reach ten points?

19 A Yes.

20 MR. DRITSAS: Objection. Lack of foundation. There's no
21 foundation that she knows who's been fired, the circumstances
22 of anyone getting fired, anything of that nature.

23 MS. DAVILA: I'll rephrase.

24 JUDGE THOMPSON: Please.

25 Q BY MS. DAVILA: As far as you know, do employees always

1 get fired when they reach ten points?

2 A I don't know.

3 Q Have you reached ten points before?

4 A No.

5 Q Do you know of other people who have reached ten points?

6 A No.

7 Q Do you know anybody who's been fired for reaching ten
8 points?

9 A No.

10 Q When did you start working there?

11 A February 19, 2009.

12 MS. DAVILA: No further questions, Your Honor.

13 JUDGE THOMPSON: Thank you so very much for your
14 testimony. Please don't discuss it with anyone. We appreciate
15 your appearance and have a good evening. You are excused.

16 THE WITNESS: Thank you.

17 JUDGE THOMPSON: Thank you.

18 THE WITNESS: Thanks.

19 JUDGE THOMPSON: Counsel, I think we're going to stop.

20 Off the record. Oh, don't go off. I think we're going to
21 stop here since we're at a dedicated break. I just wanted to
22 on the record address the resumption schedule that counsel and
23 I worked out at the beginning of the day.

24 We're going to go tomorrow until 4:00 p.m. we'll start at
25 9:00 and end at 4:00 and then we will resume the trial on

1 Monday, November 30 at the 9:00 a.m., hopefully in this room,
2 but if not General Counsel will e-mail us as to the hearing
3 location prior to the 30th. And then we're going to go from
4 November 30th through Friday, December 4th. And should we need
5 additional time after that, we will reconvene on Wednesday,
6 December 9 at 9:00 a.m. And, again, General Counsel, should
7 this become necessary will let us know whether we'll be in this
8 room or some other hearing room.

9 And then we'll go until Friday December the 11th. And I
10 suspect we may have to conclude early on that day as well for
11 flight arrangements et cetera, because counsel -- some of us,
12 some counsel and I have to fly. We don't live here. So. But
13 we can get to that if need be. And I don't anticipate us
14 needing to go much past December the 11th, but we'll cross that
15 bridge if and when we get there.

16 Any -- anything else before we conclude today? Anything
17 at all?

18 MR. DRITSAS: We wanted to get a settlement document.

19 JUDGE THOMPSON: That's right.

20 MR. KRAMER: There is a settlement document. I think we
21 might have a couple of questions of General Counsel before we
22 can present it to you.

23 MR. DRITSAS: Okay. So --

24 JUDGE THOMPSON: Okay. So I'll hang out --

25 MR. DRITSAS: -- I have a question --

1 JUDGE THOMPSON: Do you want me to hang out here or do you
2 want me to do it tomorrow?

3 MR. DRITSAS: Okay. Can we have one minute with General
4 Counsel and see if we can resolve it right now?

5 MR. KRAMER: Yeah.

6 MR. DRITSAS: Okay. Let's just conclude the hearing and
7 I'll see you guys tomorrow at 9:00.

8 We're in recess.

9 MR. KRAMER: Thank you, Your Honor.

10 JUDGE THOMPSON: We're off the record.

11 **(Whereupon, the hearing in the above-entitled matter was**
12 **recessed at 5:58 p.m. until Friday, November 20, 2015 at 9:00**
13 **a.m.)**

14

15

16

17

18

19

20

21

22

23

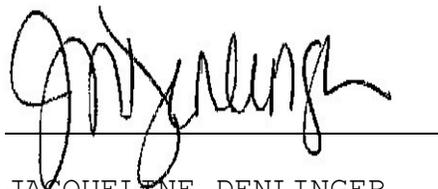
24

25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Thursday, November 19, 2015, at 9:24 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: November 20, 2015

Pages: 605 through 728

Volume: 4

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Friday, November 20, 2015, at 9:02 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Ofelia Diaz	612	624	635		
Carmen Llarull	643	663	690		
A. de Lourdes Garcia	705				

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-20	618	618
GC-21	710	710

1 P R O C E E D I N G S

2 JUDGE THOMPSON: We are back on the record, continuing the
3 hearing in Trump Ruffin Commercial, LLC, doing business as
4 Trump International Hotel Las Vegas, and the Local Joint
5 Executive Board of Las Vegas affiliated with Unite Here
6 International Union.

7 Today is Friday, November the 20th, 2015. I am Judge
8 Thompson presiding over this trial. We are located in the
9 offices of Region 28 in Las Vegas, Nevada.

10 All of the parties, counsel, are here. Judith Davila is
11 present for the General Counsel. Ms. Oviedo is en route to the
12 hearing and will be coming in shortly.

13 Ronald Kramer and William Draitsas are here and appear on
14 behalf of Respondent, Trump Hotel.

15 Good morning, counsel, how are you?

16 MR. DRITSAS: Good morning, Your Honor.

17 MR. KRAMER: Good morning, Your Honor.

18 MS. DAVILA: Good morning, Your Honor.

19 JUDGE THOMPSON: I believe -- are there any housekeeping
20 matters that we need to address before picking up on the
21 General Counsel's case in chief? Anything at all?

22 MR. KRAMER: No, Your Honor.

23 MS. DAVILA: Not for the General Counsel, either.

24 JUDGE THOMPSON: Okay. Hearing nothing further,
25 Ms. Davila, would you care to continue with your case and call

1 your next witness?

2 MS. DAVILA: Yes, Your Honor. The General Counsel calls
3 Ofelia Diaz.

4 JUDGE THOMPSON: Okay. And Ms. Davila, could you say the
5 last name again?

6 MS. DAVILA: Diaz.

7 JUDGE THOMPSON: Diaz, thank you. And also joining
8 Ms. Diaz is our interpreter, Marissa Sanchez. Good morning.

9 MS. SANCHEZ: Good morning.

10 JUDGE THOMPSON: Okay. Before you sit down, let me ask
11 you if you wouldn't mind giving the documents that you brought
12 to Ms. Davila, and she'll give them back to you. I want you to
13 testify from your own personal knowledge. Please have a seat
14 and make yourself comfortable.

15 Ms. Diaz, my name is Judge Thompson, as I just introduced
16 myself. I'm an administrative law judge with the National
17 Labor Relations Board, and I've been assigned to preside over
18 this hearing. You have been called as a witness on behalf of
19 the General Counsel, but I need to swear you in before you give
20 your testimony. Would you please raise your right hand. The
21 other one. Your other right hand.

22 Whereupon,

23 **OFELIA DIAZ**

24 having been duly sworn, was called as a witness herein and was
25 examined and testified, by and through an interpreter as

1 follows:

2 JUDGE THOMPSON: Great, thank you. Now, let me give you
3 just a few instructions before providing your testimony.

4 The first very important instruction is, you have a very
5 soft voice, and we want to hear everything you have to say. So
6 could you make certain to keep your voice up so that we can
7 record your testimony accurately.

8 Sitting to your left is our interpreter, her name is
9 Ms. Sanchez. I understand that you may speak a little English,
10 but to the extent that you would prefer to testify in Spanish,
11 Ms. Sanchez is going to interpret your testimony in Spanish.
12 And so, when you would prefer to testify, just turn to her and
13 speak in Spanish, and then she'll translate for us.

14 THE WITNESS: Yes.

15 JUDGE THOMPSON: Okay, great. Ms. Sanchez, in that
16 regard, let me swear you in.

17 (Interpreter sworn)

18 JUDGE THOMPSON: Great, thank you. Okay. So the first
19 rule is, make sure to keep your voice up.

20 Secondly, if you could give us a verbal response. There's
21 a microphone sitting in front of you, you don't have to lean
22 in. We'll capture your testimony. But oftentimes we get in
23 the habit of saying uh-huh and huh-uh, but the transcript
24 doesn't recognize that. So if you could give us a verbal
25 response, yes, no, something of that nature, we would

1 appreciate that.

2 Next, if you don't understand a question that either
3 counsel ask you, would you please let them know, I don't
4 understand what you're asking, so they can repeat or rephrase
5 the question so that you can understand. If you answer a
6 question, we'll presume that you understood it.

7 Next, if either counsel at the table object, could you
8 hold your response until I can rule on the objection.

9 And then, finally, could you hold your response until
10 counsel have completed their question. We're making a record
11 of the testimony, and oftentimes, witnesses may know where the
12 question is going and want to interject an answer, but that
13 makes the transcript unclear because we don't have the full
14 question and the full answer. So could you wait until counsel
15 have finished their question before you answer. Can you do
16 that for us?

17 THE WITNESS: (No verbal response).

18 JUDGE THOMPSON: Is it yes?

19 THE WITNESS: Yes.

20 JUDGE THOMPSON: Okay, great. Be sure to keep your voice
21 up. Appreciate that. Ms. Davila, your witness.

22 MS. DAVILA: Thank you, Your Honor.

23 **DIRECT EXAMINATION**

24 Q BY MS. DAVILA: Good morning, Ms. Diaz.

25 A Good morning.

1 Q Could you please state your occupation for the record?

2 A Okay. Housekeeping.

3 Q Where do you work?

4 A I clean rooms.

5 Q Where do you work?

6 MS. DAVILA: I'd just like to clarify, you can answer in
7 Spanish completely, and she'll interpret it for you.

8 THE WITNESS: Okay.

9 MS. DAVILA: And if you could just wait for her to
10 translate my question, just to make sure you completely
11 understand it.

12 THE WITNESS: Okay.

13 MS. DAVILA: Okay. This is my co-counsel, Elise Oviedo.
14 Okay.

15 Q BY MS. DAVILA: So, where do you work?

16 A Trump International.

17 Q And you're a housekeeper there?

18 A Yes.

19 Q When did you start -- just let her translate the question,
20 just so we have a little flow going. It's okay, I understand
21 you're nervous.

22 Okay. When did you start working at the Trump Hotel?

23 A In 2013, September 2013.

24 Q And have you worked there this whole time?

25 A Yes.

1 Q And who's your supervisor?

2 A There's several of them who are managers.

3 Q Can you walk me through the highest person in the
4 housekeeping department?

5 A Alejandra Magana is the general director.

6 Q And then can you list some of the managers?

7 A Kelvin, which I don't remember the last name, Alma
8 Pantoja, Christina, Tom, and I don't remember the names of the
9 other ones.

10 Q Okay. Do you support the organizing campaign that's
11 happening at Trump Hotel right now?

12 A Yes.

13 Q Okay. Let me show you what's marked as General Counsel's
14 Exhibit 20.

15 MR. DRITSAS: So it's not marked --

16 MS. DAVILA: It's not marked on that one, at least this
17 one.

18 MR. DRITSAS: 20, you said?

19 MS. DAVILA: 20.

20 Q BY MS. DAVILA: Do you recognize this form?

21 A Yes.

22 Q How do you recognize it?

23 A Because I signed it and I organized people inside there.

24 Q Okay. Can you read the name on the top line?

25 A Yes. Ofelia Diaz Cardenas.

1 Q Is Cardenas your other last name?

2 A It's my second last name, yes.

3 Q Okay. When did you start getting involved with the
4 organizing campaign?

5 A In May of 2014.

6 Q Okay. How did you first get involved?

7 A I had a friend there who I heard she was getting
8 information in regards to the Union.

9 Q What is her name?

10 A Gisella Happe.

11 Q Okay. And did you wear a button to work?

12 A Yes. We went there to the Union to get the button, and
13 that's where they presented us to wear the Union button, at the
14 Union.

15 Q And this was in May 2014?

16 A Yes.

17 Q Were you part of the first group of employees to wear the
18 button to work?

19 A Yes.

20 Q And is that the button that you're wearing right there on
21 the left side of your jacket?

22 A Yes.

23 Q Okay. Can you look up there for a paper that looks like
24 this? It says GC Exhibit 6?

25 JUDGE THOMPSON: Ms. Diaz, there are two groups of paper

1 to your left, and then you need to look for GC-6. Let the
2 record reflect that counsel handed the witness what's been
3 marked as GC-6.

4 Q BY MS. DAVILA: Do you recognize what's on page 3?

5 A Yes.

6 Q Have you seen it before?

7 A Yes.

8 Q Where?

9 A I think it was at the culinary.

10 Q Does it have your name listed there at the bottom?

11 A No.

12 Q Were you one of the workers that was sent home for wearing
13 a Union button to work?

14 A Yes.

15 Q If I just have you read the second line from the bottom.

16 A Oh, yes, yes. I'm looking at it right here.

17 Q I'm going to read to you what it says.

18 A Okay.

19 Q "We have paid Gisella Happe, Celia Vargas, Carmen Llarull,
20 Ofelia Diaz Cardenas, and Rodolfo Aleman for the wages and
21 other benefits they lost because we suspended them."

22 JUDGE THOMPSON: What's your question, counsel?

23 Q BY MS. DAVILA: Is that in reference to you?

24 A Yes.

25 Q Okay. And then I'm going to read the other one.

1 "We will remove from our files all references to the
2 suspensions of Gisella Happe, Celia Vargas, Carmen Llarull,
3 Ofelia Diaz Cardenas and Rodolfo Aleman, and we will notify
4 them in writing that this has been done, and that their
5 suspensions will not be used against them in any way."

6 Do you recognize -- is this about you?

7 A Yes.

8 Q Okay. Was this notice posted at work?

9 A Yes.

10 Q Okay. Did you continue organizing this year?

11 A Yes.

12 Q What activities did you participate in?

13 A Signing of cards, signing petitions, and going to the
14 meetings and going to the protests.

15 Q Are you a committee leader?

16 A Yes.

17 Q And what are some of your responsibilities as a committee
18 leader?

19 A Explain to the people to what purpose is the Union.

20 Q Are these people your co-workers?

21 A Yes.

22 Q Where do you speak to them?

23 A Outside of work, inside of work when I'm on my free time.

24 Q Okay.

25 JUDGE THOMPSON: Ms. Davila, before we get too far in, do

1 you want to move GC Exhibit 20?

2 MS. DAVILA: Yes, Your Honor. I move GC Exhibit 20 into
3 the record.

4 JUDGE THOMPSON: Respondent, any objection?

5 MR. DRITSAS: No objection, Your Honor.

6 JUDGE THOMPSON: Hearing no objection, I'll receive GC
7 Exhibit 20.

8 **(General Counsel Exhibit Number 20 Received into Evidence)**

9 Q BY MS. DAVILA: So you talked to your co-workers at work.

10 A Yes.

11 Q Do you use your button to work?

12 A All of the time.

13 Q Have you been wearing it since -- when have you been
14 wearing it since?

15 A Since the day I became a leader.

16 Q Which was when?

17 A It was in 2014.

18 Q Do you wear it on your uniform?

19 A Yes.

20 Q Do you wear it to work?

21 A Yes.

22 Q And what does it signify to you?

23 MR. DRITSAS: Objection, irrelevant.

24 JUDGE THOMPSON: Go ahead, Mr. Dritisas.

25 MR. DRITSAS: It's irrelevant what it signifies to her.

1 MS. DAVILA: It's her concerted activity, Your Honor.

2 JUDGE THOMPSON: But --

3 MS. DAVILA: We can't assume what concerted -- what the
4 Union button means to her.

5 MR. DRITSAS: Well, we know what the Union button means.

6 MS. DAVILA: How do we know?

7 JUDGE THOMPSON: It really isn't what it means to her.

8 But the test is her participation in activities which you have
9 elicited testimony. So I'm going to sustain the objection, but
10 continue, Ms. Davila.

11 Q BY MS. DAVILA: Do you know if the hotel is in favor of a
12 Union?

13 A The people higher up, or the people that work there?

14 Q The managers and the supervisors.

15 A No.

16 Q And how do you know that?

17 A Because of everything that's been happening.

18 Q Could you give us an example?

19 A The things that have happened, they have abused us, they
20 don't want to give us any opportunity to work for any of us
21 that have the button.

22 Q And have you ever been spoken to about the Union from a
23 supervisor or a manager?

24 A Yes.

25 Q When?

- 1 A It was this year.
- 2 Q And was it an incident involving Imelda Cretin?
- 3 A Yes.
- 4 Q And who is Imelda Cretin?
- 5 A A manager. She was a manager.
- 6 Q In what department?
- 7 A Housekeeping.
- 8 Q Was she your manager?
- 9 A Yes.
- 10 Q Okay. Is the incident that you're talking about referring
11 to July of this year?
- 12 A Yes.
- 13 Q What time of day was it?
- 14 A In the morning.
- 15 Q Where were you?
- 16 A We were listening to the morning meeting.
- 17 Q And what was the morning meeting? Or what is the morning
18 meeting, I'm sorry.
- 19 A They always explain to us the number of guests that we
20 have.
- 21 Q Okay. And who usually leads these meetings?
- 22 A Whatever person, the manager that is not off that day
23 gives the meeting.
- 24 Q Okay. And was Imelda Cretin there that morning?
- 25 A Yes.

1 Q Okay. Can you tell us what happened?

2 A I got near her.

3 Q Was this before or after the meeting?

4 A After the meeting.

5 Q Okay. And, go ahead.

6 A I got close to her -- near her, and I asked her why
7 weren't they putting me to train people.

8 Q And do you mean train people as in train employees?

9 MR. DRITSAS: Objection. Objection. I've been -- I'm
10 saying I'm waiting to get to the preliminaries, but I think now
11 we get to the heart we should have more open-ended questions
12 rather than leading questions.

13 JUDGE THOMPSON: I'm going to sustain the objection. But,
14 counsel, to the extent that you can keep it open-ended, and so,
15 but --

16 MS. DAVILA: I just didn't want to get her into a
17 narrative.

18 JUDGE THOMPSON: I understand. I understand. But I'm
19 going to give counsel a little leeway because, I agree with
20 her. I don't want this witness to get into a narrative.

21 MR. DRITSAS: I agree with that, Your Honor.

22 JUDGE THOMPSON: Subject to that, Ms. Davila, please
23 continue.

24 MS. DAVILA: I forgot my last question.

25 JUDGE THOMPSON: Just restate it again.

1 MS. DAVILA: Okay.

2 Q BY MS. DAVILA: Who did you want to train?

3 A New people.

4 Q Employees?

5 A Yes.

6 Q Okay. What happened?

7 A I just asked her why weren't they giving me people to
8 train. And she pointed to the button, and she said the button
9 that I'm wearing is ruining.

10 Q Did you say (Spanish spoken)?

11 A Signing with her finger like this.

12 Q Signaling with her finger?

13 THE INTERPRETER: Signaling with her finger like this --

14 MS. DAVILA: No, can you ask her?

15 JUDGE THOMPSON: No, can you ask her?

16 A Yes. Yes. Pointing like this. The button that you're
17 wearing is ruining. You're never going to get anything here.

18 Q When you say (Spanish spoken), do you mean prejudicing?

19 A Yes, because I wanted a better position to make more
20 money.

21 MS. DAVILA: Let the record reflect that the witness
22 pointed to her red and white button on her left lapel on top --
23 or around her chest.

24 JUDGE THOMPSON: So noted, counsel.

25 MS. DAVILA: Okay.

1 Q BY MS. DAVILA: Did she touch your button when she was
2 speaking?

3 A Yes, she went like this.

4 MS. DAVILA: Let the record reflect that the witness
5 tapped her red and white button on her left lapel.

6 JUDGE THOMPSON: So noted.

7 Q BY MS. DAVILA: And then what happened?

8 A And I told her, why.

9 Q And then what happened?

10 A I have to fight for my rights.

11 Q What did she respond?

12 A Well, that's what I'm going to tell you, and she turned
13 around then.

14 Q Okay. Was anyone else around?

15 A Anthony.

16 Q Who's Anthony?

17 A He was another manager that was there.

18 Q A housekeeping manager?

19 A Yes.

20 Q Okay. Did he say anything to you?

21 A No. She just asked him -- she just asked him, and he's
22 the one that commented that to her.

23 Q So she commented what he said to her?

24 A Yes. Yes.

25 Q Okay. Did you ever speak directly to him?

1 A No.

2 MS. DAVILA: No further questions, Your Honor.

3 JUDGE THOMPSON: Ms. Diaz -- just one second, counselor.
4 -- how do you spell your first name?

5 THE WITNESS: Ofelia.

6 JUDGE THOMPSON: Could you spell it?

7 THE WITNESS: O-F-E-L-I-A.

8 MR. DRITSAS: You have a Jencks statement, counsel?

9 JUDGE THOMPSON: Just a second, counsel. And your last
10 name, could you spell your last name.

11 THE WITNESS: Diaz, D-I-A-Z.

12 JUDGE THOMPSON: Thank you. Mr. Dritisas.

13 MR. DRITSAS: I'm sorry. Counsel, do you have the Jencks
14 statement?

15 MS. DAVILA: Yes. If we could go off the record for a
16 second while I look for it.

17 JUDGE THOMPSON: Certainly. Off the record.

18 (Off the record at 9:26 a.m.)

19 JUDGE THOMPSON: We are back on the record continuing with
20 Ms. Diaz. Mr. Dritisas, cross?

21 MR. DRITSAS: Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 Q BY MR. DRITSAS: I'm going to ask you a few questions on
24 one of the hotel floors. So you've been a committee leader
25 since 2014?

1 A Yes.

2 Q And you said you wore your button every day; is that
3 right?

4 A Yes.

5 Q Both the yellow button and the red and white button?

6 A Yes.

7 Q Okay. And did you do anything to try to cover up or hide
8 your Union activities?

9 A Yes.

10 THE INTERPRETER: I'm going to repeat the question.

11 MR. DRITSAS: Okay.

12 A Cover up, like cover up what?

13 Q BY MR. DRITSAS: Let me ask you another way. Did you
14 openly advocate for the Union at the hotel?

15 A Yes.

16 Q And so you engaged in Union organizing activities in the
17 EDR?

18 A Yes.

19 Q Okay. And after your -- strike that.

20 You testified that you had a suspension that was reversed
21 for wearing a Union button, right?

22 MS. DAVILA: Objection.

23 JUDGE THOMPSON: Wait just a second.

24 MS. DAVILA: Objection, misstates -- mischaracterizes the
25 testimony. I simply read the settlement agreement.

1 JUDGE THOMPSON: Sustained. Counsel, can you rephrase it,
2 though?

3 MR. DRITSAS: Sure. Sure.

4 Q BY MR. DRITSAS: Sometime, I think you said about
5 May 2014, you and several of your co-workers came to the hotel
6 and wore a Union button, right?

7 A Yes.

8 Q Okay. And you were suspended for not -- you were
9 suspended for violating the Company's uniform policy, right?

10 A Yes.

11 Q Okay. And that suspension was reversed, taken off your
12 record; is that right?

13 A Yes.

14 Q Okay. And after that activity, after wearing your button
15 and the suspension, you continued to engage in Union activities
16 at the hotel; is that right?

17 A Yes.

18 Q Okay. So I'm going to move you to, let's see, let's first
19 get some foundation here. The training we're talking about is
20 one of the housekeepers, one of the experienced housekeepers is
21 assigned to a new person to show them how to perform as a
22 housekeeper; is that right?

23 A Yes.

24 Q Okay. And there are about, or there were about 20
25 experienced housekeepers that rotated through doing training;

1 is that right?

2 MS. DAVILA: Objection. Foundation. How would she know
3 that?

4 JUDGE THOMPSON: He's asking her. I'm going to have to
5 overrule the objection. The witness can answer the question.

6 MS. DAVILA: I just want to clarify my objection. It was
7 foundation.

8 A I wouldn't be able to tell you.

9 JUDGE THOMPSON: Overrule the objection.

10 MR. DRITSAS: Okay.

11 Q BY MR. DRITSAS: Do you know Carmen Llarull?

12 A Yes.

13 Q Carmen was a -- or is a committee member, committee
14 leader; is that right?

15 A Yes.

16 Q She was one of the original employees that wore the button
17 at work?

18 A Yes.

19 Q And she's been very outspoken in her activities on behalf
20 of the Union?

21 A Could you repeat that?

22 Q Sure. She has been very open and outspoken about her
23 activities on behalf of the Union.

24 A Yes.

25 Q And are you aware that Carmen worked as a trainer for new

1 employees?

2 A Yes.

3 Q Okay. Do you know of any other committee leaders that
4 worked as trainers for new employees besides Carmen?

5 A Myself.

6 Q Anyone else?

7 A No.

8 Q Okay. And Carmen continued working as a trainer even
9 after your conversation with Imelda; is that right?

10 A They didn't give her either.

11 Q When you said you met with Carmen, you said your
12 conversation with Imelda was in June 2015?

13 A Yes.

14 Q Okay. Let's go to that. Where did that conversation take
15 place?

16 A In the EDR.

17 Q Okay. Was it -- is the morning meeting different than the
18 Trump talk?

19 A No. In the morning, they only give the meeting.

20 Q Do you go to Trump talk meetings in the morning?

21 A Yes.

22 Q Okay. So is the Trump talk the same as what you have when
23 you said the morning meeting?

24 A Yes.

25 Q Okay. And was this before the morning meeting or after

1 the morning meeting that you had your conversation with Imelda?

2 A After the meeting.

3 Q Okay. And where were you standing? Or sitting?

4 A In the front.

5 Q Were you sitting or standing when you had this
6 conversation?

7 A Standing in front of her.

8 Q Okay. And was there anyone else there besides you and
9 Imelda?

10 A Yes, Anthony was there.

11 Q And how close was Imelda to you?

12 A In front of me like this.

13 Q So were they both about the same distance away from you?

14 A Yes.

15 Q Okay. And when -- I was confused by your testimony there.
16 Did Anthony say anything?

17 A No. He was turned the other way, and I was next -- close
18 to her talking to her.

19 Q Okay. First, is this Anthony Wandick?

20 A I don't know his last name.

21 Q It was the -- one of the four managers?

22 A Yes.

23 Q Okay. African American man?

24 A Yes.

25 Q Okay. Okay. So it's you, and you're facing Imelda and

1 she's facing you?

2 A Yes.

3 Q Okay. And Anthony's there in the immediate area but he's
4 turned away?

5 A Yes, because they had just finished the meeting.

6 Q Okay. Was he talking to anyone else or was he just
7 looking the other way?

8 A I really just saw him turned the other way, but I didn't
9 really pay attention to that because I just wanted to be in
10 front of her to see what she was talking about.

11 Q Okay. And did Imelda say anything about Anthony?

12 A She told him when I left.

13 Q Well, if you left, how do you know what she said?

14 A Because I heard her when she asked him.

15 Q Okay. What did you hear her say?

16 A He told him, why didn't they give me people to train.

17 Q He -- I don't understand that.

18 THE INTERPRETER: She told him, why didn't they give
19 him -- give her people to train.

20 MR. DRITSAS: You just said he first. Did she say he or
21 did you say he?

22 THE INTERPRETER: I said he.

23 MR. DRITSAS: Okay.

24 A When I left there from being with her, I walked a little
25 ways, I don't leave the area. Some other friends are there

1 that were going to work, and I heard him. I heard her when she
2 told Anthony, why don't they give her people to train.

3 Q BY MR. DRITSAS: Okay. So you heard Imelda say to
4 Anthony, why don't they give Imelda people to train?

5 A Yes.

6 Q And did Anthony say anything?

7 A I don't know. He took her over there and he told her what
8 he had to tell her. I don't know.

9 Q Okay. And who were your other friends that were there?

10 A I don't remember because I just got my chemicals and I
11 went to work.

12 Q Okay.

13 MR. DRITSAS: Can we -- I want to show the witness the
14 Spanish version of this. Do you have an extra copy?

15 MS. DAVILA: Yes. Do you need the Spanish? We can give
16 it to her.

17 MR. DRITSAS: May I approach, Your Honor?

18 JUDGE THOMPSON: Please.

19 Q BY MR. DRITSAS: Can you turn please to the second page,
20 and it's the paragraph that in English starts with, it's been
21 about two months after the morning meeting. Oh, I'm sorry,
22 it's page 3, double-sided. It's the second to the last
23 paragraph. So, can you read that to yourself and let me know
24 when you're finished.

25 A From what paragraph? From here, or there?

1 Q Just --

2 A From the top?

3 Q On the English version, it's this paragraph here. So you
4 can read this, it's been about two months. That's the
5 paragraph.

6 JUDGE THOMPSON: And let the record reflect that counsel
7 was showing the witness where he would like for her to read on
8 her Jencks statement.

9 MR. DRITSAS: Just to herself.

10 A That's what I'm saying.

11 Q BY MR. DRITSAS: Okay. You signed this affidavit -- or
12 declaration? It's not -- it's an affidavit. Did you sign this
13 affidavit, ma'am?

14 A Yes. It's my -- they're my initials.

15 Q Okay. So this is your statement, right?

16 A Yes.

17 Q Okay. Would you agree there's no mention of Mr. Wandick
18 in the paragraph you just read. Just -- excuse me. I'd just
19 like to say -- my question is, do you agree there's no mention
20 of Mr. Wandick in this paragraph you just read?

21 A Because I didn't talk with him.

22 Q That's not my question. Just, would you agree --

23 JUDGE THOMPSON: You have to answer the question,
24 Ms. Diaz.

25 A Okay. No, because I didn't speak with him directly. I

1 talked with Imelda. I directed myself to Imelda, not him. And
2 if I'm commenting about it today --

3 Q Okay.

4 MR. DRITSAS: That's, Your Honor, that's beyond the
5 question asked.

6 JUDGE THOMPSON: I understand.

7 Q BY MR. DRITSAS: Okay. So, and you signed --

8 JUDGE THOMPSON: You have to answer the question,
9 Ms. Diaz.

10 THE WITNESS: I am giving an answer.

11 JUDGE THOMPSON: Continue, Mr. Dritisas.

12 Q BY MR. DRITSAS: You signed this document in September of
13 2015, correct?

14 A Yes.

15 Q And you claimed that the incident took place in June of
16 2015?

17 A I'm saying that it was June, July -- really, the dates? I
18 forget them. But someone always remembers what took place.

19 Q Did this conduct that you have alleged with Imelda take
20 place before or after the election took place? Before or after
21 the election was scheduled?

22 A No. This is when we were with the button.

23 Q No. You know there was an election scheduled for June 24,
24 2015?

25 THE INTERPRETER: June what?

1 MR. DRITSAS: 24, 2015.

2 THE WITNESS: Yes.

3 Q BY MR. DRITSAS: Okay. So did this conduct that you
4 alleged with Imelda take place before or after the scheduled
5 date?

6 A I don't remember.

7 Q Okay. Would you agree that the incident that you've
8 talked about with Imelda took place three months or so before
9 you prepared your written statement?

10 A I could tell you the time that's convenient.

11 Q I don't understand that, so I'm going to ask you again.
12 Would you agree that the incident with Imelda took place at
13 least two to three months before you signed your affidavit?

14 A Yes, I think so. I have been signing it.

15 Q Okay. Did you ever talk to Imelda about your Union
16 sympathies or activities?

17 A No.

18 Q Okay. Did you know what Imelda's views were about the
19 Union?

20 A No.

21 Q Okay. Did you know whether or not her husband was a
22 member of the Union?

23 A No.

24 Q Okay. Okay.

25 MR. DRITSAS: I have nothing further, Your Honor.

1 JUDGE THOMPSON: Thank you, Mr. Dritsas. Ms. Davila, any
2 redirect?

3 MS. DAVILA: Yes.

4 **REDIRECT EXAMINATION**

5 Q BY MS. DAVILA: Ms. Diaz, when did you start working at
6 the hotel.

7 A September of 2013.

8 Q So about how many years ago was that?

9 A Around two years or so.

10 Q And when did you start working full time?

11 A After I started wearing the button.

12 Q Did you work full time in 2014?

13 A Yes and no.

14 Q Okay. About how many hours do you work a week?

15 A I work the 40 hours and overtime as well.

16 Q Would you say you've been working 40 hours a week --

17 MR. DRITSAS: Your Honor, I'm going to -- since I can't
18 come back and ask questions under your rules here, I'm going to
19 object to the General Counsel's moving into areas that are not
20 responsive to the cross-examination.

21 JUDGE THOMPSON: Where are you going --

22 MS. DAVILA: May I make an offer of proof?

23 JUDGE THOMPSON: Can you tell me why is this relevant,
24 counsel?

25 MS. DAVILA: Because she -- I want to establish that she's

1 worked there a long time and is capable of training.

2 JUDGE THOMPSON: Okay. That's -- I'm going to allow
3 counsel to go there, but can we get there? Because right now,
4 you're kind of headed off. Wages doesn't have anything to do
5 with her ability to train, but I agree that it's relevant, and
6 it was part of the whole questioning.

7 So I'm going to allow counsel to explore that avenue. So,
8 proceed.

9 Q BY MS. DAVILA: Have you ever trained an employee, a new
10 employee?

11 A Yes.

12 Q What have you trained them in?

13 A In housekeeping.

14 Q And what was the purpose of that training?

15 A To make more money.

16 Q What was the purpose for the person you were training?

17 A To teach them.

18 Q Okay. And have you ever received an award at work for
19 your work?

20 A They nominated me for the best worker of the year.

21 Q Okay. And who nominated you?

22 A Alejandra, the housekeeping director.

23 Q Okay. Going to move into another area now. Is Carmen
24 Llarull your friend?

25 A Yes.

1 Q Did you meet her at work?

2 A Yes.

3 Q Did you know her before you started working there?

4 A No.

5 Q Was she already working there when you started?

6 A Yes.

7 Q So she's been working there longer than you have?

8 A Yes.

9 Q Okay. Do you have rights to Union activity?

10 A Yes.

11 Q And what rights are those?

12 MR. DRITSAS: Objection, Your Honor. The rights are the
13 rights. I'm not sure where we're going with this. We already
14 had testimony of her activities.

15 MS. DAVILA: I will get into that.

16 JUDGE THOMPSON: Yeah, but she's -- she's asked this
17 question of other witnesses, and I don't recall an objection.
18 So I'll allow counsel to ask it of this witness.

19 Ms. Davila, could you repeat the question, please?

20 MS. DAVILA: Okay.

21 Q BY MS. DAVILA: What Union activity rights do you have?

22 A Well, I'm fighting because I want there to be a respect.

23 Q Okay.

24 MR. DRITSAS: Objection --

25 MS. DAVILA: I know --

1 MR. DRITSAS: -- move to strike. It's not responsive.

2 JUDGE THOMPSON: Sustained.

3 MS. DAVILA: Okay.

4 Q BY MS. DAVILA: Do you have the right to wear your button
5 to work?

6 A Yes.

7 Q And if someone, a supervisor or manager told you you
8 couldn't wear it, where would you go -- would you tell somebody
9 about that?

10 A Yes.

11 Q Who would you tell?

12 A When I go to the Union, and I've come here to the Labor
13 Commission.

14 Q When you had that interaction with Imelda, where did you
15 go first?

16 A To the Union.

17 Q Did you tell them about it?

18 A Yes.

19 Q Did they document it?

20 A Yes.

21 MR. DRITSAS: Objection. Lacks foundation.

22 JUDGE THOMPSON: I think she's trying to establish that.

23 I'm going to give her a little latitude and allow her to answer
24 the question.

25 Ms. Davila, could you repeat it again, please?

1 Q BY MS. DAVILA: When you went to the Union to tell them
2 about it, what happened?

3 A I came over here.

4 Q Okay. When you went to the Union to tell them about it,
5 did you write anything down?

6 A I called them on the phone, I talked to the lawyer, and
7 that's when I made the paper.

8 Q Is that the Union that you talked to on the phone?

9 A No. I went to the Union, and they told me what I had to
10 do because I'm dependent on them for that.

11 Q Okay.

12 MS. DAVILA: No further questions.

13 JUDGE THOMPSON: Ms. Diaz, thank you so very much for your
14 testimony. Please do not discuss it with anyone. You are
15 excused, and have a great day.

16 THE WITNESS: Okay. Thank you so much.

17 JUDGE THOMPSON: Thank you.

18 MS. DAVILA: If we may take a brief recess, I can get my
19 other witness.

20 JUDGE THOMPSON: Yes. Let's take -- well, counsel, before
21 I -- before you do that, can you tell me generally -- strike
22 that. Let's take 15, just take our morning break. Off the
23 record.

24 (Off the record at 9:59 a.m.)

25 JUDGE THOMPSON: We are back on the record. Ms. Davila,

1 please call your next witness.

2 MS. DAVILA: Yes, Your Honor. The General Counsel calls
3 Carmen Llarull to the stand.

4 JUDGE THOMPSON: And say the last name for me again?

5 MS. DAVILA: I don't know if I'm saying it right, Llarull,
6 L-L-A-R-U-L-L.

7 JUDGE THOMPSON: Llarull. Good morning. And let the
8 record reflect that Ms. Sanchez, our interpreter, is joining
9 Ms. Llarull.

10 Good morning, Ms. Llarull. My name is Judge Thompson.

11 THE WITNESS: Nice to meet you.

12 JUDGE THOMPSON: Nice to meet you. I am an Administrative
13 Law Judge with the National Labor Relations Board. I have been
14 assigned to preside over this hearing today. You have been
15 called as a witness on behalf of the General Counsel. But
16 before you give your testimony I need to swear you in. So
17 would you raise your right hand?

18 Whereupon,

19 **CARMEN LLARULL**

20 having been duly sworn, was called as a witness herein and was
21 examined and testified, by and through an interpreter as
22 follows:

23 JUDGE THOMPSON: Great. Thank you. First could you state
24 your name for the record?

25 THE WITNESS: Carmen Llarull.

1 JUDGE THOMPSON: Spell your last name so that we have it
2 correct.

3 THE WITNESS: L-L-A-R-U-L-L.

4 JUDGE THOMPSON: Got it. Ms. Llarull, let me give you a
5 few instructions before you provide your testimony. First, to
6 your left is our interpreter, Ms. Sanchez. If you feel more
7 comfortable speaking in Spanish please let us know and then Ms.
8 Sanchez will interpret the questions that Counsel asks. You
9 can respond in Spanish and then she will interpret what you say
10 to us in English.

11 THE WITNESS: Okay.

12 JUDGE THOMPSON: If you start that way we probably would
13 prefer you just stay in Spanish.

14 THE WITNESS: Okay.

15 JUDGE THOMPSON: Only because it just helps us to
16 understand.

17 THE WITNESS: Yeah.

18 JUDGE THOMPSON: But if you're good with English.

19 THE WITNESS: I'm good, but I don't know. I prefer to
20 do --

21 JUDGE THOMPSON: Okay. You prefer to --

22 THE WITNESS: Yes, yes.

23 JUDGE THOMPSON: Then Ms. Sanchez is there for your
24 convenience.

25 THE WITNESS: Yeah.

1 JUDGE THOMPSON: First there's a microphone in front of
2 you that we're using to record the proceedings. So would you
3 mind, first speaking as loud as you can?

4 THE WITNESS: Yes.

5 JUDGE THOMPSON: Second, making sure that you give us a
6 verbal response. Often times we like to say uh-huh, and huh-
7 uh, but that's difficult to transcribe. So if you remember to
8 say, yes, no or answer the question verbally we'd appreciate
9 it.

10 THE WITNESS: Thank you.

11 JUDGE THOMPSON: Second, if either counsel ask you a
12 question that you don't understand would you tell them so.

13 THE WITNESS: Yeah.

14 JUDGE THOMPSON: I don't understand your question, so that
15 I can either have them repeat the question or rephrase the
16 question so that you can answer. If you answer a question
17 we'll presume you understood what they asked you.

18 Third, if counsel objects and there will be a question
19 asked and someone will say objection. Would you hold your
20 response until I can address their objection and their concern?

21 THE WITNESS: Yes, I understand.

22 JUDGE THOMPSON: And finally, would you mind waiting and
23 holding your response until either counsel have finished the
24 question that they are going to ask. Often times witnesses
25 kind of go where they're going and want to jump in and answer.

1 But for the record, could you just wait until they finish their
2 entire question and then provide your answer. Would you do
3 that for us, please?

4 THE WITNESS: I will.

5 JUDGE THOMPSON: Perfect, thank you. Ms. Davila, your
6 witness.

7 **DIRECT EXAMINATION**

8 Q BY MS. DAVILA: Good morning, thank you for joining us
9 today. This is my co-counsel, Elise Oviedo, and you know me,
10 Judith Davila.

11 Could you please state your occupation for the record?

12 A I work at Trump as a room attendant, which we call GRA,
13 guest room attendant.

14 Q As a housekeeper; correct?

15 A Uh-huh.

16 Q When did you start working at the hotel?

17 A Close to three years.

18 Q Okay. Are you a full time employee?

19 A Yes.

20 Q Are you part of the organizing campaign?

21 A Yes.

22 Q When did you start, when did you join?

23 A After six months when I started working.

24 Q Six months after you started working?

25 A Yeah.

1 Q Okay. I'd ask that you use the interpreter just to make
2 sure I'm getting a complete answer.

3 THE INTERPRETER: I have to be sworn in, Your Honor.

4 JUDGE THOMPSON: Thank you. Ms. Sanchez, let me swear you
5 in and thank you for the reminder.

6 (Interpreter, sworn)

7 JUDGE THOMPSON: Thank you, Ms. Sanchez. Ms. Davila,
8 please.

9 Q BY MS. DAVILA: When did you start working at the Trump
10 Hotel?

11 A April.

12 Q I would just prefer you let her interpret for you.

13 A In April of '14.

14 Q And when did you start -- join the union organizing
15 campaign?

16 A Around July, like July -- June, July.

17 Q Are you on the committee?

18 A Yes, I'm on the committee.

19 Q Do you see what's marked there as GC Exhibit 16?

20 JUDGE THOMPSON: Let the record reflect that I handed the
21 witness GC 16.

22 Q BY MS. DAVILA: I would just ask that you let me ask the
23 questions.

24 Do you recognize what's on top of that paper, the red and
25 white box?

1 A Yes, it's the button that we wear on the committee as
2 representatives.

3 Q Do you wear that button?

4 A Yes.

5 Q When have you been wearing it?

6 A Since we started to organize in June or July.

7 Q What year?

8 A '14.

9 Q And do you wear that to work?

10 A Yes, all the time.

11 Q So you wear it on your uniform?

12 A All the time.

13 Q Can you show us where you wear it?

14 A Right here.

15 Q Please let the record indicate that the witness is
16 pointing to the top left corner of her chest.

17 JUDGE THOMPSON: Noted.

18 Q BY MS. DAVILA: Were you one of the first employees to
19 wear the button to work?

20 A Yes.

21 Q Were you sent home the first day you wore it?

22 A Yes.

23 Q I'd ask you to look for something that looks like this up
24 there, it's GC Exhibit 6.

25 JUDGE THOMPSON: Let the record reflect that I handed the

1 witness what's been marked as GC 6.

2 Q BY MS. DAVILA: Before I get to this, who sent you home
3 that day?

4 A The manager is, the name is Alejandra Magana.

5 Q What department does she manage?

6 A Housekeeping.

7 Q Okay. If you go to page three, do you see -- have you
8 seen this before?

9 A I'm not sure. Oh, yes, yes.

10 Q What is it?

11 A This is a poster saying that they will stop the
12 violations.

13 Q Who is they?

14 A The managers.

15 Q Do you see your name on this page?

16 A Yes.

17 Q Can you read to us what it says on the second line from
18 the bottom? If you can read it, if not I'll read it for you.

19 JUDGE THOMPSON: Counsel, you should read it for her.

20 Q BY MS. DAVILA: Okay. We have paid Gisella Happe, Celia
21 Vargas, Carmen Llarull, Ofelia Cardenas, and Rodolfo Aleman for
22 the wages and other benefits they lost because we suspended
23 them. Does this mention your name?

24 A Yes.

25 Q Okay. Did you know this was on the poster that was on the

1 wall?

2 A Yes. Yes.

3 Q Have you continued organizing this year?

4 A Yes, always.

5 Q What are some of the activities you do?

6 A Talk to the coworkers who we're organizing, the right to
7 organize, offer them if they want to join, to sign the card,
8 and yes, we have been successful in getting all the work -- the
9 workers to sign. And communicate to them that it's a right,
10 that the workers, we the workers have.

11 JUDGE THOMPSON: Ms. Llarull, let me stop you. I'm going
12 to ask that you wait for Ms. Sanchez to translate the whole
13 question before you answer. Because the court reporter can't
14 hear when you're talking and she's translating.

15 THE WITNESS: Yeah.

16 JUDGE THOMPSON: And also since you've started in Spanish,
17 can you just proceed and speak in Spanish?

18 THE WITNESS: Yes.

19 JUDGE THOMPSON: As opposed to alternating between English
20 and Spanish. I appreciate that.

21 THE WITNESS: Thank you.

22 JUDGE THOMPSON: Ms. Davila.

23 Q BY MS. DAVILA: So you were saying some of the activities
24 were talking to your coworkers, getting signed authorization
25 card, is there anything else?

1 A Petitions, to sign petitions, the card goes with the
2 petition saying that we want to be represented by the culinary.

3 Q Is hotel management and supervisors in favor of the union?

4 A No.

5 JUDGE THOMPSON: Remember; wait for Ms. Sanchez to
6 interpret.

7 THE WITNESS: Sorry.

8 THE INTERPRETER: Repeat that.

9 Q BY MS. DAVILA: Is hotel management or supervisors in
10 favor of the union?

11 A No.

12 Q How do you know that?

13 A With the discrimination that they do to us.

14 Q Who is us?

15 A The workers, intimidation, they treat us with no respect,
16 with fear.

17 Q Have you ever felt intimidated?

18 A Personally no. Nobody intimidates me, but I feel the
19 intimidation of my coworkers, that cannot defend themselves.

20 MR. DRITSAS: Your Honor, I'm going to object on the
21 grounds -- the first part is fine, she can feel intimidated --
22 that was the question. The second part, first, is not
23 responsive and second, it's speculation. She can't feel the
24 other employee's feelings.

25 MS. DAVILA: I was about to ask her how she felt it -- she

1 might have a first-hand knowledge.

2 JUDGE THOMPSON: Well, I would really prefer you to focus
3 on what you called her to testify about as opposed to getting
4 through this witness what other workers may feel or experience.
5 So I'm going to sustain the objection.

6 MS. DAVILA: If I may have an opportunity to explain it?
7 It goes to how she felt -- perceived coercion, in -- the own
8 coercion that she felt when speaking to other workers.

9 JUDGE THOMPSON: Okay. Then ask that question, as opposed
10 to how do other workers feel, do other workers feel
11 intimidated. That was the question that you asked, but the
12 question that you are trying to as is relevant.

13 MS. DAVILA: Okay.

14 JUDGE THOMPSON: So proceed.

15 Q BY MS. DAVILA: Have you ever felt disrespected?

16 A All the time.

17 Q At work?

18 A At work.

19 Q When?

20 MR. DRITSAS: Objection. There's no statutory prohibition
21 about respect or lack of respect. We're talking about whether
22 there are any activities that she's bene subject to which are
23 in the complaint, which I don't see any --

24 MS. DAVILA: Are legal terms that she doesn't understand.

25 JUDGE THOMPSON: Well, he is right, counsel. So I have to

1 sustain the objection, but I think you're going to get there.

2 MS. DAVILA: Okay.

3 Q BY MS. DAVILA: Have you ever been disrespected while you
4 were performing union activity?

5 MR. DRITSAS: Objection, same objection, Your Honor.

6 There's nothing in the statute that talks about respect, it's
7 not an issue.

8 MS. DAVILA: She wouldn't characterize it as surveillance
9 or impression of surveillance or threatening with un --

10 JUDGE THOMPSON: But it doesn't matter what she would
11 characterize it. You have to ask the questions that are
12 legally confine --

13 MS. DAVILA: I'm trying not to lead her, Your Honor.

14 JUDGE THOMPSON: -- I understand. But unfortunately --
15 counsel's point is taken and so I have to sustain the
16 objection.

17 Q BY MS. DAVILA: Can you describe for us the employee
18 dining room?

19 A It's a place like this which has two, four, six, eight
20 long tables with chairs.

21 Q Ms. Llarull, I would just ask you to please slow down so
22 that we can get the interpretation on the record.

23 A Okay.

24 Q So what happens in the employee dining room?

25 A In the morning, one gets there. I get there early because

1 I have to do my campaign and talk to the workers.

2 Q And what are some of the things that you do when you get
3 there early?

4 A Talk about our rights as workers, talk to them and teach
5 them on how not to get intimidated.

6 JUDGE THOMPSON: Ms. Davila, could you move your computer
7 over --

8 MS. DAVILA: Oh, I'm sorry.

9 JUDGE THOMPSON: Thank you.

10 Q BY MS. DAVILA: What time does your shift start?

11 A Saturday and Sunday, 9:00, the other days Monday, Tuesday,
12 Wednesday, 8:30.

13 Q And how much time before your shift do you get there?

14 A One hour.

15 JUDGE THOMPSON: Again, Ms. Llarull, wait for the
16 translation before responding.

17 MS. DAVILA: We're not in a hurry.

18 THE WITNESS: One hour.

19 Q BY MS. DAVILA: Okay. And do you -- do you do your union
20 activity before or after the Trump Talks?

21 A Before.

22 JUDGE THOMPSON: Again, Ms. Llarull, you've got to --
23 remember all those instructions I gave?

24 THE WITNESS: Sorry, I'm sorry.

25 JUDGE THOMPSON: It's okay.

1 Q BY MS. DAVILA: If you could please answer in Spanish.

2 A Okay.

3 Q Do you pass out flyers in the EDR?

4 A Yes.

5 Q Do you pass them out before you shift starts?

6 A Yes, before.

7 Q Okay. Can you tell us who Anthony Wandick is?

8 A He's a floor manager, was.

9 Q Of what department?

10 A Housekeeping.

11 Q Do you remember an incident around March of this year with
12 Anthony?

13 A Yes, he took the flyers away from a person.

14 Q If you could just stop before -- just let me ask the
15 question, okay.

16 MR. DRITSAS: Objection, makes last question -- that
17 response is non-responsive, so I move to strike.

18 JUDGE THOMPSON: Which response was not responsive,
19 Counsel?

20 MR. DRITSAS: Whatever, taking some flyers or whatever she
21 said. She just asked about a floor manager.

22 JUDGE THOMPSON: She asked do you remember an incident
23 with Mr. Wandick in March of 2015. She said, yes.

24 MR. DRITSAS: Okay.

25 JUDGE THOMPSON: And then she went on to elaborate.

1 MR. DRITSAS: She volunteers -- that's fine, Your Honor,
2 she'd get there eventually, so.

3 JUDGE THOMPSON: Go ahead, Ms. Davila.

4 Q BY MS. DAVILA: Okay. Can you tell us what happened?

5 A I was handing out flyers out to my coworkers.

6 Q Stop right there. Okay. We're going to set the scene.

7 So where were you?

8 A In the EDR.

9 Q What time of day was it?

10 A 8:00.

11 Q Okay. Had you clocked in yet?

12 A No.

13 Q Then what happened?

14 A I handed out the flyers and he walked all through the
15 cafeteria and he took the flyer away from somebody, he tore it
16 up, he went like this --

17 MS. DAVILA: Let the record reflect that the witness is
18 crossing her arms, across her chest.

19 Q BY MS. DAVILA: Go on.

20 A And he stayed there looking at us.

21 Q Did he say anything to you?

22 A No.

23 Q What did the flyer say, if you remember?

24 A Yeah, here is a flyer that we show the employees how much
25 Mr. Trump make in a year through the hotel.

1 Q Okay. And the person he took it away from was it an
2 employee?

3 A Yes.

4 JUDGE THOMPSON: Ms. Llarull, again, you've got to --

5 MS. DAVILA: One language, please.

6 JUDGE THOMPSON: One language, wait for the translation.

7 Q BY MS. DAVILA: Okay. So that person was an employee or
8 no?

9 A Yes.

10 Q And where did that employee get the flyer from?

11 A From me.

12 Q Okay. We're going to stay in the EDR.

13 A Okay.

14 Q Around the same time of the year, okay. Do you know who
15 Rodolfo Aleman is?

16 A A coworker from work and on the committee, he was.

17 Q Did you ever work with Mr. Aleman doing your union
18 activities?

19 A Yes.

20 Q Do you remember another incident that happened with Mr.
21 Wandick while you were with Mr. Aleman?

22 A Well he used to -- when we used to hand out the flyers --

23 Q Who is he?

24 A Anthony Wandick. HE used to come in and keep an eye on
25 us.

1 Q I would -- when you say (Spanish spoken) you mean custom?

2 A Custom is he would do it all the time.

3 Q Okay. Go on?

4 A So then I'm with a group of three or four persons, reading
5 them their rights, before the clock.

6 Q Before the clock, you clock in?

7 A Yeah.

8 Q Okay.

9 JUDGE THOMPSON: Okay. Hold it. One at a time.

10 Everybody can't talk.

11 Q BY MS. DAVILA: Before the clock, what do you mean before
12 the clock?

13 A It's when we could do our activity.

14 Q But you mean the clock into work; correct?

15 A Yes.

16 Q Okay. Go on.

17 A So that he comes grabs those persons and tells them, come
18 I want to speak with you. So then I would always tell him that
19 he can't come and take those people away because we're not on
20 the clock.

21 Q And what would he respond?

22 A That he was the manager.

23 MR. DRITSAS: Your Honor, I'm going --

24 THE WITNESS: And then I would tell him you're violating
25 my rights.

1 MR. DRITSAS: I want to object.

2 JUDGE THOMPSON: Wait, wait. Sorry, go ahead Ms. Sanchez.
3 Go ahead, she's translating, go ahead, Mr. Dritisas.

4 MR. DRITSAS: There's no charging allegation in the
5 complaint for what is being alleged here. So it's not going to
6 anything that's specific in the complaint.

7 MS. DAVILA: I would go to complaint five where it says
8 April. Impression of surveillance.

9 JUDGE THOMPSON: That isn't what this witness is
10 testifying to.

11 MS. DAVILA: To the impression of surveillance.

12 JUDGE THOMPSON: She's speaking with regard to him coming
13 and taking documents from employees.

14 MS. DAVILA: Right. That's 5F.

15 JUDGE THOMPSON: Is that where this is going to, Counsel?

16 MS. DAVILA: This is the impression of surveillance,
17 Anthony Wandick.

18 JUDGE THOMPSON: And confiscated union literature from
19 employees?

20 MS. DAVILA: That's 5F, yeah.

21 JUDGE THOMPSON: Okay. Well, that's -- overruled.

22 Continue, Ms. --

23 MR. DRITSAS: Well, then can't -- Your Honor, can we at
24 least focus on some of that in March instead of something which
25 is called all the time?

1 JUDGE THOMPSON: Sustained.

2 MS. DAVILA: I believe the complaint says about because we
3 don't know on or about what date.

4 JUDGE THOMPSON: But it's in or around March.

5 MS. DAVILA: Which is what she just --

6 JUDGE THOMPSON: She didn't. She just said routinely this
7 is what happened. So I'm going to sustain with regard to time
8 period, Counsel, but I'm overruling in terms of the content of
9 what the witness is testifying. So Ms. Davila, please proceed
10 with your line of questioning.

11 Q BY MS. DAVILA: Okay. When you say all the time, does
12 that include this year?

13 MR. DRITSAS: Well, objection, this is totally contrary to
14 what you just said, we're supposed to be focusing on the on or
15 about March, not all this year.

16 MS. DAVILA: I'm just trying to tie down her testimony to
17 March 2015. How do I do that?

18 JUDGE THOMPSON: Say are you speaking about an incident
19 that occurred in March 2015.

20 MS. DAVILA: I don't want to lead her. I don't want to
21 lead her to --

22 JUDGE THOMPSON: Well, let me do this, Counsel, I'm going
23 to give -- I'm going to give you some latitude on your
24 questioning because of the translation and to the extent that
25 you may have to lead a little in order that the witness

1 understand the question you're asking. I will allow you to do
2 that.

3 MS. DAVILA: Thank you, Your Honor.

4 Q BY MS. DAVILA: Okay. When he took -- when Mr. Wandick,
5 when you observed Mr. Wandick take the union literature, or the
6 flyer, was that around March of this year?

7 A Yes.

8 Q Okay. And when you said that you saw Mr. -- when Mr.
9 Wandick would interrupt you talking to employees was that
10 around April of this year?

11 A Yes.

12 MS. DAVILA: I'd like the record to reflect that I don't
13 want to tie down any testimony to sections of the complaints.
14 I only did it for clarification --

15 JUDGE THOMPSON: Well -

16 MS. DAVILA: -- with this particular witness. I don't
17 want to say, you know, I don't want to say she's testifying to
18 5F.

19 JUDGE THOMPSON: No, I understand what you're saying.

20 MS. DAVILA: Okay. Okay. Thank you.

21 JUDGE THOMPSON: Yes.

22 MS. DAVILA: Okay.

23 Q MS. DAVILA: Now I'm going to move to June of this year.
24 Who's Imelda Cretin?

25 A Another floor manager.

1 Q Of what department?

2 A Housekeeping.

3 Q Was she your manager?

4 A No.

5 Q Okay. Do floor managers have specific employees that they
6 supervise?

7 A Yes. They have certain floors that they supervise.

8 Floors 16 through 23, 24 through 35 as well as the penthouse.

9 So 35 probably to 47 and 50 to 54.

10 Q That's fine. Okay. So now we're going to talk about an
11 incident in the housekeeping office. Does Ms. Cretin have an
12 office there?

13 A She has -- managers have computers, not an office. Just
14 space.

15 Q Okay. Do you remember having a conversation with her
16 about Mr. Aleman?

17 A Yes.

18 Q Okay.

19 A Yes.

20 Q If I didn't do this already, where were you when you had
21 this conversation?

22 A Housekeeping office.

23 Q Okay. Can you tell us what happened?

24 A I was signing the lunch -- the book for lunch when Imelda
25 came by, and we started talking about certain positions.

1 Q What kind of positions?

2 A That there was an open position for the warehouse --

3 Q Uh-huh.

4 A -- that my friend had applied for and they didn't give it
5 to him.

6 Q What friend?

7 A Rodolfo Aleman.

8 Q What did you exactly tell Ms. Cretin, if you remember?

9 MR. DRITSAS: Your Honor -- okay. Go ahead. Go ahead.

10 JUDGE THOMPSON: Continue.

11 THE WITNESS: I was looking at the new schedule, that one
12 person didn't have but a year working there got that position.

13 Q BY MS. DAVILA: What position?

14 A For warehouse. And they didn't give it to Rodolfo with

15 five or six years of seniority full time. They denied it.

16 They gave it to another person. And that was a violation that
17 I wasn't happy about.

18 Q Excuse me. Sorry. Okay. You haven't gotten to what you
19 told her. Okay. So you're looking at this?

20 A Yes.

21 Q What do you say? Or what happens?

22 A I told her they didn't give it to Rodolfo and she said,
23 "They're never going to give it to him because of his Union
24 activity and because of his button."

25 MS. DAVILA: Let the record reflect that she pointed to her

1 top left corner of her chest with her index finger, pointing.

2 Q BY MS. DAVILA: Okay. And then what happened?

3 A Well, I told her that was a very big violation of that of
4 a worker.

5 Q And did she answer you?

6 A No.

7 Q And then what happened?

8 A I left.

9 Q Did you tell this -- about this incident to the Union?

10 A I make report.

11 Q With who?

12 A With the Union.

13 Q Did you give a statement to the National Labor Relations
14 Board about this?

15 A I believe so. I think so.

16 Q Okay.

17 MS. DAVILA: No further questions.

18 JUDGE THOMPSON: Ms. Llarull, can we go back to your
19 testimony when counsel was asking you about what happened when
20 you and Mr. Aleman were passing out fliers? Do you recall
21 your testimony that Anthony saw you and other of your co-
22 workers passing out fliers and he -- strike that. What did he
23 do when you all were passing out fliers?

24 THE WITNESS: What he would do was, I would hand out the
25 fliers, the ones that were left there, we have them on the

1 table. The fliers that were left on the table, he would come
2 by and pick them up and he would say, "Trash."

3 JUDGE THOMPSON: Okay. Do you recall your testimony that
4 on an occasion Anthony crossed his hands and stood there?

5 THE WITNESS: Yes, I do remember.

6 JUDGE THOMPSON: What happened after that?

7 THE WITNESS: Nothing. That was his activity, to keep
8 visual on us all the time like this, to walk around to see who
9 had buttons, who didn't have buttons.

10 JUDGE THOMPSON: Did you say anything to him?

11 THE WITNESS: I would always tell him that he's violating
12 our rights.

13 JUDGE THOMPSON: And what did he, if -- what did he
14 respond?

15 THE WITNESS: Nothing. He would laugh.

16 JUDGE THOMPSON: Did you complain to anyone about that?

17 THE WITNESS: Yes.

18 JUDGE THOMPSON: Who did you complain to?

19 THE WITNESS: With Alejandra, Kelvin. But it would always
20 remain the same.

21 JUDGE THOMPSON: Okay. Thank you. Cross-exam --

22 MR. DRITSAS: May we see the --

23 JUDGE THOMPSON: -- Mr. Dritsas?

24 MR. DRITSAS: Thank you, Your Honor. May I see the Jencks
25 statement, please?

1 JUDGE THOMPSON: Certainly. Let the record reflect that
2 General Counsel has handed Respondent the -- what we call the
3 Jencks statement. Let's go off the record for a few minutes
4 while counsel review. Off the record.

5 (Off the record at 11:48 a.m.)

6 JUDGE THOMPSON: We are back on the record. Mr. Dritsas,
7 cross?

8 MR. DRITSAS: Yes, Your Honor. Can you show the witness,
9 please, General Counsel's -- General Counsel 4?

10 JUDGE THOMPSON: Okay. Let the record reflect that I've
11 handed Ms. Llarull what's been marked as GC Exhibit 4.

12 **CROSS-EXAMINATION**

13 Q BY MR. DRITSAS: So, Ms. Llarull, you -- you didn't quite
14 know when you were -- the dates that you wore the button for
15 the first time. This -- this chart, Exhibit 4, is dated
16 June 9, 2014. So would you agree that you wore the Union
17 button at the Hotel for the first time sometime before June 9,
18 2014?

19 MS. DAVILA: Objection to her knowledge of that document.

20 JUDGE THOMPSON: I'm going to overrule the objection and
21 ask the witness to answer the question.

22 THE WITNESS: My response is that I don't exactly remember
23 the date. It was a Sunday.

24 Q BY MR. DRITSAS: Okay. And my question is, was it
25 before -- strike that. Were you -- were you aware that there

1 was an unfair labor practice charge filed concerning you and
2 some co-workers being sent home because you wore a Union
3 button?

4 A How was the question?

5 Q Are you aware that there was an unfair labor practice
6 charge filed because of you and co-workers being sent home for
7 wearing a Union button?

8 A Yes, they did send us home.

9 Q Okay. Are you aware there was an unfair labor practice
10 charge filed --

11 MS. DAVILA: Objection --

12 Q BY MR. DRITSAS: -- which is in Exhibit 4?

13 MS. DAVILA: She doesn't --

14 JUDGE THOMPSON: Let him finish the --

15 MS. DAVILA: Objection to the witness' knowledge of that
16 document or the term unfair labor practice.

17 JUDGE THOMPSON: He's just trying to ask her a question
18 and --

19 MS. DAVILA: I would ask him to use more colloquial terms
20 as to --

21 JUDGE THOMPSON: He doesn't have to use more colloquial
22 terms. This is -- this is cross. He can ask it the way he
23 wants. So objection overruled. And if she doesn't understand,
24 she can say she doesn't understand.

25 Mr. Dritsas, can you repeat the question?

1 MR. DRITSAS: Sure, if I can remember it.

2 Q BY MR. DRITSAS: Ms. Llarull, do you know there was any
3 action filed with the National Labor Relations Board
4 challenging the Company sending you and other co-workers home
5 because they wore a Union button in 2014?

6 A Yes, there is.

7 Q Okay. And would you agree that you were wearing a Union
8 button sometime before that action with the National Labor
9 Relations Board was filed?

10 A No. That was the first time.

11 Q Okay. So I think -- let's -- let's go to that event.
12 Were you sent home by Alejandra Magana?

13 A Yes.

14 Q And did you talk with her that Sunday?

15 A Yes.

16 Q Okay. And where did you speak with her? Was it in her
17 office or where did you speak?

18 A In her office.

19 Q Okay. Were you alone or were you with anyone else?

20 A By myself with her.

21 Q Okay. And that was the day that you got sent home?

22 A Yes. She called out one of -- all of the workers one by
23 one and I was in the office with her.

24 Q Okay. And it was just you and her?

25 A Yeah. And another one next with Kelvin.

1 Q Okay. I'm focused on this. So you and Alejandra were in
2 the office together. On a Sunday you were sent home, right?

3 A Yes.

4 Q Okay. Thank you. Now, let's go to the incident you
5 talked to the General Counsel for -- about with Mr. Wandick and
6 in about March 2015 taking fliers. Okay. That's a question --
7 that's a topic I'm going to be asking. Did you take any
8 videotape with your telephone of this incident?

9 A Yes.

10 Q Okay. And do you have that with you?

11 A No.

12 Q Where is that videotape?

13 A Ramiro has it.

14 Q Who?

15 A It's not a video. It's a picture.

16 Q So you took pictures of Mr. Wandick?

17 A In general of the workers and him there in the middle.

18 JUDGE THOMPSON: And let the record reflect that the
19 witness is also gesturing with her hands crossed -- or arms
20 crossed. Sorry.

21 Q BY MR. DRITSAS: So where is this picture you took?

22 A In the cafeteria.

23 Q Where is the picture itself?

24 A Ramiro has it.

25 Q And --

- 1 A My organizer.
- 2 Q What's his name?
- 3 A Ramiro Naves.
- 4 Q So did you erase that from your telephone?
- 5 A It erased because I purchased another phone.
- 6 Q When did you purchase another phone?
- 7 A Five weeks ago.
- 8 Q Where does Mr. Naves work?
- 9 A He works at the Union as an organizer.
- 10 Q Local 226?
- 11 A Yes.
- 12 Q Did you give a copy of the picture to the National Labor
13 Relations Board?
- 14 A I'm not sure if they have it.
- 15 Q Well, whether --
- 16 JUDGE THOMPSON: Did you give a copy of the picture to the
17 National Labor Relations Board?
- 18 THE WITNESS: I don't know.
- 19 JUDGE THOMPSON: You don't know whether you gave a picture
20 to the National Labor Relations Board?
- 21 THE WITNESS: No, because the picture, I sent it to Ramiro.
- 22 JUDGE THOMPSON: And I'm -- and what counsel and I are
23 asking is, did you give that picture to the National Labor
24 Relations Board?
- 25 THE WITNESS: No.

1 JUDGE THOMPSON: Okay.

2 MR. DRITSAS: Okay.

3 Q BY MR. DRITSAS: So your testimony is that you took a
4 picture, you didn't take an actual video, live footage, of what
5 was happening?

6 A No.

7 Q Okay. Now, you said that you were passing out fliers on
8 (sic) March 2015 when Mr. Wandick was there. Where were you
9 when -- I guess where were you and where's Mr. Wandick in the
10 EDR when you saw him talking to employees when you were passing
11 out fliers?

12 A This is the cafeteria, yes. The food is over there and
13 all the beverages, the coffee, are here. I was over there and
14 he was close to the coffee machine.

15 Q This is the -- the day that you said he tore up a flier?

16 A Yes.

17 MR. DRITSAS: Okay. Can you show the exhibit -- excuse me.
18 Can you show the witness Respondent's 12?

19 JUDGE THOMPSON: Let the record reflect that I've handed
20 the witness a copy of Respondent Exhibit 12.

21 Q BY MR. DRITSAS: Okay. So my question for you,
22 Ms. Llarull, is can -- I'd like you to tell me first where you
23 were standing when you saw Mr. Wandick tearing up the flier.

24 A Yes. This is the door. These are the tables that I
25 talked about before. Here's the food.

1 MR. DRITSAS: Your Honor, do you mind if I go up and see?

2 JUDGE THOMPSON: Yes.

3 Q BY MR. DRITSAS: I'm sorry. Can you -- can you say that
4 again, please?

5 A This is the entrance.

6 Q Okay.

7 A This is the table where I'm always at with my activities.

8 Q Okay. So just for the record, you're pointing to the
9 table on the top right of the picture?

10 A By the -- by the food line.

11 Q Yeah. Let me just identify it. The tables at the top
12 right with the picture -- with the picture with the entrance on
13 the bottom?

14 A Yeah.

15 Q Okay. And the food line is to the immediate right?

16 A Yeah. Right.

17 Q Okay. So you're saying that you do your activity on the
18 top right table?

19 A Yeah.

20 Q So on this particular day, that's where you were?

21 A I was here and he was right here.

22 Q Okay. So Mr. Wandick then is to the left of the -- the
23 top row of tables, to the left of the last table; is that
24 right?

25 A Yeah.

1 MR. DRITSAS: Do you have that, Your Honor?

2 JUDGE THOMPSON: Yes. I'm -- yes.

3 MR. DRITSAS: Okay.

4 Q BY MR. DRITSAS: Okay. Thank you, Ms. Llarull?

5 A You're welcome.

6 Q So what would you estimate the distance was between where
7 you were -- well, strike that. Were you seated or were you
8 standing?

9 A I was standing.

10 Q Okay. And Mr. Wandick, was he seated or standing?

11 A Standing.

12 Q Okay. What would you estimate the distance was between
13 you and Mr. Wandick?

14 A From like there to here.

15 Q So from where you are to the wall?

16 A No. Where Judith is at. This is one table, two tables
17 and he was right here.

18 MS. DAVILA: Let the record -- let the record reflect that
19 the witness pointed to General Counsel Judith and she pointed
20 behind her where there's a flagpole behind the witness stand.

21 JUDGE THOMPSON: Ms. Llarull, would you say that the
22 distance between you and Anthony was three-and-a-half tables?

23 THE WITNESS: Yes.

24 JUDGE THOMPSON: Okay.

25 THE WITNESS: Around 15 feet.

1 JUDGE THOMPSON: Thank you.

2 MR. DRITSAS: Okay.

3 Q BY MR. DRITSAS: And were there people at the table that
4 you were -- that you were at? Your -- your preferred table,
5 were there people seated this?

6 A Yes. Generally the committee's there.

7 Q Okay. And were there people in the middle table in the
8 top row?

9 A Also.

10 Q And then were there people at the last table on the left?

11 A Also as well.

12 Q Okay. And how many people was Mr. Wandick speaking to?

13 A At one of photo -- on one of the photos he's talking with
14 one person.

15 Q Okay. This is the day that -- this is the time we're
16 talking about what you said he tore up the flier, right?

17 A Yeah. Yes.

18 Q Okay. And who was the person he was talking to?

19 A I don't remember.

20 Q What type -- what type of uniform was it?

21 A The uniform that we have is gray with a white collar.

22 Q Okay. Was it a house -- was it a GRA?

23 A Yes.

24 Q Was this during a Trump talk?

25 A No. Way before.

1 Q Okay. Well there's Trump talks at 7:30 and at 8:00,
2 right?

3 A Yeah. No.

4 Q What time was this that you saw Mr. Wandick talking to
5 this person?

6 A Around 8:00. And that day -- on that day was Sunday. And
7 Saturdays and Sundays, the people, we come in at 9:00.

8 Q Okay. Are there people that come in before that at 8:00?

9 A Oh, a lot of people get there early.

10 Q Okay. So it's -- there are some people that have Trump
11 talks in the EDR before your 9:00 meeting; is that right?

12 A No. The meeting with the managers is at 9:00 in the
13 morning.

14 Q So on Sunday, there's only one Trump talk?

15 A Yeah.

16 Q How about the other days, is -- is there more than one
17 Trump talk?

18 JUDGE THOMPSON: Wait a minute. You have to wait for the
19 translation.

20 THE WITNESS: Okay. Can you repeat, sir?

21 Q BY MR. DRITSAS: Are there -- is there more than one Trump
22 talk for GRAs on Monday through Friday?

23 A Yes.

24 Q But on Sunday there's only one; is that right?

25 A Yes.

1 Q And it's conducted by Mr. Wandick?

2 A Not precisely. It depends what manager is there.

3 Q Okay. On this particular day, was he the one that
4 conducted the Trump talk?

5 A No.

6 Q Who did?

7 A It was another manager. I don't remember. But it wasn't
8 him.

9 Q Okay. You -- would you agree that you don't know what
10 Mr. Wandick was talking to the employee about?

11 A No. I didn't hear anything.

12 Q Okay. And you said that Mr. Wandick -- did he take the
13 flier from the employee?

14 A Yes.

15 Q Okay. And you don't know, from where you were, whether
16 the employee offered him the flier or he said, "Let me see you
17 flier;" is that right?

18 THE INTERPRETER: Or if he what?

19 MR. DRITSAS: Or if he said, "Let me see the flier?"

20 THE WITNESS: No.

21 Q BY MR. DRITSAS: Well, we've got a double negative there.
22 So is it correct that you don't know whether the employee
23 offered Mr. Wandick the flier?

24 A No, because I had given it to him. When I do my
25 activities, the first thing I do is give to the managers the

1 fliers so that they don't do that, exactly that.

2 Q Okay. Let me -- let me try the question again another
3 way. You said you could not hear what was being discussed
4 between Mr. Wandick and the employee, correct?

5 A Yes.

6 Q So that means you don't know how it was that the employee
7 handed the flier to Mr. Wandick; is that right?

8 A No, because the girl was getting her glass with Coca-Cola
9 or something. He never talked. He just took the flier away.

10 Q Oh, okay. So you just saw him grab it. Is that your
11 testimony?

12 A Yes. Yeah. Yes.

13 Q Okay. And how did the employee respond?

14 A The girl didn't do anything. It's the manager. Let's --
15 we have to respect them.

16 Q Okay. What time of day was it?

17 A 8:00.

18 Q Did you check your watch?

19 A I don't wear a watch. But we have a clock exactly like
20 that.

21 MS. DAVILA: Let the record reflect the witness pointed to
22 the back of the room with her index finger.

23 JUDGE THOMPSON: To the clock.

24 MS. DAVILA: To the clock.

25 MR. DRITSAS: Okay.

1 THE WITNESS: And that's the time of my activity.

2 Q BY MR. DRITSAS: So if I understand you correctly, you --
3 you came in at 8:00?

4 A Sunday I usually get there at 7:30 always to wait --

5 Q Okay.

6 A -- for the graveyard employees.

7 Q The -- the committee gets there before the regular GRAs,
8 right?

9 A Not really. There's people that get there to eat bread or
10 coffee.

11 Q How long was this woman standing with Mr. Wandick?

12 A One second.

13 Q Oh. And you don't know -- so they were there or one
14 second; you don't know what they were saying?

15 A It's just that you don't understand. There was no
16 conversation.

17 Q Well, you couldn't hear it. How do you know they weren't
18 talking?

19 A But I could see if you're talking.

20 Q How were they turned?

21 A Facing me. I was there. He can't be facing the wall. He
22 was --

23 Q Okay.

24 A He's looking at everybody from that corner at everybody.

25 Q So what did you do after you saw Mr. Wandick, according to

1 your testimony, grab the flier from this woman's hand?

2 A I did my charge exactly.

3 Q You did -- why didn't you go to Mr. Wandick and say, "What
4 are you doing?"

5 A For what if he's violating our rights all the time?

6 Q Okay. Did you go talk to the woman?

7 A Not neither.

8 Q Okay. So you never followed up to see what was going on
9 between Mr. Wandick and this woman; is that right?

10 A Yeah, correct.

11 Q And you don't know the name -- her name, correct?

12 A I don't know her name. That girl doesn't work there
13 anymore. It's a group of young people that they took in.
14 Actually, they were Cubans. But they're not there anymore.

15 Q Okay. Now, once Mr. Wandick took the flier, did he
16 crumple it up or did he tear it up or what did you see him do?

17 A He made it into a ball.

18 MS. DAVILA: Let the record reflect the witness cuffed both
19 her hands and placed them over each other.

20 Q BY MR. DRITSAS: Okay. So he didn't tear it up?

21 A No.

22 Q And what did he do once he crumpled it up?

23 A He had walked by that same place and he was right here
24 where one throws away the food.

25 MS. DAVILA: Let the record reflect the witness is pointing

1 to --

2 JUDGE THOMPSON: Wait, wait. Wait, wait. Everybody can't
3 talk at the same time. Let her finish.

4 THE WITNESS: From here he walked to the dish room.
5 There's a trash can. And he come back again this side. He
6 come back behind us and he stand again the same place. Because
7 I have two pictures from that day.

8 MR. DRITSAS: Okay.

9 THE WITNESS: One he's like this and the other one is he is
10 like this.

11 JUDGE THOMPSON: Let the record reflect the first picture
12 she's referring to, she's gesturing that Mr. Wandick had his
13 arms crossed in front of him, and the second picture she's
14 gesturing that Mr. Wandick had his hands behind him -- hands
15 and arms behind him.

16 Q BY MR. DRITSAS: And this woman, who think is a -- was a
17 Cuban woman, did she stay in the EDR for the Trump talk?

18 A Of course. Yes. We all stayed.

19 Q Okay. So she stayed for another hour until the Trump
20 talk?

21 A Yeah.

22 Q Did you walk over and hand her another flier?

23 A Personally, no, not me.

24 Q Okay.

25 A But it's various leaders that are handing out fliers.

1 Q Okay. Now, you completed a statement -- you completed a
2 statement -- or strike that. You submitted a confidential
3 affidavit to the National Labor Relations Board; is that right?

4 A Yes.

5 MR. DRITSAS: Do you have an extra copy of the Spanish?

6 MS. DAVILA: Yeah. Do you want me to give it to her?

7 MR. DRITSAS: Yeah, please.

8 JUDGE THOMPSON: Let the record reflect that Ms. Davila has
9 handed the witness what appears to be her confidential
10 affidavit or otherwise known as her Jencks statement.

11 THE WITNESS: Yes, I have it.

12 Q BY MR. DRITSAS: Okay. And you reviewed this document
13 before you signed it?

14 A Yes.

15 Q And is this your signature on the Spanish version?

16 JUDGE THOMPSON: Is that --

17 THE WITNESS: Yes.

18 JUDGE THOMPSON: -- correct?

19 THE WITNESS: Yes. Correct.

20 Q BY MR. DRITSAS: Okay. Now, I'd like you to read the
21 Spanish to yourself and let me know when you've finished it.
22 Well, let me -- let me make it easier for you. I want you to
23 read the Spanish and tell me if there's anything in that
24 document that says you saw Mr. Wandick tear up, crumple or take
25 a flier from any employee.

1 A No.

2 THE WITNESS: Tell him no. It doesn't say here.

3 Q BY MR. DRITSAS: Okay. I have another question then. I'd
4 like you to tell me if there's anything in your confidential
5 affidavit that refers to Mr. Wandick telling employees they
6 need to talk to him and you saying that, "No, they don't have
7 to. It's before work."

8 A How is the question?

9 Q Okay. I'll rephrase it -- I'll say it again. You -- you
10 testified that you heard Mr. Wandick tell employees they needed
11 to talk to him and come with him and that you said, "No, they
12 don't need to. It's before work." When they were talking to
13 him. Or, excuse me, when they were talking to you, not him.
14 And I want you to tell me if there's anything in the Spanish --
15 the Spanish declaration that you signed that says that.

16 A No. That is also not here.

17 Q Okay. One other point I'd like to ask you about. You
18 said that you saw Mr. Wandick picking up Union fliers. Can you
19 tell me if there's anything in the affidavit that confirms that
20 point?

21 A No. It's also not here.

22 Q Okay. Thank you. And at the time you gave your
23 statement, you knew that you were -- you had an obligation to
24 tell the truth; is that right?

25 A Yes. Always.

1 Q Okay. Let me ask you about that a little more. You said
2 that Mr. Wandick grabbed people when you were talking to them
3 and told them to come with him. When did that occur?

4 A At that time?

5 Q Yeah. It's not in the declaration. You're not going to
6 find it there. So what -- I want -- you can just put that down
7 now. When did that occur, Ms. Llarull?

8 A That activity of Anthony's was always.

9 Q Okay. You -- you testified to a specific incident; that
10 you were talking to co-workers, that Anthony came up and told
11 them to come with him and that you, in turn, said it's before
12 work; you have the right to talk to them. Are you saying that
13 happened every day?

14 A Every day that he would be working.

15 Q Okay. So every day he was working and you were talking to
16 employees, he'd come up and take them away from you; is that
17 right?

18 A Yes. It's an activity that he would do every day.

19 Q Okay. And do you know what purpose he took them? Were
20 they -- any of them new employees that maybe needed training?

21 A If they needed training, the training never starts until
22 after the time that we clock in.

23 Q Okay. So let me ask it another way. Do you know what
24 purpose Mr. Wandick needed to speak with these employees when
25 he always took them away?

1 MS. OVIEDO: Objection; calls for speculation.

2 MR. DRITSAS: I said does she know.

3 JUDGE THOMPSON: He -- he does. And with that
4 qualification, I have to overrule the objection.

5 You can answer the question, if you remember it.

6 THE WITNESS: The objective was that -- that I not have the
7 time due necessary to organize my people. And by him talking
8 to the people, intimidating the people that they were not going
9 to have work hours --

10 MR. DRITSAS: Okay. Your Honor, I'm going to object and
11 move to strike. And I'll rephrase the question.

12 JUDGE THOMPSON: Okay. Sustained.

13 Q BY MR. DRITSAS: Okay. Let me ask it this way,

14 Ms. Llarull: Did -- did you hear Mr. Wandick say to the
15 employees that he was pulling away on a daily basis why he was
16 pulling them away?

17 A He's not going to tell me why. But the workers would then
18 tell me later on, "Anthony called me. He took me to the
19 office."

20 Q Okay. So my question is, did you hear Mr. Wandick say why
21 he was taking those employees away?

22 A No.

23 Q Okay. Thank you. Can you identify the names of any of
24 the employees that you saw Mr. Wandick take away when they were
25 speaking to you?

1 A Yes.

2 Q Okay. Who?

3 A A lot of them, but I don't remember their names. But
4 Mayra Flores, Jacqueline Reyes, Jacqueline Cabrera, another
5 girl whose name is Beatriz, another girl whose name is
6 Michelle. I don't remember anymore names, but to say it in a
7 concrete way, it's 70 percent of the people that work there
8 were intimidated.

9 MR. DRITSAS: Objection, Your Honor. Move to strike.

10 JUDGE THOMPSON: I'll sustain it with regard to the last
11 statement.

12 MR. DRITSAS: Thank you, Your Honor.

13 Q BY MR. DRITSAS: When -- when you were talking to the
14 people that Mr. Wandick pulled away, were you speaking in
15 Spanish?

16 A Yes, in Spanish.

17 Q Okay. Thank you. Let's move to the time you were
18 speaking with Imelda. Now, do you know who was responsible for
19 making promotion decisions in the housekeeping department?

20 A Alejandra.

21 Q Okay. Did you know at the time that Rodolfo Aleman was
22 interested in the warehouse position that he had discipline in
23 his file?

24 MS. OVIEDO: Objection; relevance.

25 JUDGE THOMPSON: Well, I believe will Respondent is going

1 to say it goes to -- it's another alternative as to why he
2 wasn't selected for any of the warehouse positions.

3 MR. DRITSAS: Yes. And --

4 MS. DAVILA: But the truth is --

5 JUDGE THOMPSON: Hold on. Hold on.

6 MR. DRITSAS: As a matter of fact, Your Honor, I think it's
7 important to note there was an allegation made concerning him
8 not being promoted --

9 MS. DAVILA: That's not relevant.

10 MR. DRITSAS: Can I finish --

11 JUDGE THOMPSON: Let --

12 MR. DRITSAS: -- counsel, please?

13 JUDGE THOMPSON: Let him finish.

14 MS. DAVILA: Go ahead.

15 JUDGE THOMPSON: And, Ms. Oviedo needs to answer.

16 But go ahead.

17 MR. DRITSAS: Okay. And that allegation did not make its
18 way to the complaint. So as far as I'm concerned, the only
19 part of the testimony that would be relevant would be towards
20 some alleged threat. So I -- I just want to make clear that,
21 first, that's -- we're not trying to expand the complaint
22 again, and, secondly, my question to her was does she know that
23 he had discipline in his file.

24 MS. OVIEDO: Your Honor, if I may respond briefly?

25 JUDGE THOMPSON: Yes.

1 MS. OVIEDO: Also, as Respondent just noted, there isn't an
2 allegation in the complaint as to that.

3 JUDGE THOMPSON: Yes.

4 MS. OVIEDO: But, also, we'd like to object on foundation.
5 There's nothing here to suggest that he (sic) knows what's in
6 his personnel file.

7 JUDGE THOMPSON: That she knows?

8 MS. OVIEDO: That she knows --

9 MR. DRITSAS: I just -- that's what I asked.

10 MS. OVIEDO: -- what's in his personnel file.

11 JUDGE THOMPSON: That's why he's asking.

12 MS. OVIEDO: It's not relevant.

13 JUDGE THOMPSON: Unfortunately, counsel, it is because
14 she's testified that there was a conversation that she had with
15 Mr. Aleman as to why he didn't get the warehouse job, and that
16 she was told that it's because of the Union button that he was
17 wearing. So counsel gets to explore whether she knows that he
18 may have not gotten that job for other reasons.

19 MS. OVIEDO: And, Your Honor, just to clarify again --

20 JUDGE THOMPSON: But I'm not going to let him --

21 MS. OVIEDO: Oh --

22 JUDGE THOMPSON: -- past that issue. I'm not -- he's not
23 getting ready to get into whatever discipline that there may
24 have been. His query is going to be limited to whether she
25 knew, and that's it.

1 MS. OVIEDO: It's --

2 MR. DRITSAS: It's all intend to ask her.

3 JUDGE THOMPSON: So the objection is overruled.

4 MS. OVIEDO: Okay. Just to clarify for the record, it's
5 GC's position that it's a threat of the loss that was violated,
6 not the loss of the opportunity.

7 JUDGE THOMPSON: Got it. But he still --

8 MS. OVIEDO: So --

9 JUDGE THOMPSON: -- gets to explore that on the basis that
10 I explained. But I understand where you're going.

11 Mr. Dritsas --

12 MR. DRITSAS: Thank you, Your Honor.

13 JUDGE THOMPSON: -- please, could you could the question
14 again?

15 MR. DRITSAS: Yeah.

16 Q BY MR. DRITSAS: Did you know that at the time that you
17 spoke with Ms. Cretin whether or not Rodolfo Aleman had active
18 discipline in his file?

19 A No, I didn't know.

20 Q Thank you. Was there anyone else present when you had
21 this conversation with Ms. -- it's not Cretin (phonetic); I'm
22 sorry, I don't know the Spanish way of saying it -- but with
23 Imelda besides you and Imelda?

24 A Yes. There was various persons there.

25 Q Who else was there?

1 A Karla Manjeban -- Menjivar, Beatriz Martinez. I see a lot
2 of persons. I remember those two names.

3 Q And were they part of the conversation? Were they right
4 next to you?

5 A Yes.

6 Q Okay. Now, Ms. Llarull, you -- would you say that you
7 were the -- you and Giselle were the leaders of the committee;
8 is that right?

9 A Along with Rodolfo, Ofelia, Celia.

10 Q Okay. Would you consider yourself to be the most active
11 of the Union organizers?

12 A Perhaps yes, because I'm older than all of them.

13 Q Okay. You really want the Union to come to this Hotel,
14 don't you?

15 A With all my heart.

16 Q As a matter of fact, you've even yelled at some of your
17 co-workers, calling them stupid if they didn't want to support
18 the Union; isn't that right?

19 A No. That vocabulary does not exist in me.

20 Q Hmm. Do you know who Jose Perez is?

21 A Yes.

22 Q In October didn't you tell him he was stupid because he
23 wasn't supporting the Union?

24 A No.

25 Q Do you know that Jose Perez complained -- Jose Perez

1 (phonetic) or Perez -- complained to the human resource
2 department about you calling him stupid?

3 A No, I didn't tell him stupid. I told him that what he was
4 talking about is very stupid.

5 Q Do you know that he complained to the human resource
6 department that you called him stupid?

7 A Yes.

8 Q Okay. And you were yelling at him, right?

9 A No.

10 Q Did you take your papers and slam them down on the table?

11 MS. OVIEDO: Objection; relevance.

12 MS. DAVILA: Outside the --

13 MR. DRITSAS: It goes to --

14 MS. DAVILA: -- scope of direct.

15 MR. DRITSAS: It goes to bias.

16 JUDGE THOMPSON: Wait, wait, wait. Wait. One -- one
17 counsel. Ms. Oviedo is -- is objecting.

18 MR. DRITSAS: It goes to --

19 JUDGE THOMPSON: And --

20 MR. DRITSAS: I'm sorry.

21 JUDGE THOMPSON: And now Mr. Dritisas has to respond.

22 MR. DRITSAS: This goes to bias of this witness. She's so
23 committed to this cause, she'll do anything. That's where I'm
24 going.

25 JUDGE THOMPSON: I have to allow it, counsel,

1 MS. OVIEDO: The GC would also like to object on the fact
2 that it's outside the scope of direct.

3 JUDGE THOMPSON: It's --

4 MR. DRITSAS: It's credibility.

5 JUDGE THOMPSON: It's credibility. So overruled.
6 Continue, Mr. Dritisas.

7 MR. DRITSAS: Yes. Thank you.

8 Q BY MR. DRITSAS: Did you take some papers and slam them
9 down when you were confronting Mr. Perez?

10 A No. That is not my style.

11 Q Okay. Do you know the people accused you of doing that?

12 A I don't know.

13 Q Do you know who Ryan Aguayo is? A-G-U-A-Y-O.

14 A Aguayo.

15 Q Do you know who he is?

16 A He's another co-worker.

17 Q Okay. Is he a fellow Union supporter?

18 A Yes. With his button daily.

19 Q Okay. Do you know that he confirmed that you were
20 aggressive with Jose Perez?

21 A Well, I want you to know that --

22 Q Can you just answer my question, please?

23 JUDGE THOMPSON: Wait.

24 THE WITNESS: -- the day that I talked Jose, Ryan was not
25 there.

1 Q BY MR. DRITSAS: Okay. So do you know that Ryan reported
2 that you were aggressive with Jose and that he was there to try
3 to calm things down?

4 MS. OVIEDO: Objection; asked and answered.

5 JUDGE THOMPSON: I don't think she -- I'm not sure if she
6 did answer that.

7 THE WITNESS: He was not there.

8 JUDGE THOMPSON: Well, she answered now.

9 MR. DRITSAS: Okay.

10 Q BY MR. DRITSAS: Do you know if he reported that you were
11 being overly aggressive with Jose?

12 A No.

13 Q Okay. Have you ever secretly tape-recorded communications
14 with managers at the Hotel --

15 MS. OVIEDO: Objection --

16 Q BY MR. DRITSAS: -- Ms. Llarull?

17 MS. OVIEDO: -- outside of some direct and relevance.

18 MR. DRITSAS: This goes to the credibility, Your Honor. I
19 mean this is -- my point is this is the lead organizer and she
20 is aggressive with employees and will do anything, including --
21 I think it goes to the evaluation of her testimony here -- to
22 bring the Union in.

23 MS. OVIEDO: How is whether or not she records videos or --

24 MR. DRITSAS: I didn't say that.

25 MS. OVIEDO: -- audio --

1 MR. DRITSAS: I said if she --

2 MS. OVIEDO: -- a credibility issue.

3 MR. DRITSAS: I said if she secretly records. That was my
4 question.

5 MS. OVIEDO: Well, how is that even relevant, whether it's
6 secret or not? That doesn't go to credibility.

7 MR. DRITSAS: I think it does. I think --

8 JUDGE THOMPSON: On this issue, counsel, I'm going to have
9 to agree with Ms. Oviedo. I'm going to have to overrule (sic)
10 the objection. If you want to go down the line of bias,
11 credibility, you can. But I think that one is -- I agree with
12 Ms. Oviedo. I think it's beyond the scope.

13 So I'm going to sustain the objection.

14 MR. DRITSAS: Okay. Could I have one second, Your Honor?

15 JUDGE THOMPSON: Certainly.

16 MR. DRITSAS: Thank you, Your Honor. I have nothing
17 further at this time.

18 JUDGE THOMPSON: Okay. Thank you.

19 General Counsel, redirect?

20 MS. DAVILA: Yes, Your Honor.

21 **REDIRECT EXAMINATION**

22 Q BY MS. DAVILA: Ms. Llarull, just to go over a few things,
23 you -- just to clarify, you were suspended last year, correct?

24 A One day.

25 Q And you've kept organizing since then? So if you have --

1 A Intensively.

2 Q Okay. So if you have to estimate how long you've been
3 working on this, how many months would it be?

4 A Fourteen. Fourteen months.

5 Q And how many mornings would you estimate that you've gone
6 to pass out fliers to -- to -- at the -- in the employee dining
7 room?

8 A Five days. Sometimes six because I go on my day off.

9 Q Is that five days a week? Okay.

10 A Five days.

11 Q Okay.

12 MR. DRITSAS: I didn't hear --

13 Q BY MS. DAVILA: And just --

14 MR. DRITSAS: -- the answer. Was that a "yes" or --

15 JUDGE THOMPSON: She said -- she said five days. General
16 Counsel asked, "Is that five days a week?" The witness said,
17 "Five days." And sometimes more --

18 MR. DRITSAS: Yeah.

19 JUDGE THOMPSON: -- because she goes on her day off.

20 MR. DRITSAS: Thank you, Your Honor.

21 MS. DAVILA: Okay.

22 Q BY MS. DAVILA: And in your time working at the Hotel,
23 you've worked every single day there could be; you know, Monday
24 through Sunday?

25 A I worked --

1 Q You worked on Monday?

2 A No. Saturday.

3 Q Well, in your history, have you ever worked on Monday?

4 MR. DRITSAS: Can we go back to -- can we go back to the
5 Spanish, please?

6 JUDGE THOMPSON: Please.

7 THE WITNESS: Saturday, Sunday, Monday, Tuesday and
8 Wednesday.

9 Q BY MS. DAVILA: Okay. So can you explain to us how the
10 Trump talks are had different -- okay. How are the Trump talks
11 during the week? What times are the Trump talks during the
12 week?

13 A 8:30.

14 Q Is there more than one Trump talk?

15 A Two more before.

16 Q Okay. And on the weekends, how many Trump talks there are
17 in the mornings?

18 A One. 9:00 in the morning.

19 Q Okay. Ms. Llarull, do you know what the term unfair labor
20 practice is?

21 A In Spanish, it said an unfair labor practice at work.

22 Q Okay. And do you know that you have rights to Union
23 activity?

24 A Yes.

25 Q What are those rights?

1 A Organize a group of people, talk to them over the
2 benefits, by the benefits that we don't have, the benefits that
3 we are going to have, tell them that it's 55,000 Union members
4 all around the city, that if we want to go find a union work,
5 we won't find it because the union workers don't leave the
6 union jobs, and explain to them our rights, that we have the
7 right to work in peace, with dignity, that we have to teach the
8 managers that we are persons and that we need the respect.

9 Q And how did you learn about these rights?

10 A I come from a country where there's a lot of dictatorship
11 and I'm here freely to exercise my rights.

12 Q Okay.

13 A And to teach the people that are afraid.

14 MR. DRITSAS: Your Honor, excuse me, the question was how
15 she learned. Now we're getting --

16 JUDGE THOMPSON: Is that an objection, counsel?

17 MR. DRITSAS: Yes, it is. Objection. It's nonresponsive.

18 JUDGE THOMPSON: Sustained.

19 MS. DAVILA: I'll move on.

20 JUDGE THOMPSON: You can just -- could you restate the
21 question, counsel, or rephrase it so she can answer?

22 MS. DAVILA: I think her answer was sufficient. I'll move
23 on, Your Honor.

24 MR. DRITSAS: Well, my objection was to -- a motion to
25 strike also as nonresponsive.

1 JUDGE THOMPSON: Sustained.

2 MS. DAVILA: I asked that question before, what are your
3 rights to organize.

4 JUDGE THOMPSON: But the witness has answered it.

5 MS. DAVILA: Oh.

6 JUDGE THOMPSON: He's objecting because it was
7 nonresponsive and move to strike. So to the extent you'd like
8 to rephrase the question, counsel --

9 MS. DAVILA: Okay.

10 Q BY MS. DAVILA: What are your rights to organize in that
11 country?

12 JUDGE THOMPSON: No. Strike -- she answered -- you asked
13 and answered that question. What you asked her was how did she
14 learn --

15 MS. DAVILA: Oh, okay. Okay.

16 MR. DRITSAS: Right.

17 JUDGE THOMPSON: -- of her rights.

18 Q BY MS. DAVILA: How did you learn about your rights in
19 Las Vegas to organize?

20 A The unions worldwide all have the same rights.

21 Q Okay. Did the Culinary Workers Union tell you about your
22 rights here?

23 A Yes. That they are backed by the labor board and my
24 federal law.

25 Q Okay. And so have these rights been violated?

1 MR. DRITSAS: Objection; calls for a legal conclusion.

2 JUDGE THOMPSON: Can you rephrase the question, counsel?

3 Q BY MS. DAVILA: Have you felt that your rights have been
4 -- your rights to Union activity have been violated?

5 MR. DRITSAS: Objection. Her feelings are really
6 irrelevant, Your Honor.

7 JUDGE THOMPSON: I'm going to allow her to answer the
8 question because I believe that counsel is asking it in a
9 context that this witness will understand.

10 So, on that basis, I'm going to allow her to answer.

11 You can answer the question, Ms. Llarull, if you remember
12 it.

13 THE WITNESS: The question?

14 Q BY MS. DAVILA: Have you felt that your rights have been
15 -- your rights to Union activity have been violated?

16 MR. DRITSAS: Your Honor, I have another objection. I'm
17 sorry.

18 JUDGE THOMPSON: Go ahead.

19 MR. DRITSAS: Also, it's -- it's overbroad. I mean if
20 we're going to ask a question like that, which I believe still
21 goes to a legal conclusion, can we at least tailor it to the
22 only charging allegations in the complaint rather than some all
23 omnibus provision here?

24 MS. DAVILA: I can certainly do that.

25 JUDGE THOMPSON: Okay. If you could --

1 MS. DAVILA: Okay.

2 JUDGE THOMPSON: -- clarify that, counsel.

3 MS. DAVILA: Okay.

4 Q BY MS. DAVILA: Ms. Llarull, when you saw Mr. Wandick
5 remove the flier from your co-worker's hand, do you feel that
6 your rights to Union activity were violated?

7 A 100 percent.

8 Q Ms. Llarull, when you saw Mr. Wandick interfere with your
9 attempt to speak to your employees about the Union, did you
10 feel that your right to Union activity were violated?

11 A 100 percent.

12 Q One last one. When Ms. Cretin told you that your fellow
13 committee member Mr. Aleman would not get promoted because of
14 his Union button and his Union activity, did you feel that your
15 rights to Union activity were violated?

16 A Clearly. 100 percent.

17 Q When -- when each of these incident happened, what did you
18 do? Who did you tell?

19 MR. DRITSAS: Your Honor, I mean this is redirect. And I'm
20 not quite sure -- this seems like more of a direct examination.
21 I certainly didn't ask those questions. So object that it's
22 beyond the scope, as I've heard --

23 MS. DAVILA: Can I make an offer --

24 MR. DRITSAS: -- General Counsel say.

25 MS. DAVILA: -- of proof? I just wanted to establish that

1 she's told this -- these stories to the Union -- or these --

2 MR. DRITSAS: Stories.

3 MS. DAVILA: -- statements to the Union as well as to the
4 Board.

5 JUDGE THOMPSON: For that purpose only?

6 MS. DAVILA: Yes.

7 JUDGE THOMPSON: I'm going to overrule the objection and
8 allow counsel to ask that question.

9 Go ahead, Ms. Davila.

10 MS. DAVILA: Okay.

11 Q BY MS. DAVILA: Did you tell the details of these
12 incidents to the Union?

13 A Yes, I did tell them. And also to Rodolfo.

14 Q Okay. Thank you. About how many employees does the Hotel
15 have? Do you know? In your estimate. In your estimate.

16 MR. DRITSAS: Your Honor, please. I mean what -- is there
17 something that I questioned that would raise that as an issue?
18 I mean --

19 JUDGE THOMPSON: Where are you --

20 MS. DAVILA: Your Honor --

21 JUDGE THOMPSON: -- headed, counsel?

22 MS. DAVILA: -- they expect her to know every name of her
23 fellow co-workers and it's a large hotel with a lot of
24 employees who all have one employee dining room.

25 JUDGE THOMPSON: Objection overruled.

1 Proceed, Ms. Davila.

2 Q BY MS. DAVILA: About how many employees did the Hotel
3 have?

4 A At this moment, around 500.

5 Q Okay. And about how many housekeepers does the department
6 have?

7 A 150.

8 Q Okay. Thank you. Are you aware of any report that Ryan
9 Aguayo has made about you with hotel management?

10 A Against me? No.

11 Q Okay. Are employees paid for training?

12 MR. DRITSAS: Objection; beyond the scope, Your Honor.

13 MS. DAVILA: He's -- Your Honor, if I may make --

14 JUDGE THOMPSON: Yes.

15 MS. DAVILA: -- an offer of proof? Respondent is trying to
16 establish that maybe Mr. Wandick was trying to pull away
17 employees for training and she clearly said that she were off
18 the clock. So I just want her to --

19 MR. DRITSAS: I wasn't trying --

20 MS. DAVILA: -- indicate whether --

21 MR. DRITSAS: Okay. Go ahead.

22 JUDGE THOMPSON: Go ahead, Ms. --

23 MS. DAVILA: I just want her to indicate whether employees
24 get paid for training.

25 JUDGE THOMPSON: For training. Okay. Mister --

1 MR. DRITSAS: I wasn't trying to establish anything about
2 all employees trying to get training. I just asked if she knew
3 what these employees were doing. What does that have to do
4 with how much people get paid.

5 JUDGE THOMPSON: I believe that what -- what counsel's
6 referring to, just in case for your clarification, counsel, is
7 that in one of the questions you asked whether Mr. Wandick
8 could have been speaking to employees about training, just sort
9 of as an example --

10 MR. DRITSAS: Okay.

11 JUDGE THOMPSON: -- of something he could be discussing.
12 And I think Ms. Davila is trying to -- I'm not --

13 Now, tell me again, Ms. Davila, how you're connecting the
14 question to I believe where counsel was headed.

15 MS. DAVILA: Because she said they were off the clock and I
16 wanted to know if --

17 JUDGE THOMPSON: Ah. I got you.

18 MS. DAVILA: -- if --

19 JUDGE THOMPSON: I got you. The objection -- I will allow
20 counsel to ask that question.

21 I think I know where you're headed, counsel.

22 Q BY MS. DAVILA: Do employees get paid for training?

23 MS. DAVILA: No, that's not my question. That --

24 I'll restate my question.

25 JUDGE THOMPSON: Don't --

1 MS. DAVILA: I'll restate my question.

2 JUDGE THOMPSON: Don't answer that.

3 MS. DAVILA: Don't answer. Okay.

4 Q BY MS. DAVILA: Are employees who are training -- are new
5 employees who are training getting paid?

6 A Yes.

7 Q Okay. Thank you. I just want to clarify something. When
8 you speak to your co-workers in the EDR, are you wearing your
9 Union button?

10 A All the time.

11 Q Okay. Okay. That's my only question.

12 MS. DAVILA: No further questions, Your Honor.

13 JUDGE THOMPSON: Ms. Llarull, thank you so much for your
14 testimony. Please don't discuss it with anyone. We appreciate
15 your appearance today. Have a great day.

16 THE WITNESS: You too.

17 JUDGE THOMPSON: Thank you so much.

18 THE WITNESS: It's a pleasure to meet you.

19 JUDGE THOMPSON: Nice to meet you as well. Thank you.

20 THE WITNESS: Thank you.

21 JUDGE THOMPSON: Counsel, we need to take care of a few
22 housekeeping issues. I think Respondent counsel wanted to move
23 in a document that -- that you did not -- a prior witness'
24 Jencks statement. I think you wanted to move it in --

25 MR. KRAMER: No.

1 MR. DRITSAS: No we did not.

2 JUDGE THOMPSON: -- into evidence. You did not?

3 MR. DRITSAS: Not today. No, Your Honor --

4 JUDGE THOMPSON: Okay.

5 MR. DRITSAS: -- we did not.

6 JUDGE THOMPSON: I thought you said there was a --

7 MR. DRITSAS: There's one document that we have from
8 yesterday that's -- we've got to give you a clean copy. But
9 I -- I -- I got what I wanted just by having her testify.

10 JUDGE THOMPSON: Okay. I thought it was a prior witness'
11 Jencks statement.

12 MR. KRAMER: No. I believe there were two Jencks
13 statements put in, the Spanish and English versions -- there
14 were two different Jencks statements from that one employee and
15 they were both entered into evidence.

16 JUDGE THOMPSON: Okay.

17 MR. KRAMER: But thank you for --

18 JUDGE THOMPSON: Okay.

19 MR. KRAMER: -- following up.

20 JUDGE THOMPSON: That's not a -- that's not a problem. But
21 I thought you -- when we were on the break, you said you wanted
22 to move in something. But not a problem.

23 MS. OVIEDO: Also -- are we still on the record?

24 JUDGE THOMPSON: We are on the record.

25 I'm not sure where we are with the settlement of some of

1 the other matters that were resolved at the beginning of the
2 hearing. I think we still need more discussion on that, so
3 I'll let counsel let me know where we stand on that.

4 Let's -- if there isn't anything further, let's take a
5 lunch break.

6 Ms. Davila, how many other witnesses do we have today?
7 It's -- I'm going to --

8 MS. DAVILA: At least two.

9 JUDGE THOMPSON: -- shorten the lunch break so we can see
10 if we can get in both witnesses for today.

11 So you've got two more?

12 MS. DAVILA: Yes.

13 JUDGE THOMPSON: Okay. Let's try to come back at 1:45.
14 It's 1:00 now. Anything else we need to clear up before we go?

15 MS. DAVILA: Not from us, Your Honor.

16 JUDGE THOMPSON: Okay. We're off the record.

17 (Off the record at 1:00 p.m.)

18 JUDGE THOMPSON: We are back on the record after a brief
19 recess, continuing with General Counsel's case in chief.

20 Ms. Davila, would you please call your next witness?

21 MS. DAVILA: Yes, Your Honor.

22 The General Counsel Antonia de Lourdes Garcia.

23 JUDGE THOMPSON: Ms. Garcia, please come forward.

24 And joining her is Ms. Sanchez, our Spanish interpreter.

25 Please have a seat right there. Make yourself comfortable.

1 Good afternoon, Ms. Garcia.

2 MS. GARCIA: Good afternoon.

3 JUDGE THOMPSON: My name is Judge Thompson. I'm an
4 Administrative Law Judge with the National Labor Relations
5 Board, and I've been assigned to preside over the hearing in
6 this case. You have been called as a witness to testify on
7 behalf of the General Counsel. But before doing so, I need to
8 swear you in. Would you please raise your right hand?
9 Whereupon,

10 **ANTONIA DE LOURDES GARCIA**

11 having been duly sworn, was called as a witness herein and was
12 examined and testified, by and through an interpreter as
13 follows:

14 JUDGE THOMPSON: Thank you. Sitting to your left is
15 Ms. Sanchez and she is a Spanish interpreter. And since
16 you're -- you prefer to speak in Spanish, I assume, when you
17 give your testimony in Spanish, Ms. Sanchez will translate it
18 in English for us.

19 THE WITNESS: Just for you.

20 JUDGE THOMPSON: Yes.

21 THE WITNESS: Okay.

22 JUDGE THOMPSON: We would appreciate it. Now, I have a
23 couple of instructions to give you before you give your
24 testimony, and those instructions just involve the procedures
25 for testifying. Since you speak some English and some Spanish,

1 it's difficult to go between the two. So we would ask if you
2 prefer to speak in Spanish, if you could just speak all in
3 Spanish. And Ms. Sanchez will translate for us.

4 THE WITNESS: Perfect.

5 JUDGE THOMPSON: Before I do that, let me swear Ms. Sanchez
6 in at this time. Ms. Sanchez, could you raise your -- your
7 right hand?

8 (Interpreter, sworn)

9 JUDGE THOMPSON: Great. Thank you. Okay. Ms. Garcia,
10 now, just a few reminders to keep in mind as you give your
11 testimony. First, there's a microphone in front of you that
12 we're using to record the proceedings. You don't have to sit
13 up. You can just leave it right there and we'll be able to
14 capture your testimony. But what we need for you to do is,
15 one, to speak as loudly as you can, because we want to hear
16 everything you have to say. So make sure to speak loud so that
17 we can hear you and Ms. Sanchez can translate for us.

18 Second, if you would give us a verbal response. Oftentimes
19 witnesses say huh-uh and uh-huh, but that's difficult to
20 transcribe. So if you would give us a verbal response, yes,
21 no, or just answer the question that's asked, that would work
22 for us perfectly.

23 Next, if you don't understand a question that either of
24 these attorneys ask you, would you tell them so -- "I don't
25 understand your question," so that they can repeat it for you?

1 And we'll assume that if you answer a question, you understood
2 what they asked you.

3 Next, if either of the attorneys object -- and you'll hear
4 them say "objection" -- could you hold your response until I
5 can address their concern?

6 Finally, oftentimes witnesses know where the question is
7 headed and will want to just answer that question. But that
8 creates an awkward recording for us. So could you hold your
9 response until the complete question has been asked and then
10 you can give your complete answer?

11 Would you do that for us, please?

12 THE WITNESS: Of course.

13 JUDGE THOMPSON: Thank you so very much.

14 Ms. Davila, your witness.

15 MS. DAVILA: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 Q BY MS. DAVILA: Good afternoon, Ms. Garcia.

18 Could you please state your occupation for the record?

19 A My occupation at the Company?

20 Q Where do you work?

21 A At the Trump --

22 Q What position -- oh, sorry.

23 A -- Hotel.

24 Q Okay. What position do you have there?

25 A Housekeeping.

1 Q When did you start working at the Trump Hotel?

2 A I think I started the first of February of last year. It
3 was either '14, '15, 2015 or last year. But this February, it
4 will be two years.

5 Q Okay.

6 A 14, 15, with the Company.

7 Q Okay. Do you know about the employees trying to organize
8 a union?

9 A Yes. Yes.

10 Q I would just ask that you let her finish her complete
11 interpretation before you answer, because you're not -- you may
12 not understand my complete question. I would also ask that you
13 speak slowly so the interpreter catches everything you say.

14 A Okay. Fine.

15 Q When did you -- or do you know about the employees trying
16 to organize a union?

17 A Yes.

18 Q How did you learn about it?

19 A Oh, because I was with the Company --

20 THE INTERPRETER: She's going to repeat again. I'm sorry.

21 THE WITNESS: I noticed that my co-workers were organizing
22 for to try to have a union at the Company, because I was
23 present there that day, the day that all the representatives
24 from the cabinet of the Union. On the first day they came in
25 with their red button, I was there.

1 Q BY MS. DAVILA: Okay. Quickly and the last time I'll
2 remind you. Just speak slowly because the interpreter's memory
3 isn't infinite. Okay.

4 A Slowly.

5 Q Was that -- when was that? Do you remember?

6 A I'm not too sure, but I think it was June of last year.

7 Q Okay. I'm going to ask you to look at what's down there
8 as GC Exhibit 6.

9 JUDGE THOMPSON: Let the record reflect that I handed
10 Ms. Garcia what's been marked as GC-6.

11 MS. DAVILA: Okay.

12 Q BY MS. DAVILA: If you can turn to the third page, do you
13 recognize this notice?

14 A Well, perhaps, yes, I recognize it.

15 Q Okay. Were you aware that some of your co-workers were
16 suspended for wearing their Union buttons?

17 A Yes.

18 Q Okay. Do you remember -- do you ever remember seeing a
19 notice posting at work talking about that incident?

20 A Yes.

21 Q Okay.

22 A Yes.

23 Q Okay. Thank you. Did you wear a Union button last year?

24 A Not last year.

25 Q Okay. I'm going to introduce what's GC Exhibit 21.

1 JUDGE THOMPSON: Yes.

2 MS. DAVILA: Okay.

3 JUDGE THOMPSON: You could put that down, Ms. Garcia.

4 Thank you.

5 Q BY MS. DAVILA: Do you recognize what's on this form?

6 A Of course, yes.

7 Q Okay. Can you read for us the date that's listed on this
8 form?

9 A It's 3/19/15.

10 Q And how do you recognize this form?

11 A Because my co-workers are Union representatives. They
12 explained to me what was the significance of, this, to fill
13 out, to give my consent to and my name, my address, my phone
14 number so that -- so that they could contact me that I approve
15 that I'm -- that I approve that I'm with them, that I approve
16 that I'm with -- that I'm with the side of the Union, that I
17 approve of it.

18 Q Okay. Do you see what's up there as GC Exhibit 16? Do
19 you recognize what's on that paper?

20 A Yes.

21 Q What is it?

22 A It's the button that my co-workers have, that they're
23 leaders -- that they're leaders, that they're Union leaders.

24 Q Just to remind you again, let her finish her
25 interpretation before you go on.

1 Okay. What's -- what's the other picture there?

2 A It's to us. It represents the support, the support for
3 the Union.

4 Q Not what it represents. What is it? What is it? The
5 yellow thing there. What is it?

6 A Well, it's the button that we have to wear that we support
7 or that we want to have a union.

8 Q Do you wear one of those buttons?

9 A Yes. I wear the yellow one.

10 Q When did you start wearing the yellow button?

11 A Around June of this year.

12 Q And do you still wear it?

13 A Yes.

14 Q Where do you wear it?

15 A Right here above my name. Because we have our name, and I
16 wear it above there.

17 MS. DAVILA: Let the record note that the witness pointed
18 to the top left-hand corner of her chest.

19 Q BY MS. DAVILA: So you wear it on your uniform?

20 A Yes.

21 Q Do you wear it when you're working?

22 A Yes.

23 Q Okay. Do you remember an incident that happened --

24 JUDGE THOMPSON: Just a second, counsel. I just --

25 MS. DAVILA: Yeah.

1 JUDGE THOMPSON: -- I don't want you to get too far in. Do
2 you want to move in GC-21?

3 MS. DAVILA: Yes. I didn't have my helper. Yes. Can I
4 move GC -- I move to have GC Exhibit 21 in the record.

5 MR. DRITSAS: No objection.

6 JUDGE THOMPSON: Hearing no objection, I'll admit GC
7 Exhibit 21.

8 **(General Counsel Exhibit Number 21 Received into Evidence)**

9 MS. DAVILA: Thank you.

10 Q BY MS. DAVILA: Okay. Who's your supervisor?

11 A My supervisor is Mrs. -- pardon me. I have it here, but I
12 can't -- Mrs. Magana.

13 Q Okay.

14 A Alejandra. Pardon me.

15 Q It's okay. Okay. And she -- do you know her title?

16 A Yes. She's the supervisor, the maximum authority in
17 housekeeping.

18 Q Okay. Do you remember what happened the day that you wore
19 your button for the first time?

20 A Yes.

21 Q Do you remember what day it was about?

22 A Not exact date. I don't have the exact in mind, but it
23 was Tuesday or Wednesday. What I do remember, it was a day or
24 two after my birthday because on the 13th of June is my
25 birthday. And I remember at that time my days off were Sunday

1 and Monday. My birthday was Saturday. So then when I come
2 back to work, it's Tuesday, Wednesday. I'm not too clear it
3 was Tuesday or Wednesday, but it was one of those two days.

4 Q Okay. And you worked that day?

5 A Yes.

6 Q Okay. And you wore the button to work?

7 A Yes.

8 Q Okay. And did anybody in management talk to you about
9 your button?

10 A No. Just Mrs. Magana.

11 Q And I just wanted to make it clear that -- what year did
12 this happen?

13 A What year?

14 Q Uh-huh. Yeah.

15 A It was this year.

16 Q Okay.

17 A This year.

18 Q So tell us what happened, please.

19 A Well, I finished my day of work. When I went into the
20 office to turn in my paperwork -- because before they used to
21 give us -- before they used to give us the room numbers on
22 paper, printed out. Now we have iPads. So then I walked into
23 the office to turn in my paper and my key and Mrs. Magana saw
24 me, Magana saw me. And she saw that I had my Union button.
25 And like this, at a distance, she signaled and said, "Lourdes,

1 could I speak to you for a moment?"

2 Q Let me stop you there, please.

3 MS. DAVILA: Let the record reflect that the witness
4 pointed to General Counsel's table and that she had her hand
5 out, extended and her index finger on her -- on her left hand
6 -- left hand moving back and forth.

7 JUDGE THOMPSON: So noted, counsel.

8 You can go back to saying something.

9 MS. DAVILA: Go -- go on.

10 THE WITNESS: And I said, "Well, okay. That's fine." I
11 went into the office and I sat down in front of her. At that
12 time our communication was really good. To make sure it was a
13 lady. She was a pretty lady. It seemed like, I don't know,
14 she had my respect and admiration for her.

15 Q BY MS. DAVILA: Just to clarify, when you say pretty --

16 A Pretty because she --

17 Q Well, when you say --

18 JUDGE THOMPSON: Wait. Whoa, whoa, whoa, wait. Wait.

19 Wait. Wait. Wait.

20 Ms. Garcia, you have to allow Ms. Davila to ask the
21 complete question, wait for Ms. Sanchez to interpret, then
22 answer.

23 Okay. So back up again, Ms. Davila, and ask your question.

24 Q BY MS. DAVILA: When you say a pretty person, what do you
25 mean?

1 A A pretty person to me is the whole word, in all the
2 meaning of the word.

3 Q Do you mean physically or in personality?

4 A All of it. She seems to me, because she's not ungracious,
5 pretty, but she seems -- she seemed like a -- like a person
6 that listens to you, that there's a good communication.

7 Q Okay. Thank you for clarifying. I know this is
8 difficult.

9 Keep going.

10 A Well, I sat down. I'm in front of her. And she -- and
11 she tells me, "What is that?"

12 MS. DAVILA: Let the record note that the witness pointed
13 her index finger forward.

14 Q BY MS. DAVILA: I just want to explain to you what's going
15 on. When I interrupt you to clarify the record, it's that
16 we're not filming this, we're recording it. So I have to say
17 out loud what you're doing physically.

18 Please go on.

19 JUDGE THOMPSON: Ms. Garcia, what was Ms. Magana pointing
20 at when she asked you, "What is it?"

21 THE WITNESS: My Union button.

22 JUDGE THOMPSON: Okay. What happened next.

23 THE WITNESS: My response was to tell her how. That,
24 "What's happening with the Union button? Nothing. Nothing.
25 That is" -- "well, I finally got mine." At that moment that

1 like if -- it wasn't too clear as to why the question.

2 Q BY MS. DAVILA: Did you say anything to her?

3 A Of course. I told her, "Well, this is my vote for the
4 Union. I am a" -- "I support my co-workers that are working so
5 that" -- "so that this Company, all of us will have a Union."

6 Q I just want to clarify. Where were you during this
7 conversation?

8 A In front of her right there in the office.

9 Q In her office?

10 A Of Ms. Magana.

11 Q Was her door open?

12 A Yes.

13 Q Okay. Keep going.

14 A So then I told her, "I support my co-workers of the Union.
15 This has nothing to do with you all. This is for us. This is
16 for us, the people of the town. It has nothing to do with you
17 all."

18 Q Okay. Did she respond?

19 A Yes. She then told me, "Because I thought you were on my
20 side. Right now I'm looking at you as a trader."

21 Q And then what happened?

22 A And I told her, "How?" Because then she told me, "Because
23 then you're one of the ones that goes to the Union meetings?"
24 And I told her, "No. No. I don't have to go to the meetings
25 so that someone could" -- "so that someone could convince me

1 that it's good to have a Union to the company that I belong
2 to."

3 Q Okay. Did she say anything in return?

4 A She told me, "You know that Mrs." -- I don't have the name
5 right now in my mind. That the person that's coming to talk --
6 to talk to the other co-workers to let them know that it's
7 good, to unite us to try to bring a Union into the company --

8 Q It's okay. What did she say about her?

9 A At this moment, I don't have her name. "Do you know that
10 the person that started all of this, her last day is such day,
11 the 26th or the 20 something like that."

12 Q Of that month?

13 A Yes, of that month.

14 JUDGE THOMPSON: Ms. --

15 THE WITNESS: "It doesn't seem fair that, like they say,
16 the hot potato, to rest of them."

17 JUDGE THOMPSON: Ms. Davila, I'm going to have to stop the
18 witness because it's too long of a narrative. I have no idea
19 what she's saying. And I can't follow along because there
20 isn't -- I mean the questions are way to open ended. And I
21 know it's a --

22 MS. DAVILA: It's a delicate balance.

23 JUDGE THOMPSON: -- delicate balance.

24 MS. DAVILA: But I'll try to --

25 JUDGE THOMPSON: But -- but with this particular witness, I

1 think you're going to have to direct her.

2 MS. DAVILA: Okay.

3 JUDGE THOMPSON: To the extent that -- for purposes of
4 clarity, you may have to lead slightly. I will give you
5 latitude in order -- so that she will understand what you're
6 asking.

7 Q BY MS. DAVILA: Okay. We're going to slower and you're
8 just going to answer my question and nothing more. Okay?

9 A Perfect.

10 Q Okay. So after she called you a trader, she --

11 MR. DRITSAS: Objection, Your Honor, I have -- she hasn't
12 said that once.

13 JUDGE THOMPSON: Yes, she did.

14 MS. DAVILA: She did.

15 JUDGE THOMPSON: She did. She did.

16 MR. DRITSAS: Well, I didn't hear her say that.

17 JUDGE THOMPSON: So --

18 Q BY MS. DAVILA: After she called you --

19 JUDGE THOMPSON: -- I'm going to have to overrule it.

20 Q BY MS. DAVILA: -- trader, what did you respond?

21 MR. DRITSAS: She said -- excuse me, Your Honor.

22 JUDGE THOMPSON: Wait. Okay. Go ahead, counsel.

23 MR. DRITSAS: She said, "Now I'm looking at you as a
24 trader." That's different than, "You are a trader." So --

25 JUDGE THOMPSON: Well, I mean if you're going to split

1 hairs, counsel, the --

2 MS. DAVILA: I can ask her --

3 JUDGE THOMPSON: I'll sustain the objection.

4 Counsel, can you rephrase the question?

5 Q BY MS. DAVILA: Did she call you a trader?

6 A Yes.

7 Q Okay. After she called you a trader, what did you say?

8 A Pardon me. I'm trying to -- it was when I told her, "Why
9 do you see me as a trader or say" -- yes, because like I told
10 you, to me it was a surprise. Yes, if she ignored that I was
11 100 percent supporting in cause.

12 Q Okay. And did she tell you about another employee?

13 A No.

14 Q I'm trying to go back in your testimony, what you just
15 said. You said that -- and correct me if I'm wrong -- that an
16 employee's last date was going to be the 26th.

17 A Oh, yes, Mrs. -- I don't have her name on --

18 Q I don't need her name.

19 A Okay.

20 Q Okay. Can you go back to the hot potato analogy? And
21 what did Ms. Magana say about that?

22 A Well, that. That. That if I knew that the person that
23 started this, all of this, she said she's resigning the 26th.
24 "And she leaves all this" -- "like leaves all this disaster to
25 another person?"

1 Q Okay. Did you respond to that?

2 A Yes. I told her, "I have no idea who she is or, let's
3 say, I don't."

4 Q And what did she say?

5 A I don't know. What was it that she said? Well, it was
6 when she -- and she said, "You're one of those persons that
7 goes to the Union meetings." And I said, "No. No. It's not
8 necessary but" -- "in my person, it's not necessary to go to
9 the meetings to convince me that it's necessary to have, that
10 it's good to have a Union for the company that we work at."

11 Q Okay. Did she respond to that?

12 A Yes. Yes.

13 Q What did she say?

14 A On the conversation --

15 Q How did the conversation end?

16 A Well, the conversation -- well, it's all that I remember.
17 "Well, this is between us. For you it doesn't" -- how did I
18 tell her? "This is amongst us, the town, the people of the
19 town. So then why does it bother you, all of you?"

20 Q Okay.

21 A I told her the same, "I'm from this part. I'm from this
22 part of the town and I'll stay with this part of the town."

23 Q Okay.

24 A And that's it.

25 JUDGE THOMPSON: Wait a minute, Ms. Garcia. She -- she's --

1 THE WITNESS: Something like that.

2 JUDGE THOMPSON: -- about to ask a different question.

3 THE WITNESS: Something like that.

4 MS. DAVILA: Okay.

5 Q BY MS. DAVILA: About how long did the conversation last?

6 A Well, I have no idea. Maybe just a few minutes. It
7 wasn't too long because -- yes.

8 Q Did you talk about any -- anything other than the Union?

9 A No.

10 Q Did you leave after the conversation was finished?

11 A Yes.

12 Q Okay. Was there anybody outside the office when you
13 walked out?

14 A Yes. Mrs. Maria. I don't remember her last name. I just
15 know her name is Maria.

16 Q What did she look like?

17 A She's a -- she's a chubby lady with straight hair and
18 she's in the committee.

19 Q Okay. That's fine. That's fine. That's fine.

20 What happened when you walked out of the office? Where did
21 you go?

22 A Well, I simply walked toward the exit. She was turning in
23 her paper and her key --

24 Q Who was?

25 A -- close by, close by. Close to the office. And she

1 heard --

2 Q Who? Who? Okay.

3 A Mrs. Maria.

4 Q Okay. Did you -- and then did you talk to her?

5 A Yes.

6 Q In the office? Where?

7 A No, no, no. Outside of the company.

8 Q And what did you tell her?

9 A I told her, "Look, I'm surprised that what Mrs. Alejandra
10 told me." And I told her, "I'm not precisely offended, but" --
11 "but she did make me feel bad by her telling me that she saw me
12 as a trader."

13 Q What did Maria tell you?

14 A And she said, "What are you going to do? Are you going to
15 remove the button to look good in her graces?" And I told her,
16 "Oh, no." I told her, "No. This is going to stay here and" --

17 Q I just want to clarify something. When you say the word
18 pueblo, what do you mean?

19 A Pueblo, it means like Mrs. Alejandra is the maximum -- the
20 maximum authority at housekeeping. It's -- and its's like
21 saying and we are of a lower level, like say we are the
22 workers. She is --

23 Q Like the common people?

24 A Yeah. Yeah. Something like that.

25 Q So pueblo doesn't mean town?

1 A Pueblo. Yes.

2 Q Okay. Thank you.

3 A Yes. No. We're from --

4 Q I just wanted to --

5 A -- the town. We're from --

6 Q -- clear it up.

7 A -- over here.

8 JUDGE THOMPSON: Uh-huh. Let her ask a question.

9 MS. DAVILA: Okay.

10 JUDGE THOMPSON: Ms. Garcia, don't -- don't -- don't

11 speak --

12 MS. DAVILA: I just --

13 JUDGE THOMPSON: -- if they're not asking you any

14 questions.

15 THE WITNESS: Oh, okay.

16 Q BY MS. DAVILA: This seems redundant, and I apologize, but

17 the word pueblo, you don't mean town? You -- the interpreter

18 keeps saying town or --

19 JUDGE THOMPSON: You can't -- just ask her --

20 THE WITNESS: Pueblo --

21 Q BY MS. DAVILA: Do you mean community?

22 A Yes, yes. From over here, like the community.

23 Q I'll take that.

24 MS. DAVILA: No further questions, Your Honor.

25 MR. DRITSAS: Her statement, counsel?

1 MS. OVIEDO: Oh, yes.

2 JUDGE THOMPSON: Let the record reflect that the General
3 Counsel handed to Respondent Ms. Garcia's Jencks statement.

4 And we'll take a short break.

5 Off the record.

6 (Off the record at 2:29 p.m.)

7 JUDGE THOMPSON: We are back on the record after a brief
8 recess.

9 Let the record reflect that we were in the middle of direct
10 examination of Ms. Antonio -- Antonia Garcia. And I had an
11 off-the-record discussion with counsel as I had been advised,
12 or it was my understanding, that Ms. Sanchez, our translator,
13 was providing inaccurate translation. And after some further
14 discussion with counsel on both -- for both parties, it was my
15 decision to request another interpreter as I had some questions
16 regarding the accuracy of the interpretation of Ms. Garcia's
17 testimony.

18 So, as a result, Ms. Garcia was excused from the stand
19 today and there will be no other witnesses being called to
20 testify in this hearing today.

21 However, before we adjourn for the day, we would like to
22 have -- clean up some housekeeping matters with regard to the
23 party's settlement of some claims in this matter.

24 Ms. Oviedo, can you advise the Court whether the parties
25 have reached a settlement over certain and select claims in

1 this case?

2 MS. OVIEDO: Yes, Your Honor.

3 During the recess, Respondent and General Counsel along
4 with the input of Charging Party represented -- who's
5 represented by Richard McCracken, have agreed to a partial
6 settlement on the -- all but one of the rules that were alleged
7 in the complaint. We will be settling the confidentiality
8 policy out of the associate handbook, the employee agreement of
9 confidentiality of business information as well as the employee
10 agreement of confidentiality. So all but the nondistribution
11 solicitation policy.

12 MS. DAVILA: Your Honor, if I -- I might quote the
13 complaint --

14 JUDGE THOMPSON: Certainly.

15 MS. DAVILA: -- provisions? And they're all from case --

16 MS. OVIEDO: So it's paragraph number --

17 MS. DAVILA: 5 --

18 MS. OVIEDO: -- 5(a) (2), 3, 5(b) and what would have
19 been --

20 JUDGE THOMPSON: 5(a) (2), 5(b) and I think --

21 MR. DRITSAS: 5(a) (2), 3 and (b).

22 JUDGE THOMPSON: Gotcha.

23 MR. DRITSAS: The only thing I want to add to that is that
24 5(a) (1) is a no solicitation, no distribution on property
25 allegation, which -- I believe the parties have agreed -- at

1 least it's my understanding -- that there's no challenge to the
2 facial lawfulness of the policy. There's only -- the General
3 Counsel is -- still has an opportunity to see if there's any
4 unfair and unlawful application.

5 JUDGE THOMPSON: Is --

6 MS. DAVILA: The General Counsel --

7 MS. OVIEDO: The General Counsel.

8 MS. DAVILA: -- has to discuss that with the Regional
9 Director.

10 JUDGE THOMPSON: I thought that was already discussed.

11 MR. DRITSAS: Well, the facial lawfulness was part of our
12 agreement here.

13 MS. OVIEDO: Can -- without stating the Region's position
14 on that right now, can we agree that we're settling out all the
15 rules of that at this point?

16 MR. DRITSAS: Counsel --

17 JUDGE THOMPSON: Off the record.

18 (Off the record at 3:39 p.m.)

19 JUDGE THOMPSON: We are back on the record.

20 Counsel, let's begin again with regard to what I believe is
21 a settlement of certain portions or certain claims raised in
22 the complaint.

23 Ms. Oviedo?

24 MS. OVIEDO: Before we took a brief recess, there was the
25 remaining issue of complaint paragraph 5(a)(1).

1 JUDGE THOMPSON: Yes.

2 MS. OVIEDO: The General Counsel would like to withdraw
3 that allegation.

4 JUDGE THOMPSON: Okay.

5 MS. OVIEDO: And this settlement agreement that we're about
6 to propose covers all of the other rules alleged in the
7 complaint.

8 JUDGE THOMPSON: Okay.

9 MS. OVIEDO: So there will be no other remaining rules that
10 are facially challenged in the complaint.

11 JUDGE THOMPSON: Ms. Oviedo, 5(1)(a) (sic), your
12 withdrawing?

13 MS. OVIEDO: Correct.

14 JUDGE THOMPSON: Okay. Any objection, counsel?

15 MR. DRITSAS: No objection, Your Honor.

16 JUDGE THOMPSON: Hearing no objection, I'll accept the
17 General Counsel's and grant the General Counsel's request to
18 withdraw paragraph 5(1)(a) from the complaint.

19 MS. OVIEDO: A one.

20 JUDGE THOMPSON: Sorry. 5(a)(1) from the complaint. Thank
21 you.

22 MS. OVIEDO: And, Your Honor, if I may approach the bench
23 and --

24 JUDGE THOMPSON: Certainly.

25 MS. OVIEDO: -- and hand you what both Respondent's counsel

1 and General Counsel has signed?

2 JUDGE THOMPSON: Thank you.

3 Do we need to make this an exhibit, counsel? Would it be
4 easier or do you care?

5 MR. DRITSAS: I don't -- I don't think you need, but I'll -
6 - whatever you want, Your Honor.

7 JUDGE THOMPSON: Okay. I don't need to make it an exhibit.

8 Ms. Oviedo, is it your understanding that counsel for the
9 Charging Party Union has no objection to this settlement?

10 MS. OVIEDO: That is correct, Your Honor.

11 JUDGE THOMPSON: Okay. And I take it Respondent has no
12 objection?

13 MR. DRITSAS: That's correct, Your Honor.

14 JUDGE THOMPSON: Okay. Hearing no objections, and I've
15 reviewed the settlement and have signed it and approved the
16 settlement. Counsel --

17 MS. OVIEDO: Thank you, Your Honor.

18 JUDGE THOMPSON: -- you can have it back. Ensure that the
19 parties receive a fully executed copy. And those portions of
20 the settlement agreement are settled. Anything else before we
21 conclude for the day and we adjourn?

22 MS. DAVILA: Not from the General Counsel, Your Honor.

23 MR. DRITSAS: No, Your Honor.

24 JUDGE THOMPSON: Great. Then we will resume -- we will
25 adjourn today and we'll resume the hearing on Monday, November

1 30th at 9 a.m.

2 Thank you.

3 MR. DRITSAS: Great.

4 MR. KRAMER: Thank you, Your Honor.

5 MS. OVIEDO: Thank you.

6 MS. DAVILA: Thank you, Your Honor.

7 MR. DRITSAS: Have a good holiday.

8 JUDGE THOMPSON: You too. Off the record.

9 **(Whereupon, the hearing in the above-entitled matter was**
10 **recessed at 3:46 p.m. until Monday November 30 at 9:00 a.m.)**

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Friday, November 20, 2015, at 9:02 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: November 30, 2015

Pages: 729 through 953

Volume: 5

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Monday, November 30, 2015, at 9:03 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

NATHAN A. HIGLEY, ESQ.

FOLEY FEDERAL BUILDING
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, Nevada 89101
Tel. 702-388-6014
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Antonia Garcia	742	749	767		
Jose Perez Cortez	773	785	798		
Dora Rivera	802	818			
Christina Keeran	843	900	938		949

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-13	738	738
GC-22	739	739
GC-23	739	739
GC-24	777	777
GC-25	859	859
GC-26	873	873
GC-27	880	880
GC-28	888	892
GC-29	944	944
GC-30	947	947
Respondent:		
R-15	930	930
R-19	797	797
R-20 through R-22	912	912
R-23	919	919

1 motion to amend the complaint.

2 JUDGE THOMPSON: Okay.

3 MS. DAVILA: Its Paragraph 5, Section H.

4 JUDGE THOMPSON: Okay. Let me get that, Ms. Davila, hold
5 on. Okay, Paragraph 5, Section H.

6 MS. DAVILA: Yes.

7 JUDGE THOMPSON: Got it.

8 MS. DAVILA: The supervised name is Alejandra Magana.

9 JUDGE THOMPSON: Yes.

10 MS. DAVILA: And we'd like to change it to Anthony
11 Wandick.

12 JUDGE THOMPSON: Mr. Dritsas or Mr. Kramer, any objection
13 to the amendment?

14 MR. DRITSAS: Yes, Your Honor. We object to the
15 amendment. This case has been pending for, well, the complaint
16 issued September 30. The charges were filed months before.
17 There was investigations based on the charges, the General
18 Counsel's office presented -- I should say the Region, not the
19 General Counsel's office, the Region presented information to
20 us identifying Ms. Magana for this particular allegation. So
21 here we are on the fifth day of trial and the General Counsel
22 now, after Mr. Wandick has already testified, wanting to amend
23 the case. We think on due process grounds it's too late for
24 them to make such an amendment and they either knew and they
25 should have told us earlier or they should have done their

1 homework. So we oppose it.

2 JUDGE THOMPSON: Ms. Davila, why the amendment at this
3 late juncture? If you could address that issue for me, please.

4 MS. DAVILA: The witness was -- we were unable to get a
5 hold of her until this last weekend and she advised us of the
6 change. In her affidavit she does list Alejandra Magana but
7 when I spoke to her verbally she said it was Anthony Wandick.
8 I did advise them last night. I know it was -- that I intended
9 to change the complaint. She has also named -- I mean, he is
10 also named otherwise in the complaint. We did reserve the
11 right to recall him as well, I think subpoenaed him as well.
12 She was also in the room during this alleged conversation.

13 JUDGE THOMPSON: So are we not proceeding -- let me make
14 certain that I understand. With regard to this particular
15 allegation in 5H, only, you are amending to substitute Ms.
16 Magana or Mr. Wandick for Ms. Magana; correct?

17 MS. DAVILA: Correct.

18 JUDGE THOMPSON: Okay. But to the extent that she made
19 the alleged responsible management official in other paragraphs
20 you're still maintaining that?

21 MS. DAVILA: Yes, correct.

22 JUDGE THOMPSON: Okay. And I believe you stated, and
23 correct me if I'm wrong, that with respect to this particular
24 allegation you learned within the last couple of days that the
25 witness to which you were relying on when you filed this

1 complaint changed her -- changed an alleged it was Wandick and
2 not Magana?

3 MS. DAVILA: Yes.

4 JUDGE THOMPSON: Okay. Mr. Dritsas, I am sympathetic to
5 your argument that such a change at this juncture could be
6 disadvantageous to Respondent. The problem is that the Board
7 is very liberal with respect to amending complaints.
8 Particularly when you're changing out just the supervisor. I
9 would be more inclined to sustain your objection if General
10 Counsel was sort of erasing a whole paragraph and adding
11 another paragraph or another allegation. But to substitute out
12 a supervisor and I understand that supervisory status in this
13 particular case is important because it's an issue in the case,
14 the Board generally allows such amendments as this one when
15 we're just substituting a management official.

16 So while I certainly am sympathetic to your argument, Mr.
17 Dritsas I have to overrule the objection and grant the General
18 Counsel's amendment to delete Ms. Alejandra Magana in 5H and
19 substitute it with Anthony Wandick. And I'm particularly
20 noting the fact that Ms. Davila indicated that she just learned
21 days ago of the change from a witness. Such that the reason
22 that it's coming now is because she was just alerted to it. So
23 in that instance I think the prejudice is outweighed by the
24 fact that General Counsel wasn't delaying or dilatory in her
25 motion.

1 So I'm going to grant the motion. So I'm going to grant
2 the motion to amend and substitute out Ms. Magana for Mr.
3 Wandick just for Paragraph 5H.

4 Okay. Ms. Davila, the next issue?

5 MS. DAVILA: The General Counsel would like to admit GC
6 Exhibit 13 into the record as well as 23 and 24 because 22 was
7 my last one.

8 JUDGE THOMPSON: 13 --

9 MS. DAVILA: So 13 was the one that wasn't entered.

10 JUDGE THOMPSON: Yes, I thought that the issue was an
11 authentication issue, and that the reason why I did not admit
12 it was because, and correct me if I'm wrong, the witness to
13 whom you sought to introduce this was unable to attest that
14 they had ever seen this or was unfamiliar with the document and
15 that was the reason why I did not enter it into evidence, is
16 because of an authentication issue. I do recall that
17 respondent objected because their argument was essentially this
18 wasn't an adequate or accurate position description and that's
19 their argument. But I sustained the objection because I
20 believe that the witness who was testifying about this
21 document, to whom you sought to authenticate it, was unfamiliar
22 and did not have -- at least testified that he did not have any
23 personal knowledge about the document.

24 So is there some way, is there some other witness that
25 could authenticate this or can Respondent stipulate to this?

1 MR. DRITSAS: Your Honor, to help move things along I'm
2 prepared to agree, or stipulate, that this is a document that
3 was produced by my client that was in their database.

4 JUDGE THOMPSON: Okay.

5 MR. DRITSAS: That's as far as I can go. There's no
6 testimony and I'm not making any statements as to whether
7 anyone saw it, any of the witness saw it, whether it applied,
8 all I can tell you is, we produced it.

9 JUDGE THOMPSON: Okay.

10 MR. DRITSAS: And so I'll stipulate that it's authentic,
11 that's as far as I can go.

12 JUDGE THOMPSON: Okay. I can accept that stipulation for
13 purposes of admitting it into evidence and then General Counsel
14 has the burden to determine what she needs to determine and I
15 can give it the appropriate weight. So based on that
16 stipulation I will receive GC-13 into evidence.

17 **(General Counsel Exhibit Number 13 Received into Evidence)**

18 JUDGE THOMPSON: What was the other ones, Ms. Davila?

19 MS. DAVILA: I just need to check which was my last
20 exhibit, 22 you said, Jacqui?

21 THE COURT REPORTER: 21 is the last one.

22 MS. DAVILA: Okay. So I move to admit Exhibit 22 and 23.

23 JUDGE THOMPSON: Okay. They are similar position
24 descriptions.

25 MR. DRITSAS: And I can make the same stipulation, Your

1 Honor.

2 JUDGE THOMPSON: Okay.

3 MR. DRITSAS: With the same notations.

4 JUDGE THOMPSON: Gotcha.

5 MR. DRITSAS: I think you said 23 and 24 though.

6 MR. KRAMER: 22 and 23.

7 JUDGE THOMPSON: 22, 23.

8 MR. DRITSAS: Okay.

9 JUDGE THOMPSON: Based on Respondent's stipulation that I
10 will accept that is sufficient for me in order to admit GC 22
11 and 23 into evidence. So with that I will receive GC 22 and
12 23.

13 **(General Counsel Exhibit Number 22 and 23 Received into**
14 **Evidence)**

15 JUDGE THOMPSON: Anything else, Ms. Davila?

16 MS. DAVILA: That's it, Your Honor, thank you.

17 JUDGE THOMPSON: Mr. Dritisas, Mr. Kramer, any housekeeping
18 matters for Respondent?

19 MR. DRITSAS: Nothing, Your Honor.

20 JUDGE THOMPSON: Okay. I just want to remind you that the
21 order to sequester witnesses that was granted in the first part
22 of the trial still remains active for this part of the trial.
23 And there are no witnesses present in the courtroom, but having
24 said that, Ms. Davila, you're welcome to call your next
25 witness.

1 MS. DAVILA: Thank you, Your Honor, I'll call Antonia
2 Garcia.

3 JUDGE THOMPSON: Okay. Good morning, Ms. Garcia.

4 MS. GARCIA: Good morning.

5 JUDGE THOMPSON: Please come around. Good morning. We
6 met a couple of weeks ago, my name is Judge Thompson. I'm an
7 Administrative Law Judge with the National Labor Relations
8 Board. I'm presiding over this case. Thank you so very much
9 for coming back on today. I want to assure you, Ms. Garcia,
10 that when you testified the Friday before last, you did nothing
11 wrong. There was a procedural issue that I had to address with
12 Counsel. Nothing in your testimony was inappropriate, I can
13 assure you. So thank you again for rejoining us and we will
14 get your testimony today.

15 Sitting to your left is our interpreter Ms. DeGasgone
16 (phonetic) and she's going to interpret for us from English to
17 Spanish and Spanish to English. Before we go any further, let
18 me swear you in. Will you raise your right hand?

19 Whereupon,

20 **ANTONIA GARCIA**

21 having been duly sworn, was called as a witness herein and was
22 examined and testified, by and through an interpreter as
23 follows:

24 JUDGE THOMPSON: Thank you so much. Now, the last time
25 you testified you spoke some English and some Spanish and our

1 court reporter went crazy because it was difficult for her to
2 transcribe or take down the different languages. So this time,
3 if you could, would you speak in Spanish so that Ms. DeGasgone
4 can interpret for us in English? That way we can follow along
5 better and get every word that you're saying.

6 The last time I gave you some instructions, and I'm going
7 to remind you of those. One, please give us a verbal response
8 and try to avoid uh-huh or huh-uh. Second, when you provide
9 your testimony would you pause for a moment to allow Ms.
10 DeGasgone to translate for us? If you don't understand a
11 question tell the attorneys you don't understand and then they
12 can repeat the question or rephrase it so that you can
13 understand.

14 If there is an objection that either of the attorneys make
15 would you hold your response until I can address their concern?
16 And finally if you could let the attorneys ask their question
17 and then you answer. It helps our court reporter. I realize
18 that's a lot of instructions and so if you forget I will stop
19 and remind you. Just take your time and just tell us the truth
20 to the best of your knowledge.

21 Sound good?

22 THE WITNESS: Very well.

23 JUDGE THOMPSON: Great. Thank you, so much.

24 Ms. Davila, your witness.

25 MS. DAVILA: Thank you, Your Honor.

DIRECT EXAMINATION

1

2 Q BY MS. DAVILA: Good morning, Antonia. Can you tell us
3 where you work, please?

4 A At Trump Hotel.

5 Q What position do you have there?

6 A GRA.

7 Q Okay. Is that housekeeping?

8 A Housekeeping

9 Q When did you start working at the hotel?

10 A I started on the 1st a few days, of February of 2014.

11 Q Are you aware of the organizing campaign going on at the
12 hotel?

13 A Yes.

14 JUDGE THOMPSON: Ms. Davila, I'm sorry, let me stop you.

15 I didn't swear Ms. DeGasgone in. Let me swear her in.

16 Ms. DeGasgone, if you would raise your right hand.

17 (Interpreter, Sworn)

18 JUDGE THOMPSON: And Ms. DeGasgone, the three questions
19 that Ms. Davila just asked, Ms. Garcia, were they translated
20 verbatim from English to Spanish and Spanish to English?

21 THE INTERPRETER: Yes.

22 JUDGE THOMPSON: Thank you. Ms. Davila, continue.

23 Q BY MS. DAVILA: How did you learn about the organizing
24 campaign?

25 A I was working that day when the coworkers from the

1 committee came to the company that day.

2 Q What year was that?

3 A It was in '14.

4 Q And are you aware that they were sent home?

5 A Yes.

6 Q Okay. If you can look in that pile for GC Exhibit 6?

7 JUDGE THOMPSON: Let the record reflect the witness has
8 been shown what's marked as GC Exhibit 6.

9 Q BY MS. DAVILA: If you could turn to the third page,
10 please? Do you recognize this notice?

11 A Oh, yes.

12 Q How do you recognize it?

13 A Here are some of the names of the people on the committee.

14 Q Did you ever see this anywhere at the hotel?

15 A If I saw it I don't recall at this time.

16 Q Okay. If you would pull out GC Exhibit 21.

17 JUDGE THOMPSON: Let the record reflect that the witness
18 has been shown GC Exhibit 21.

19 Q BY MS. DAVILA: Do you recognize this?

20 A Yes, it's my card that the union representatives gave me.

21 Q Okay. And can you read the date for us?

22 A 3/19/15.

23 Q Do you wear a union button?

24 A Yes.

25 Q Okay. If you could look at GC Exhibit 16.

1 THE INTERPRETER: Did you say 15 or 16?

2 MS. DAVILA: 16.

3 JUDGE THOMPSON: Let the record reflect the witness has
4 been shown what's marked as GC-16.

5 Q BY MS. DAVILA: Do you recognize what's on that paper?

6 A Yes.

7 Q Can you describe it?

8 A The red button is worn by the people who are members of
9 the committee, and the yellow one is the one that we wear in
10 support of our committee coworkers.

11 Q Where do you wear your button?

12 A I put it on the right side above my name.

13 MS. DAVILA: Let the record reflect that the witness
14 touched the upper part of her left side, left chest. She's
15 just explaining to you what I said.

16 JUDGE THOMPSON: Continue, Ms. Davila.

17 Q BY MS. DAVILA: Do you wear it to work?

18 A Yes.

19 Q Do you remember when you started wearing it?

20 A Yes.

21 Q When?

22 A I'm not sure of the date. I started wearing it on the
23 15th or 16th of June of this year.

24 Q How do you remember the date?

25 A Because my birthday is on the 13th.

1 Q Okay.

2 A And after that I returned from my days off back at that
3 time, my days off were Sunday and Monday and I remember it was
4 a Tuesday or a Wednesday when I returned that I started wearing
5 my button.

6 Q And who gave you the button?

7 A Ms. -- I don't recall her last name, her name is Lupe.

8 Q Can you tell us who Alejandra Magana is?

9 A Ms. Alejandra Magana is the highest authority in
10 housekeeping.

11 Q And do you remember having a conversation with her about
12 your button?

13 A Of course I do.

14 Q Okay. Were you working during this conversation?

15 A No, I had finished my work day.

16 Q Where did this conversation take place?

17 A In Ms. Magana's office.

18 Q Was anyone else there?

19 A No.

20 Q Was the door open or closed?

21 A Open.

22 Q Okay. And had you already checked in your equipment for
23 the day?

24 A Can you repeat the question?

25 Q You said it was at the end of your day. Had you already

1 checked in your badge and your iPad for the day?

2 A Yes, I had already checked it in.

3 Q Okay. Can you tell us what happened in that conversation?

4 A Mrs. Magana saw me outside. She called me in and she
5 said, "Lourdes, can I speak to you?" And I answered, "Yes, of
6 course." And I went to her office.

7 Q And then what happened?

8 A And then she saw me and she asked, "What is this?" And I
9 answered and said, "What's what?"

10 MS. DAVILA: Let the record reflect that the witness
11 pointed to her top left corner of her chest.

12 Q BY MS. DAVILA: And then what happened?

13 A So then I asked her, "What, my Union button?" And she
14 told me, "Yes."

15 Q And what did you answer?

16 A She was the one who said, "I thought you were on my side."

17 Q And what did you answer?

18 A So I was surprised and I said, "Why?"

19 Q And then what did she say?

20 A And she said, "Because at this time I see you as a
21 trader."

22 Q And what did you answer?

23 A So I -- I said, "You know, for what reason?"

24 Q Did you say anything else?

25 A I -- I waited for her to answer. I asked, "For what

1 reason?"

2 Q And what did she say?

3 A She said, "I thought you were on my side." She said, "But
4 now I see that you are one of the ones who attends the Union
5 meetings."

6 Q Did you say anything?

7 A I said, "No. No, ma'am. I'm not on the committee. I
8 don't go to their meetings."

9 Q And what did she say?

10 A I -- no. I continued talking.

11 Q What did you say?

12 A "I don't need to attend the" -- "the Union meetings to
13 show support to my co-workers who are on the committee because
14 I know what I believe in, and that is to be part of the Union."

15 Q And did you say anything else?

16 A I said, "I'm sorry for having disappointed you. But I'm
17 on this side. I consider myself one of the people and I will
18 stay with the people."

19 Q Did she say anything?

20 A "Were you aware that the person who started this is going
21 to" --

22 THE INTERPRETER: The interpreter needs to clarify. "That
23 the person who started this movement is leaving in a few days?"

24 Q BY MS. DAVILA: And what did you answer?

25 A "At that time I could not locate my co-worker."

1 Q Do you mean locate or remember?

2 A I couldn't recall.

3 Q Okay. And what did you respond?

4 A I said, "Well, if she's leaving, she's leaving." I don't
5 recall exactly what I said, but I -- you know, "If she's
6 leaving, she's leaving."

7 Q Did Alejandra say anything else?

8 A Yes. She said, "I don't think it's fair for her to leave
9 the hot potato in everybody else's hands."

10 Q And what did you say?

11 A I said, "Well, that's only one person, but, you know,
12 there are other people on the committee and the fight
13 continues."

14 Q Did she say anything else?

15 A I think that -- I think that nothing else at that time.
16 We ended the conversation.

17 Q When you walked out of her office, did you see anybody?

18 A Yes. Mrs. Maria was there.

19 Q Do you remember her last name?

20 A No. I had it up here a moment ago and I forgot it again.

21 Q Can you describe what she looks like?

22 A I think it's Jaramillo.

23 Q Okay. Can you describe what she looks like?

24 A Yes. It's a plump lady. She wears glasses. She has
25 short hair like a bob, you know, straight.

1 Q Okay. Did you speak to her?

2 A Nothing else. Yes, because we almost left together,
3 outside the office.

4 Q What did you tell her?

5 A Well, I think she was the one who told me, "Oh, I heard
6 how they called you a trader."

7 Q Was she making fun of you?

8 A Not exactly. No.

9 Q What else did she say?

10 A And she asked me, "So what are you going to do now? Are
11 you going to take off your button or" -- my answer was, "No."
12 I said, "Why?"

13 Q Did you say anything else about the topic?

14 A We continued -- we continued the conversation, but I don't
15 remember per se what we talked about.

16 Q Okay. Thank you.

17 MS. DAVILA: No further questions.

18 JUDGE THOMPSON: Thank you. Mr. Dritisas, or Mr. Kramer,
19 your witness. Cross?

20 MR. DRITSAS: Thank you. Is there any further Jencks
21 statement, counsel?

22 MS. DAVILA: No.

23 MR. DRITSAS: Okay.

24 **CROSS-EXAMINATION**

25 Q BY MR. DRITSAS: Ms. Garcia, tell me -- I want to go to

1 the meeting. You said the meeting that you had with Ms. Magana
2 took place on June 15, 2015; is that right?

3 A Something like that.

4 Q Well, was it the 15th or you don't know?

5 A It was on the 15th or 16th.

6 Q Okay. And so you were -- excuse me -- you were in the
7 housekeeping department office and you said that Ms. Magana
8 called you into her office; is that right?

9 A That -- that's right.

10 Q Okay. And where were you -- or strike that. You said
11 first you had already returned your iPad and your keys before
12 you -- before Ms. Magana asked you to come to her office?

13 A That's right.

14 Q Okay. And so you turned your iPad and your keys in to
15 Imelda Cretin?

16 A Imelda? I'm not sure if it was Imelda or some other
17 person.

18 Q Well, do you remember turning in your keys and your iPad?

19 A I had already turned it in. Back at -- back then, we did
20 not have an iPad; we just had a paper with the -- the room
21 numbers on it.

22 Q Okay. So you turned your keys in?

23 A Yes.

24 Q Okay. And there -- you came in at approximately what
25 time, into the housekeeping department?

1 A It would have been 5:00 and a few minutes.

2 Q Okay. And that's the time that the majority of the
3 housekeepers get off of work?

4 A Yes. At 5:00.

5 Q Okay. So you -- you walk into the office and you're there
6 with a number of other housekeepers; is that right?

7 A No, that's not correct.

8 Q Well, do you check out by yourself?

9 A Not necessarily, but that day I was alone. It was just
10 me.

11 Q Okay. So at 5:00 then or a couple of minutes after 5:00,
12 you were in the housekeeping department turning in your keys
13 and you were the only GRA turning your keys in at that time.
14 Is that your testimony?

15 A Not just me because right after me there was Mrs. Maria.

16 Q Okay. So -- I'm not understanding. So when you came into
17 the housekeeping office at a few minutes after 5:00, was there
18 any other housekeeper turning in her keys at the same time or
19 in line with you?

20 A That's -- that's correct.

21 Q So just you and Maria Jaramillo?

22 A Yes.

23 Q Okay. So were you early that day or late that day or was
24 it just your regular check-out time?

25 A It was at 5:00 for Monday through Friday. You know, the

1 time out is 5:00.

2 Q Okay. And when you normally checked out on Monday through
3 Friday at 5:00, are there many other housekeepers also checking
4 out or waiting to check out at the same time?

5 A Of course. Of course.

6 Q Okay. But this day, there was just you and Maria?

7 A It's that the -- the punch-in clock is outside. Not
8 inside the office where you turn in your keys and the paper.

9 Q Right. So normally when you turn in your keys at 5:00,
10 there are many other housekeepers waiting to turn their keys in
11 at the same time; is that right?

12 A Some arrive earlier.

13 Q Okay. Then -- and some arrive at the same time?

14 A They turn in their paper and their key, and they wait
15 outside the time to punch out.

16 Q Okay. Well, are you saying then that every time you turn
17 your keys in your by yourself?

18 A No, I'm not saying that.

19 Q Okay. So would you say that most of the time you turn
20 your keys in, there are many other housekeepers with you
21 waiting to turn their keys in?

22 A Sometimes, yes.

23 Q Okay. But this day, it was just you and Maria?

24 A We're a group. Yes, we possibly arrived a couple minutes
25 late. We punched out.

1 Q Okay. I'm talking not about the punch out. I'm talking
2 about when you're turning in your keys.

3 A Yes. Sometimes there's a group and I have to wait to turn
4 in my keys and my paper. That day, I don't recall anybody
5 else. It was just me. And Mrs. Magana called me in and my co-
6 worker stayed behind waiting to turn in her keys.

7 Q Okay. So let's talk when -- when you come in and there's
8 a group, is there -- are the ladies allowed to talk at the --
9 when they're waiting to turn their keys in?

10 A Not necessarily having conversations, but not being quiet
11 either.

12 Q Okay. So there's a lot of people talking, waiting to turn
13 their keys in?

14 A Of course.

15 Q Okay. And on this day, when you turned your keys in on --
16 your testimony is you recall June -- June 15 or thereabouts,
17 did you turn the keys in before or after Maria Jaramillo?

18 A Before.

19 Q Okay. And she was right behind you?

20 A That's right.

21 Q Okay. And you -- I don't understand this part. Do you
22 recall you turned your keys in to Ms. Imelda Cretin?

23 A I don't think it was Mrs. Imelda. I think it was someone
24 else, but I don't recall who.

25 Q Well, who else would it have been? Who -- who -- strike

1 that. Who -- who were the other people that took keys that may
2 have been there that day?

3 A Let's see if I can remember. I think Mrs. Nira (phonetic)
4 was there. Nira or -- or Christina. And another person. I
5 don't remember the name at this time.

6 Q The -- all the people you mentioned were floor managers?

7 A That's right.

8 Q Okay.

9 A That's right.

10 Q How long does it take to turn your keys in?

11 A A minimum of five minutes maybe.

12 Q What's involved in turning your keys in?

13 JUDGE THOMPSON: Mr. Dritsas, why -- why is this line of
14 questioning relevant to anything that is relevant to this case?

15 MR. DRITSAS: It goes to the credibility of this witness'
16 story, Your Honor, given what we've heard already from
17 Ms. Jaramillo.

18 JUDGE THOMPSON: Proceed.

19 Q BY MR. DRITSAS: What's involved in checking -- checking
20 in your keys?

21 A The proceeding I turn in the keys, the person checks on
22 the computer to see if I've gotten all my credits, all my rooms
23 to see if everything has been done, has been completed.

24 Q Okay. And you say that takes five minutes?

25 A Possibly. Possibly less.

1 Q Okay. Do you know who Imelda Cretin is?

2 A Yes.

3 Q Okay. And her station -- let's see if we have the exhibit
4 here.

5 MR. DRITSAS: One second, Your Honor.

6 Can you show the witness, please, Respondent's 18?

7 JUDGE THOMPSON: Let the record reflect that I am handing
8 Ms. Garcia what has been marked as Respondent Exhibit 18.

9 MR. DRITSAS: Thank you.

10 Q BY MR. DRITSAS: Now, can you take a look at
11 Exhibit 18(e)?

12 JUDGE THOMPSON: Let the record reflect that the witness
13 has 18(e).

14 Q BY MR. DRITSAS: Okay. Do you see the door that's closed
15 in the right-hand side of the picture?

16 A Yes.

17 Q That that's the door to Ms. Magana's office, right?

18 A That's right.

19 Q Okay. And then the table against the wall in the back
20 with the computers, those are where the floor managers sit to
21 receive the keys from the -- from the housekeepers?

22 A That's right.

23 Q Okay. And the far left computer is the station that
24 Ms. Imelda Cretin used; is that right?

25 A You mean the first one?

1 Q The far left page -- far left side of the page.

2 A Yes. Yes.

3 Q Okay. And so you testified that you and Ms. Jaramillo
4 were in the housekeeping department at the same time. Where
5 were you standing and where was Ms. Jaramillo standing when you
6 were turning in your keys?

7 A I turned in my -- my paper at this desk.

8 Q Which? Ms. Cretin's desk? The far left?

9 JUDGE THOMPSON: Let the record reflect that the witness is
10 pointing to the computer screen on the far right, closest to
11 the closed door.

12 MS. DAVILA: Objection. She hasn't characterized the desk
13 as Ms. Cretin's or characterized -- or explained the fact
14 that -- the fact that anything was there at all.

15 MR. DRITSAS: I don't understand what she said.

16 JUDGE THOMPSON: She's objecting because she -- if I can
17 rephrase her objection, I think she's arguing that you're
18 assuming facts that are not in evidence, i.e., this witness
19 hasn't established that Ms. Cretin was there on the day in
20 question. That -- I believe that's the -- I'm encapsulating --

21 MS. DAVILA: Objection.

22 JUDGE THOMPSON: -- her --

23 MS. DAVILA: Yes.

24 JUDGE THOMPSON: -- objection.

25 MS. DAVILA: Yes, Your Honor. Or that the --

1 MR. DRITSAS: Okay.

2 MS. DAVILA: -- that is her station or desk.

3 MR. DRITSAS: But she -- she did testify that the computer
4 terminal on the far left was Ms. Cretin's terminal.

5 JUDGE THOMPSON: She -- she did.

6 MR. DRITSAS: Okay.

7 MS. DAVILA: Oh.

8 MR. DRITSAS: So I'll rephrase the question then based on
9 that.

10 Q BY MR. DRITSAS: So you -- your testimony, ma'am, is that
11 you turned your keys in to someone that was at the computer
12 terminal on the far right?

13 A Exactly. Yes.

14 Q Okay.

15 JUDGE THOMPSON: And, again, let the record reflect the
16 witness is again pointing on 18(e) to the computer screen on
17 the far right.

18 Q BY MR. DRITSAS: And -- and where was Ms. Jaramillo
19 standing when you were turning in your keys?

20 A Where she was standing?

21 Q Yeah. When you were turning in your keys.

22 A I don't know where she was standing. I was talking to the
23 person, turning in my paper and my key. I was not watching.

24 Q Well, was she -- did she walk into the -- the housekeeping
25 department at the same time you did?

1 A No. I believe that she came in a few minutes after I did.

2 Q Were you already in the process of turning your keys in
3 when she walked in?

4 A I think that when she came in to turn in her paper and her
5 keys, I was already in Mrs. Magana's office.

6 Q Okay. Then you were sitting facing Mrs. Magana, right?

7 A That's right.

8 Q So you don't know who came into the housekeeping
9 department when you were looking at Ms. Magana; isn't that
10 right?

11 A Right.

12 Q Okay. Okay. When you -- you've been to Ms. Magana's
13 office before, right? Before that day, you'd been in
14 Ms. Magana's office?

15 A I suppose so.

16 Q Okay. I mean you've asked for time off; she's given you
17 time off before?

18 A No.

19 Q Okay. So when you go in Ms. Magana's office, you see she
20 has a desk, and in front of the desk are two chairs; is that
21 right?

22 A That's right.

23 Q And it's your practice to sit in the chair on the left and
24 move it closer to Ms. Magana so you can be closer to her; is
25 that right?

1 A Yes.

2 Q Okay. And when in this process did Ms. Magana say to you,
3 "Antonia, come to the office?" Was it before you turned your
4 keys in or after?

5 A After.

6 Q Okay. So you -- you turned your keys in and then what
7 happened? You turned to leave or did you turn to go to her
8 office first or what happened?

9 A I didn't turn any way because I was in front of her. So I
10 talked to her.

11 Q Well, if you take a look again at 18(e), when you turn
12 your keys in, do you stand to the left or to the right of the
13 computer screen?

14 MS. DAVILA: Objection to relevance. The majority of her
15 testimony was about a conversation, not about what happened
16 before or after her key turning in process.

17 JUDGE THOMPSON: Mr. Dritsas, why is it relevant -- I think
18 I understand where you're headed, but in the scheme of things,
19 why is it relevant whether she was standing to the left or to
20 the right of the computer? She testified she was standing, she
21 took her keys in, Ms. Magana called her into the office and
22 then a conversation in sued. Why is it relevant where she was
23 standing?

24 MR. DRITSAS: Well, a couple of things. First, this
25 witness has changed her testimony a few times, Your Honor.

1 And, secondly, the opportunity to observe is going to be
2 dependent on the direction she stands, how close she is, from
3 her testimony. So I think it's -- it's a fair game for
4 credibility.

5 JUDGE THOMPSON: I'm sorry, Mr. Dritsas. Say that again.

6 MR. DRITSAS: Sure.

7 JUDGE THOMPSON: It didn't --

8 MR. DRITSAS: Sure. The witness has testified that she
9 was -- that Ms. Magana called her in, and the first issue were
10 a button. So -- and she's testified she is turning her keys
11 in. So the direction she's facing and how far away she is goes
12 to whether or not it was really visible at the time.

13 JUDGE THOMPSON: I don't -- I don't mean to be nitpicky,
14 Mr. Dritsas, but I believe this witness testified -- strike
15 that. I don't know -- I see where you're headed.

16 For that limited purpose, Ms. Davila, I'm going to have to
17 overrule the objection because counsel is attempting to inquire
18 as to Ms. Garcia's credibility with regard to exactly whether
19 Ms. Magana could have seen her buttons when she called her in.
20 So, for that purpose, it's arguably relevant. So I have to
21 overrule the objection. Would you --

22 MR. DRITSAS: I'll repeat the question.

23 JUDGE THOMPSON: -- repeat the question, Mr. Dritsas?

24 MR. DRITSAS: Thank you.

25 Q BY MR. DRITSAS: Ms. Garcia, looking at Exhibit 18(e),

1 your testimony I understand is that you turned your keys in to
2 the person who was seated at that computer; is that right?

3 A Here. Yeah. That's right.

4 Q I can't --

5 JUDGE THOMPSON: And the witness is pointing to the
6 computer screen on the right and basically she's pointing that
7 she was standing in front of that computer.

8 MR. DRITSAS: Okay.

9 Q BY MR. DRITSAS: So back to my question. Where were you
10 standing when you turned your keys in?

11 A Here. If the person is sitting at the computer, I'm on
12 the side --

13 Q Which side?

14 A -- the other side.

15 Q I didn't see, so -- okay. So you're standing -- your
16 testimony is you're standing to the right of the person; is
17 that right? Is that right?

18 A No. No. I would be on the left side.

19 Q On the left side. Okay. And when you turn your keys in,
20 are you facing the computer screen?

21 A Sometimes.

22 Q Well, on this day, were you facing the computer screen
23 when you turned your keys in?

24 A I actually don't recall.

25 Q Okay. Is it -- is it standard that you would want to look

1 at the person who you're giving the keys to?

2 A Yes.

3 Q Okay. And how long were you in Ms. Magana's office?

4 A I don't believe it was more than ten minutes.

5 Q Okay. And where did you punch out that day, clock out?

6 A At the clock where we always punch out.

7 Q Is that the clock that's outside the housekeeping
8 department door?

9 A That's right.

10 Q Okay. So did you clock out before or after you were in
11 Ms. Magana's office?

12 A I actually don't recall.

13 Q Well, do you -- do you clock out before or after you turn
14 your keys in?

15 A Normally, you know, you have to -- after you turn in your
16 key and your paper, then you go outside and punch out.

17 Q Okay. And when you left Ms. Magana's office, did you go
18 right to the clock to punch out?

19 A I don't recall.

20 Q Were there any other housekeepers in the housekeeping
21 department room or office when you left Ms. Magana's office?

22 A No. Only Mrs. Maria.

23 Q Okay. So when you left Ms. Magana's office, Ms. Jaramillo
24 was still in the office?

25 A Yes. She was at the -- she was at the same place where I

1 had turned in my paper. That's where she was. To the left.

2 JUDGE THOMPSON: And let the record reflect the witness was
3 pointing to the left of the chair on the right.

4 MR. DRITSAS: Okay.

5 Q BY MR. DRITSAS: And did you leave the housekeeping
6 department -- or strike that. So when you walked out, your --
7 your testimony is that Ms. Jaramillo was still in the process
8 of turning her keys in.

9 A That's right.

10 Q Okay. So then you walked out before she did?

11 A That's right.

12 Q Okay. So you would have punched out before she did?

13 A Before her? It could be.

14 Q Okay. Your normal practice is to turn your keys in, walk
15 out of the office, punch out and leave the building, right?

16 A That's right.

17 Q Okay. Okay. Now, you testified that --

18 MR. DRITSAS: Strike that, Your Honor. Sorry.

19 Q BY MR. DRITSAS: When you -- you came to this hearing
20 November -- November 19 and November 20; is that right? Before
21 Thanksgiving, you came to the NLRB?

22 A No.

23 Q Okay. Did -- did you -- you were here on the 20th when
24 you testified the last time; is that right?

25 A That's right.

1 Q And you called off sick that day; is that right?

2 MS. DAVILA: Objection; relevance.

3 THE WITNESS: That's right.

4 JUDGE THOMPSON: Mr. Dritsas, I believe I understand where
5 you're going, but, for the record, why is this relevant?

6 MR. DRITSAS: Can I first hear what her answer was?

7 Because she can speak --

8 JUDGE THOMPSON: She --

9 MR. DRITSAS: -- English too.

10 JUDGE THOMPSON: But she -- he -- she objected, so you
11 can't --

12 MR. DRITSAS: Okay.

13 JUDGE THOMPSON: -- because I've got to rule on the
14 objection.

15 MR. DRITSAS: Okay. So I'd say it goes to credibility.

16 And if I need to say more, I'd ask the witness be excused.

17 JUDGE THOMPSON: Well, that's what I thought you were going
18 to say, Mr. Dritsas. So, for that purpose, I'm going to allow
19 you to continue. I'm going to overrule the objection.

20 MR. DRITSAS: Thank you.

21 JUDGE THOMPSON: Restate the question again, Mr. Dritsas.

22 MR. DRITSAS: Yes.

23 Q BY MR. DRITSAS: You called off sick for your shift on
24 November 20; is that right?

25 MS. DAVILA: I object again. It has no relevance to her

1 testimony about what happened in June of this year.

2 JUDGE THOMPSON: Well, credibility doesn't always fall into
3 what happened in June of this year, but I have to grant counsel
4 a little latitude and -- until I can see where he's going. So
5 at the moment, I'm going to overrule the objection.

6 Continue, Mr. Dritsas.

7 MR. DRITSAS: Thank you.

8 Q BY MR. DRITSAS: Do you got the question in mind? I'll
9 ask it again. Is it true that you called off sick at 3:30 in
10 the morning on November 20?

11 A That's right.

12 Q And is it true that you called off sick on November 19 at
13 3:30 in the morning?

14 A Yes.

15 Q Okay. And you weren't really sick, were you?

16 A Why do you say I was not sick?

17 Q Well, did you --

18 JUDGE THOMPSON: Ms. Garcia, you have to answer the
19 question asked. Mr. Dritsas, could you restate the question
20 again?

21 MR. DRITSAS: Sure.

22 Q BY MR. DRITSAS: Is it true that you were not really sick
23 on the 19th and the 20th?

24 A That's not true.

25 Q Did you --

1 A I am -- I have been actually sick since those days.

2 Q Did you call off sick today?

3 A No.

4 Q Okay. And did you call off sick the day after you
5 appeared on November 20, the Saturday after the hearing?

6 A Can you repeat the question, please?

7 Q Yeah. Did you call off sick the day after you appeared on
8 November 20?

9 A Yes.

10 Q Did you call off sick the Sunday after the hearing?

11 A No. On Sunday I went to work.

12 Q Did you present any doctor note for your absence?

13 A Yes. I presented a note for Thursday, Friday and
14 Saturday. The doctor exempted me from work for those three
15 days.

16 Q Okay. The last question I have on this is you testified
17 on Friday. Were you here the day before in case you were
18 needed on Thursday the 19th?

19 A What do you mean? I don't understand the question.

20 Q You testified on Friday, November 20. Okay? Do you have
21 that in mind?

22 A Yes.

23 Q Okay. Did you come to this building on Thursday in case
24 you were needed to testify, the day before you testified?

25 A That's what I don't understand. If I would come on

1 Thursday if I had to testify?

2 Q Did you -- just did you come on Thursday last --

3 A Yes.

4 Q Okay.

5 MR. DRITSAS: I have no further questions, Your Honor.

6 JUDGE THOMPSON: Thank you, Mr. Dritsas. Ms. Davila, any
7 redirect?

8 MS. DAVILA: Yes, Your Honor.

9 **REDIRECT EXAMINATION**

10 Q BY MS. DAVILA: Ms. Garcia, if you remember, when you wore
11 the button that day in June, did you put it on at the beginning
12 of the day?

13 A Yes, I put it on in the morning.

14 Q Did you wear it the whole day?

15 A Yes.

16 Q Do you remember running into Alejandra throughout that
17 day?

18 A No.

19 Q Do you see Alejandra out on the floors when you're working
20 typically?

21 A No.

22 Q Where did you usually see Alejandra?

23 A In her office.

24 Q Okay. And what year did you start working there?

25 A I started working there on the first days of February of

1 '14, '14, '15.

2 Q And have you always been a housekeeper?

3 A Yes.

4 Q And at the end of the -- of your shift, do you always turn
5 in your keys and your assignments?

6 A Yes.

7 Q Do you always turn them in to the housekeeping office?

8 A Yes.

9 Q Have you always turned it in to the same person?

10 A No.

11 Q Do you -- who are some of the people you've turned it in
12 to?

13 A Mrs. Mira (phonetic). And a personnel has changed.

14 Q Okay. And when you turn in your keys, do you always turn
15 it in to the last desk right by Alejandra's office?

16 A Not always.

17 Q Okay. And when you go to this -- that one desk at the
18 end --

19 MR. DRITSAS: Objection. Which -- which end?

20 JUDGE THOMPSON: Sustained.

21 MS. DAVILA: The one closest to Alejandra's office.

22 Q BY MS. DAVILA: Does the same person always sit there?

23 A Normally, yes.

24 Q And do you have a specific direction that you face when
25 you approach that desk?

1 A No.

2 Q Okay. And I told you to come last -- last week, correct,
3 to come testify?

4 A Yes.

5 Q Did I tell you I wasn't sure what day you would be needed?

6 A Yes.

7 Q Did you tell me that you were not feeling well?

8 A Yes.

9 Q Did I tell you that I really needed you here?

10 A Yes.

11 Q Did you spend a whole day sitting in that room?

12 A Yes.

13 Q Okay.

14 MS. DAVILA: No further questions.

15 JUDGE THOMPSON: Ms. Garcia, thank you so much for your
16 testimony. Please don't discuss it with anyone. You are
17 excused. And have a great day.

18 THE WITNESS: Thank you.

19 JUDGE THOMPSON: Thank you.

20 THE WITNESS: Have wonderful days during these holidays.
21 Because my arthritis is so hard.

22 JUDGE THOMPSON: Same to you. Let's go off the record for
23 a second for our next witness.

24 (Off the record at 10:26 a.m.)

25 JUDGE THOMPSON: We are back on the record. We are

1 awaiting our next witness. And in so doing, Mr. Dritsas,
2 counsel for the Respondent reminded me off the record regarding
3 some of the issues that occurred on Friday the 20th, I believe,
4 during our -- during the testimony of our last witness.

5 I went off the record during Ms. Garcia's testimony on or
6 about November the 20th because it was my understanding that
7 there were some accuracy issues with the interpreter. I had
8 discussions off the record with counsel outside of the witness'
9 presence to which we determined that the translation was not
10 accurate and that I requested that we have another interpreter
11 when we resumed the hearing on today.

12 And as a result of discussions with both counsel, I made
13 the decision to strike Ms. Garcia's testimony that she gave on
14 the 20th. And she was re-called to testify again on today,
15 which she did this morning. But I failed to put on the record
16 that I requested another interpreter and that I was striking
17 Ms. Garcia's, Friday, November 2nd -- strike that -- Friday,
18 November 20th testimony in its entirety as I was unclear
19 whether it was accurately translated.

20 So I wanted to put that on the record at this time.

21 MR. DRITSAS: Thank you, Your Honor.

22 JUDGE THOMPSON: Thank you.

23 Ms. Davila, do you need a couple minutes to confer with the
24 witness or are you ready to go, since we're on the record?

25 MS. DAVILA: We're ready to go.

1 JUDGE THOMPSON: Okay. Then let's stay on the record.
2 And please call your next witness.

3 MS. DAVILA: The GC calls Jose Perez.

4 JUDGE THOMPSON: Okay. Good morning, Mr. Perez. How are
5 you?

6 MR. PEREZ: Well.

7 JUDGE THOMPSON: Good. Come -- would you mind coming up to
8 the witness chair here?

9 MR. PEREZ: Here?

10 JUDGE THOMPSON: This one here. I'm sorry. Let me
11 organize this a little bit better. Hold on a second.

12 There we go. Mr. Perez, I'm Judge Thompson. I'm an
13 Administrative Law Judge with the National Labor Relations
14 Board and I am presiding over this hearing. You have been
15 called as a witness to testify in this case on behalf of the
16 General Counsel. But I need to swear you in before giving your
17 testimony. Would you please raise your right hand?
18 Whereupon,

19 **JOSE PEREZ CORTEZ**

20 having been duly sworn, was called as a witness herein and was
21 examined and testified, by and through an interpreter as
22 follows:

23 JUDGE THOMPSON: Great. Thank you. Mr. Perez, would you
24 mind stating your testimony for the record, please?

25 THE WITNESS: Jose Alberto Perez Cortez.

1 JUDGE THOMPSON: Spell your first name for us, please.

2 THE WITNESS: J-O-S-E.

3 JUDGE THOMPSON: Okay. And your last name.

4 THE WITNESS: P-E-R-E-Z --

5 JUDGE THOMPSON: Okay.

6 THE WITNESS: -- C-O-R-T-E-Z.

7 JUDGE THOMPSON: Got it. Do you prefer to be called Perez
8 Cortez or Cortez or just Perez?

9 THE WITNESS: Either or is fine.

10 JUDGE THOMPSON: Either or. Okay. Great. Thank you.

11 Mr. Perez, I appreciate you coming down to testify today,
12 but I'd like to give you just a couple of instructions to keep
13 in mind while you're testifying in this hearing.

14 THE WITNESS: Okay.

15 JUDGE THOMPSON: The first one is we are recording these
16 proceedings. That's why the microphone is in front of you.

17 THE WITNESS: So am I to --

18 JUDGE THOMPSON: You don't have to lean in. We can hear
19 you clearly. But we will ask if you could give us a verbal
20 response. Sometimes witnesses say, huh-uh or uh-huh, and
21 that's difficult for our court reporter to translate or
22 transcribe. So if you could remember to give us a verbal
23 response, yes, no or just state your answer, we would
24 appreciate that.

25 Second, if you could speak up as loud as you can so that we

1 know and understand what you're saying, we would appreciate
2 that. Third, if you don't understand a question that either of
3 the counsel at the table ask you, would you tell them, "I don't
4 understand your question," so that they can restate it or
5 rephrase it? If you answer their questions, we'll -- we'll
6 assuming that you understood what they asked you.

7 Next, if either counsel at the table object, they'll say,
8 "objection," and then they'll state their objection, would you
9 just hold your response until I can address their concern?
10 And, finally, since our court reporter is transcribing
11 everything, oftentimes you may know where the question is going
12 and you may want to jump in and answer, would you mind, so that
13 the transcript is clear, waiting for counsel or myself to ask
14 our complete question before you answer? That way the court
15 reporter can get the whole question down and then your whole
16 answer. Would you do that for us, please?

17 THE WITNESS: Yes.

18 JUDGE THOMPSON: Great. Thank you so much.

19 Ms. Davila, your witness.

20 MS. DAVILA: Thank you.

21 **DIRECT EXAMINATION**

22 Q BY MS. DAVILA: Good morning, Mr. Perez. Could you tell
23 us where you work, please?

24 A Trump Hotel.

25 Q Okay. What position do you have there?

- 1 A Houseman.
- 2 Q When did you start working there?
- 3 A 9/11 of last year.
- 4 Q 2014?
- 5 A Yes.
- 6 Q Okay. Are you a full-time employee?
- 7 A No.
- 8 Q Are you an on-call?
- 9 A Yes.
- 10 Q What does that mean?
- 11 A On-call.
- 12 Q What does that mean? What's the difference between an on-
- 13 call employee and a full-time employee?
- 14 A I don't have any health insurance, no benefits and I am
- 15 expendable at any moment.
- 16 Q Okay. On average, how many hours do you work a week?
- 17 A Average out of the whole year or --
- 18 Q A week. How many -- how many hours do you work?
- 19 A Currently?
- 20 Q Yes.
- 21 A Thirty-six.
- 22 Q Okay. Who is your supervisor?
- 23 A I apologize. Thirty-two.
- 24 Q Okay. Thank you. Who's your supervisor?
- 25 A I don't have a supervisor.

- 1 Q Okay. Who's in charge of housekeeping?
- 2 A Inspectors and managers --
- 3 Q Okay.
- 4 A -- and directors.
- 5 Q Okay. Do you know what status is? The status department?
- 6 A No.
- 7 Q Okay. Do you know who Christina Keeran is?
- 8 A Yes.
- 9 Q Okay. Who is she?
- 10 A She handles all the scheduling and she's a lead.
- 11 Q Okay. Do you know if she works in the status department?
- 12 A Yes.
- 13 Q Okay. Do you know of anyone else who works in the status
- 14 department?
- 15 A Yes.
- 16 Q Can you name them?
- 17 A Brooke, Emily, Sonia, Javier, Laurilie, Peme and Lilliana.
- 18 Q Okay. And do you know if any of those people are a lead
- 19 as well?
- 20 A No.
- 21 Q "No," they're not a lead or --
- 22 A No, they're not a lead.
- 23 Q Okay. Do you know about the organizing campaign that's
- 24 currently happening at the Hotel?
- 25 A Yes.

1 Okay. And do you support the Union coming into the Hotel.

2 A Yes.

3 Q Okay. I'm going to ask you to look at this, GC
4 Exhibit 24.

5 MS. DAVILA: I'm handing what's marked as GC Exhibit 24 to
6 the witness.

7 Q BY MS. DAVILA: Do you recognize what's on this paper?

8 A Yes.

9 Q Okay. Did you fill this out?

10 A Yes.

11 Q Can you read the date on the bottom?

12 A 3/18/15.

13 Q Okay. Thank you. How did you learn about the Union at
14 the Hotel?

15 A They would -- on my way to work, they would intervene and
16 hand me information and -- as well as as I'm leaving and I'm
17 heading towards my car, they would intervene and hand me
18 information.

19 Q When you say, "they," do you mean your fellow co-workers
20 or --

21 A My fellow co-workers.

22 Q Okay. And do you remember when this started?

23 A When I was hired, it was already there, like --

24 Q Okay. Do you wear a Union button?

25 A Not every day.

1 Q Have you ever worn one?

2 A Yes.

3 Q Okay. Can you look up there in the stack of papers and it
4 says GC Exhibit 16?

5 JUDGE THOMPSON: While he's doing that, Ms. Davila, do you
6 want to move in 24 or are you --

7 MS. DAVILA: Yes, Your Honor.

8 JUDGE THOMPSON: -- not ready yet?

9 MS. DAVILA: I move to have GC Exhibit 24 in the record.

10 MR. DRITSAS: No objection.

11 JUDGE THOMPSON: Hearing no objections, I'll admit GC-24.

12 **(General Counsel Exhibit Number 24 Received into Evidence)**

13 JUDGE THOMPSON: You got it. Can you pull that exhibit
14 out, Mr. Perez? There you go.

15 Let the record reflect that the witness has been shown GC
16 Exhibit 16.

17 Q BY MS. DAVILA: Do you recognize what's on this paper?

18 A Yes.

19 Q Can you describe it to us?

20 A They're buttons or badges of union -- of union supporters.

21 Q Okay. And do you wear either of these buttons?

22 A Yes, I have.

23 Q Which ones?

24 A The yellow one.

25 Q Okay. And where do you wear it?

1 A I wore it because I was informed by the Union that --

2 MR. DRITSAS: Excuse me. Objection.

3 I'm sorry. Go ahead, Ron.

4 MR. KRAMER: Objection, Your Honor; nonresponsive.

5 JUDGE THOMPSON: Ms. Davila, what was your question? Can
6 you restate it, please.

7 Q BY MS. DAVILA: Did you wear either of these buttons?

8 A Yes.

9 Q And where did you get it?

10 A At the Trump.

11 Q Okay. And why did you wear it?

12 A Because I was informed that this helps me by not -- by not
13 allowing them to easily fire me.

14 Q When you say, "them," who do you mean?

15 A Trump.

16 Q Where did you wear the button on your body?

17 A On my left-hand chest.

18 MS. DAVILA: Okay. Let the record reflect that the witness
19 taugt -- touched the upper left part of his chest.

20 Q BY MS. DAVILA: Do you wear it to work?

21 A Yes.

22 Q Okay. Have you ever heard any -- any -- any of the
23 managers or the supervisors talk about the Union?

24 A Yes.

25 Q Who?

1 A Christina.

2 Q And, just to clarify, is that Christina the floor manager
3 or Christina the status lead?

4 A Lead.

5 Q Okay. And --

6 MR. DRITSAS: So I'm -- oh, sorry.

7 MR. KRAMER: No objection, Your Honor.

8 JUDGE THOMPSON: Thank you. Ms. Davila, continue, please.

9 Q BY MS. DAVILA: And when does she talk to you about the
10 Union?

11 A She never said anything --

12 MR. KRAMER: Objection, Your Honor --

13 THE WITNESS: -- on directly --

14 MR. KRAMER: -- nonresponsive.

15 THE WITNESS: -- to me.

16 MR. KRAMER: We need some foundation --

17 JUDGE THOMPSON: Okay.

18 MR. KRAMER: -- here.

19 JUDGE THOMPSON: I'm going to sustain the objection. I
20 think your question initially was --

21 MS. DAVILA: When.

22 JUDGE THOMPSON: So if you --

23 MS. DAVILA: Okay.

24 JUDGE THOMPSON: -- could rephrase that.

25 Q BY MS. DAVILA: So if you'd just let me, I'll -- I'll get

1 you there. Just let me ask the questions. When did you talk
2 to -- when did she talk to you about the Union?

3 A Eight months ago.

4 Q Okay. So about --

5 A So --

6 Q -- sometime in the first half of this year?

7 A Yes.

8 Q Okay. And where were you when you were talking about
9 the --

10 A I was on my way to the housekeeping office.

11 Q And was this before or after your shift?

12 A On my shift.

13 Q During your shift?

14 A During my shift.

15 Q Okay. And do you remember exactly where you were in the
16 facility?

17 A Yes.

18 Q Where?

19 A Exactly in front of the housekeeping office.

20 Q Okay. And who was there?

21 A The lead Christina.

22 Q Okay. And was anyone else there?

23 A Yes. Ryan.

24 Q Who's Ryan?

25 A Ryan is a -- a carpet shampoo porter.

1 Q Okay. And what were you two doing outside of the office?

2 A We were on our way there to look at our -- at our
3 schedule.

4 Q Okay. And how did you start talking on Christina?

5 A I did not. She looked at our Union badges and she said if
6 Union comes in, I will only receive 20 hours or less.

7 Q Okay.

8 MS. DAVILA: Let the record reflect that the witness
9 pointed to the top left corner of his chest.

10 Q BY MS. DAVILA: And when she said that -- did she say that
11 would only receive 20 hours? Who was she talking to?

12 A She was talking to Ryan.

13 Q And when she said she would only receive 20 hours, did she
14 say herself would only receive 20 hours or Ryan or was it you?

15 A All of us who are on call.

16 Q Okay. And was this in response to a question?

17 A No questions was asked.

18 Q Did you say hi to her when you saw her?

19 A I -- no. I don't even recall me saying hi.

20 Q Okay. And did you -- did you respond to anything when she
21 said that?

22 A Yes, I did.

23 Q What did you say?

24 A I said, "Oh, well, in that case, I don't really want them
25 here."

1 Q Did you say anything else?

2 A Yes. I said, "I'm sorry." And, "I didn't know."

3 Q Did Ryan say anything?

4 A No, not that I recall.

5 Q Okay. Did she say anything in return?

6 A No.

7 Q And then what happened?

8 A I just looked at my schedule.

9 Q Okay. And where did Christina go?

10 A She went her own way. I don't know.

11 Q Was Ryan wearing a button --

12 A Yes.

13 Q -- that day? Okay. And what button was he wearing?

14 A The yellow Union button.

15 Q And did you ever wear your button after that?

16 A Yes. But it would be hidden because I -- I was looked at
17 weird every time I would have it on.

18 MR. KRAMER: Objection, Your Honor. There's no foundation
19 on this.

20 MS. DAVILA: He hasn't said --

21 JUDGE THOMPSON: He -- I'm sorry. Ms. Davila?

22 MS. DAVILA: I'm sorry. He just hasn't finished his
23 statement, so he might lay foundation as to who he's talking
24 about.

25 JUDGE THOMPSON: I'm going to allow, Mr. Kramer, because

1 he's just testifying, you know, basically why he doesn't wear
2 his Union button or the circumstances under which he wears it
3 or doesn't wear it.

4 So I'm going to allow the witness to answer the question.
5 Mr. Perez, can you finish answering your -- the question?

6 THE WITNESS: Yes.

7 JUDGE THOMPSON: She asked you, do you currently still wear
8 your Union button.

9 THE WITNESS: Yes. Hiddenly (sic).

10 JUDGE THOMPSON: And why do you hide it?

11 THE WITNESS: Because they look at me weird and I am
12 someone frightened that if the directors look at it or if a
13 manager looks at me and sees it, that then I will have more
14 workload or they would follow me and -- and see if I mess up.
15 And that's when they would write you up for anything. So I --

16 JUDGE THOMPSON: Okay.

17 THE WITNESS: -- didn't want that.

18 JUDGE THOMPSON: Okay. Thank you. Ms. Davila.

19 MS. DAVILA: Okay.

20 Q BY MS. DAVILA: And there are other of your co-workers who
21 wear the button to work, right?

22 A Yes.

23 Q Okay. And are some of your co-workers very passionate
24 about this organizing?

25 A Yes.

1 Q Okay. Have you had conversations with your other co-
2 workers about the Union at work?

3 A Yes.

4 Q Okay. Have these conversations been passionate?

5 A Yes.

6 Q Okay.

7 JUDGE THOMPSON: Mr. Perez, the conversation that you
8 testified to with Ryan and Ms. Keeran, do you recall when --
9 what date that occurred?

10 THE WITNESS: With who?

11 JUDGE THOMPSON: With Christine (sic) --

12 THE WITNESS: Uh-huh.

13 JUDGE THOMPSON: -- and Ryan. The conversation you just
14 testified about.

15 THE WITNESS: Yes.

16 JUDGE THOMPSON: Do you recall when that happened?

17 THE WITNESS: No.

18 JUDGE THOMPSON: What day? Okay. Was it in 2015?

19 THE WITNESS: Yes.

20 JUDGE THOMPSON: Okay.

21 MS. DAVILA: Okay.

22 Q BY MS. DAVILA: I know you said you don't remember what
23 month exactly. Do you remember if it was -- do you remember
24 what time of year it was? Was it the summer, the winter?

25 A No.

1 Q No. If you had to guess a month --

2 MR. KRAMER: Objection; speculation.

3 JUDGE THOMPSON: Sustained.

4 MS. DAVILA: Okay.

5 THE WITNESS: January.

6 JUDGE THOMPSON: I don't -- I'm going to strike the
7 witness' answer.

8 I don't want you to speculate, Mr. Perez. It's okay if you
9 don't know or don't recall. That's fine.

10 THE WITNESS: Okay.

11 JUDGE THOMPSON: Just tell us the truth. I don't -- I
12 don't want you to guess. Continue, Miss --

13 MS. DAVILA: No further --

14 JUDGE THOMPSON: -- Davila.

15 MS. DAVILA: -- questions, Your Honor.

16 JUDGE THOMPSON: Okay. Mr. Kramer, cross?

17 MR. KRAMER: Sure.

18 **CROSS-EXAMINATION**

19 Q BY MR. KRAMER: Mr. Perez, do you recall whether or not
20 you were -- you began wearing the button before or after you
21 signed your Union organization card?

22 A No, not an exact date. No.

23 Q Okay. Do you recall who it was who gave you the Union
24 button?

25 A Yes.

- 1 Q Who?
- 2 A Carmen.
- 3 Q Carmen Llarull?
- 4 A I don't know her last name.
- 5 Q Okay. Is she one of the committee members?
- 6 A Yes.
- 7 Q Was she the one who told you if you wore the button it
8 would be harder for you to be fired?
- 9 A Yes.
- 10 Q Is that why you wore the button?
- 11 A Yes.
- 12 Q You -- and how often did you wear the -- how long had you
13 been wearing the button before you had your conversation with
14 Ms. Keeran?
- 15 A I don't know.
- 16 Q Okay.
- 17 A I don't remember.
- 18 Q Was it a few days or a few months?
- 19 A I would say a few weeks.
- 20 Q Okay. And you wore it on your left chest for -- for a
21 couple of weeks before you had that conversation with her?
- 22 A Yes.
- 23 Q Okay. And in no -- your floor managers didn't have any
24 conversations with you regarding wearing that button, did they?
- 25 A No.

1 Q Okay. Do you know Alejandra Magana?

2 A Yes.

3 Q She didn't have any conversations with you regarding that
4 button, did she?

5 A No.

6 Q Okay. And after you had that conversation with
7 Ms. Keeran, you said you continued to wear the button
8 sometimes; is that correct?

9 A Yes.

10 Q How often would you wear it?

11 A Like twice a week.

12 Q Okay. And where would you wear it?

13 A On my left-hand side.

14 Q Okay. The same place --

15 A But I would have it covered.

16 MR. KRAMER: Let the record reflect the witness was
17 pointing to his left chest area.

18 Q BY MR. KRAMER: And how would you have it covered?

19 A My -- my assignment sheet, I would fold it and I would
20 have it on my left pocket.

21 Q So you had the assignment sheet in your left pocket?

22 A Yes.

23 Q And you have a pocket on your uniform, I take it?

24 A Yes.

25 Q And then where was your button then?

1 A Right behind it. It would be right there and it would
2 cover it.

3 Q So you were wearing the button on the inside of your
4 pocket?

5 A No. On the outside. Right on top of it.

6 JUDGE THOMPSON: Mr. Perez, are you testifying that you
7 wore your button on your uniform on your left-hand chest?

8 THE WITNESS: Yes.

9 JUDGE THOMPSON: And that you had your assignment sheet in
10 your pocket?

11 THE WITNESS: In my pocket.

12 JUDGE THOMPSON: And the assignment sheet covered over the
13 button --

14 THE WITNESS: Yes.

15 JUDGE THOMPSON: -- when it was in your pocket?

16 THE WITNESS: Yes.

17 JUDGE THOMPSON: Okay. I understand.

18 Q BY MR. KRAMER: So the assignment sheet kind of hanging --
19 hung over your pocket then?

20 A No, it didn't hang over. It hangs up.

21 Q Okay. Okay. Got it. So your button was above your
22 pocket and the assignment was sticking out of your pocket?

23 A Yes.

24 MR. KRAMER: Thank you, Your Honor.

25 Q BY MR. KRAMER: And -- so why were you wearing it if you

1 were covering it up?

2 A To show them -- to show the Union that I support you guys
3 but I don't want to be treated unfairly either.

4 Q But until your conversation with Christina Keeran for the
5 weeks that you were wearing that button, you have never treated
6 unfairly, were you?

7 A I was getting looked at rather awkward and some of the
8 leads or the -- those around me who -- who -- who did not have
9 it on or did not like union, yes, they would look at me rather
10 awkward.

11 Q The -- your fellow employees?

12 A Yes.

13 Q Okay. Did any managers look at you awkwardly?

14 A Yes.

15 Q Who?

16 A Anthony and Imelda.

17 Q Okay. But you already indicated they never said anything
18 to you about that?

19 A No.

20 Q And how did they look at you awkwardly?

21 A They would notice it and -- and they would hum, like,
22 "Hmm." I mean that's obvious.

23 Q Okay. And -- and during this time frame -- you started
24 off -- you did not start off at a -- as a houseman; is that
25 correct?

- 1 A Right. Yes --
- 2 Q And --
- 3 A -- that's correct.
- 4 Q Okay. Thank you. And do you recall when it was you were
- 5 promoted to houseman?
- 6 A No, I don't recall.
- 7 Q Okay. Was it sometime around June of this year?
- 8 A I don't know.
- 9 Q Okay. But it was sometime this year; is that correct?
- 10 A Yes.
- 11 Q After you began wearing the Union button?
- 12 A Yes.
- 13 Q Okay. And a houseman has more work; isn't that correct?
- 14 A A lot more work, yes.
- 15 Q Okay. And, in fact, you're not working 20 hours a week,
- 16 are you?
- 17 A No.
- 18 Q Okay. I think you said you were working 32 hours a week?
- 19 A Yes.
- 20 Q Okay. Now, what do you do as a houseman?
- 21 A I pickup the trash and the linen off of the GRAs. I strip
- 22 rooms. I have to provide the GRAs with the vacuums, mops,
- 23 amenities and linens. And I have to make sure that the linen
- 24 lockers, landings, and chutes are always clear from --
- 25 Q Okay.

1 A -- linen and trash.

2 Q All right. You spend most of your time on the floors; is
3 that correct?

4 A Yes.

5 Q How much time do you spend in the housekeeping office?

6 A In the morning or during my shift? Or how?

7 Q During the course of a day, how often would you be in the
8 housekeeping office?

9 A Trump Talk is about 15 minutes long sometimes, so. And I
10 have to sign in and out for lunch and my breaks. So I would
11 say about half an hour.

12 Q All right. Well, the Trump Talk occurs in the employee
13 dining room; is that right?

14 A Not mine, no.

15 Q Yours --

16 A Our Trump Talk is in the office --

17 Q Okay.

18 A -- housekeeping office.

19 Q And who conducts the Trump Talk there?

20 A Managers.

21 Q Okay. And then you said you sign in and you sign out
22 there?

23 A Yes.

24 Q Okay. And do you actually -- and how do you know that Ms.
25 Keeran -- strike that.

1 (Counsel confer)

2 Q BY MR. KRAMER: So do you recall what time of day it was
3 you had this conversation with Ms. Keeran?

4 A No.

5 Q Do you recall why it was that you were heading towards the
6 housekeeping office?

7 A Yes.

8 Q Why?

9 A To look at my schedule.

10 Q Okay. And do you know why was Mr. Aguayo -- or Ryan was
11 with you?

12 A Yes.

13 Q Why --

14 A He was with me.

15 Q Okay. And do you know why he was with you?

16 A Because he wanted to see his schedule as well.

17 Q Okay. Was there anyone else present?

18 A No.

19 Q Okay. Was this the first time you had a conversation with
20 Ms. Keeran?

21 A No.

22 Q Okay. How often would you talk with her?

23 A Rarely. Not --

24 Q Rarely?

25 A -- that often.

1 Q You didn't have much contact with her?

2 A No.

3 Q Okay. And when she said what she said to you, did you
4 question her in any way as to how it was she was coming up with
5 that?

6 A Absolutely not. She's a lead. She's a manager. I would
7 never question them because --

8 Q Why do you think she's a manager?

9 A I didn't -- I don't -- I said lead.

10 Q Okay. And who else are leads at the hotel?

11 A Leads? As far as I'm concerned, only her.

12 Q Okay. And did you ever check with human resources to find
13 out if that would be correct?

14 A No. I would not do that.

15 Q Did you ever check with one of your managers to find out
16 if that would be correct?

17 A I wouldn't do that, no.

18 Q Okay.

19 A I did not.

20 Q Now, you said that some people can be very passionate
21 about the Union; is that correct?

22 A Yes.

23 Q All right. And were you referring to Ms. Carmen Llarull
24 when you said that?

25 A I was -- not only her.

- 1 Q Okay.
- 2 A No. She's not the only one there, no.
- 3 Q Okay. A lot of the people that are supporting the Union
4 are very passionate about it?
- 5 A Most of them, yes.
- 6 Q Okay. And they spend a lot of time talking to the
7 employees, trying to get them to support the Union; is that
8 correct?
- 9 A Yes.
- 10 Q Okay. And you've actually had arguments with Ms. Llarull
11 about the way she goes about organizing; isn't that correct?
- 12 A Llarull --
- 13 Q Carmen?
- 14 A Yes.
- 15 Q Okay. And in fact, you had an argument with her on
16 October 11th of this year; isn't that true?
- 17 A Yes.
- 18 Q And this was in the EDR?
- 19 A Yes.
- 20 Q And this was after a Trump Talk?
- 21 A Yes.
- 22 Q Okay. And who else was with you at the time?
- 23 A Ryan.
- 24 Q Would that be --
- 25 A Ryan --

1 Q -- Ryan Aguayo?

2 A Aguayo. And others as well who I don't recall.

3 Q There were other people sitting around at that time?

4 A Yes, that is correct.

5 Q And she started to question you about the Union at that
6 point in time, didn't she?

7 A Yes.

8 Q And during the course of that conversation she told you
9 that you were talking stupid?

10 A Yes.

11 Q And you took offense to that; isn't that correct?

12 A Absolutely.

13 Q And when you told her that you were offended and that she
14 was making you feel stupid, she agreed that you were stupid;
15 isn't that correct?

16 A Yes, that is correct.

17 Q And when she was talking to you, how -- what was her tone?

18 A Her tone?

19 Q Yes. Was she quiet, loud, angry, sad?

20 A She was very calm, surprisingly. Her tone of voice was
21 slightly sarcastic. I wouldn't say angered, but slightly mad.

22 Q Okay.

23 A Angry, same thing.

24 Q And why did she say you were talking stupid? Do you know?

25 A Because she asked me if I wanted to be a leader. And I

1 responded how much am I going to, you know, get paid for it.

2 And that's when she responded, "Now you're talking stupid."

3 Q Okay. And when she said that did you tell her that you
4 didn't want to continue this discussion?

5 A Absolutely. And I even made hand gestures as well.

6 Q And she continued to harass you without remorse; is that
7 correct?

8 A Yes, that is correct.

9 Q And she was doing a lot of hand gesturing as well?

10 A Yes.

11 Q And she was standing up at the time?

12 A Over me, yes.

13 Q Okay. And kind of moving back and forth?

14 A No, not moving back and forth.

15 Q Okay. And did Mr. Aguayo attempt to intervene and calm
16 her down?

17 A No, I don't remember that part.

18 Q You don't recall whether or not he said some things as
19 well?

20 A No. That I don't recall.

21 Q Okay. And you eventually complained to human resources;
22 is that right?

23 A Yes, I did.

24 Q Because you believed you were being harassed?

25 A Yes, I did.

1 Q Okay. And did you complain that day?

2 A Yes, I did.

3 Q Mr. Perez, I'm going to hand you a document that's marked
4 Respondent's Exhibit 19. Do you recognize this statement?

5 A Yes, I do.

6 Q And is this the statement you made to human resources?

7 A Yes.

8 Q Okay. And in the top it says, "Insulting me around
9 others." Why did you say that?

10 A Because there were others and I was insulted.

11 Q Okay. And other people -- she was loud enough where other
12 people could hear the conversation?

13 A Yes.

14 MR. KRAMER: Okay. I'd like to move for the admission of
15 Respondent's Exhibit 19.

16 JUDGE THOMPSON: Ms. Davila or Mr. Higley, any objection?

17 MS. DAVILA: No, Your Honor.

18 JUDGE THOMPSON: Hearing no objection, I'll receive
19 Respondent 19 into evidence.

20 **(Respondent Exhibit Number 19 Received into Evidence)**

21 MR. KRAMER: Can I have one moment, Your Honor?

22 (Counsel confer)

23 Q BY MR. KRAMER: A couple more questions, Mr. Perez. Was
24 Ms. Llarull moving her arms around while she was talking to
25 you?

1 A How? Up and down or sideways?

2 Q Up and down and pointing sometimes?

3 A Yes.

4 Q Okay. And did she have a sheet -- a pile of papers in one
5 of her hands?

6 A Yes.

7 MR. KRAMER: Okay. No further questions, Your Honor.

8 JUDGE THOMPSON: Okay. Thank you, Mr. Kramer.

9 Ms. Davila, any redirect?

10 (Counsel confer)

11 MS. DAVILA: Just one question.

12 **REDIRECT EXAMINATION**

13 Q BY MS. DAVILA: When did this situation happen during your
14 work day? Were you on the clock?

15 A No, I was not on the clock.

16 Q Was it during lunchtime?

17 A No, it was not during lunchtime.

18 Q Was it before work?

19 A Before my scheduled work, yes.

20 Q Okay. And where did it occur?

21 A At the EDR.

22 Q Okay. And were there any managers around?

23 A No.

24 Q Okay. And do you remember if there were any other
25 committee leaders around?

1 A No.

2 MS. DAVILA: Okay. No further questions, Your Honor.

3 JUDGE THOMPSON: Mr. Perez, thank you so very much for
4 your testimony. Please don't discuss it with anyone. Have a
5 great day. And you are excused.

6 THE WITNESS: Absolutely.

7 JUDGE THOMPSON: Thank you so much. You can just --

8 THE WITNESS: Do I hold on to this?

9 JUDGE THOMPSON: Oh, no. You leave that there.
10 Appreciate it.

11 THE WITNESS: Okay. Awesome.

12 JUDGE THOMPSON: Counsel, let's break now and have lunch.
13 Let's come back at 1:00 for our next witness.

14 MS. DAVILA: Thank you, Your Honor.

15 JUDGE THOMPSON: Thank you. Off the record.

16 MR. DRITSAS: Thank you, Your Honor.

17 (Off the record at 11:47 a.m.)

18 JUDGE THOMPSON: We are back on the record continuing with
19 the hearing in the case of Trump Ruffin Commercial, LLC.

20 And I believe, Ms. Davila, you are prepared to call your
21 next witness?

22 MS. DAVILA: Yes, Your Honor.

23 JUDGE THOMPSON: Okay.

24 MS. DAVILA: The General Counsel calls Dora Rivera.

25 JUDGE THOMPSON: Wait a minute. Rivera?

1 MS. DAVILA: Yes.

2 JUDGE THOMPSON: Okay.

3 MS. DAVILA: Dora Rivera.

4 JUDGE THOMPSON: Good afternoon, Ms. Rivera.

5 MS. RIVERA: Good afternoon.

6 JUDGE THOMPSON: My name is Judge Thompson. And I'm an
7 administrative law judge with the National Labor Relations
8 Board. I've been assigned to preside over this hearing today.
9 You have been called as a witness on behalf of the General
10 Counsel to provide testimony in this case. But before you do
11 so, let me swear you in. Would you raise your right hand.
12 Whereupon,

13 **DORA RIVERA**

14 having been duly sworn, was called as a witness herein and was
15 examined and testified, by and through an interpreter as
16 follows:

17 JUDGE THOMPSON: Great. Thank you. Let me just give you
18 a couple of instructions so you kind of understand the lay of
19 the land here. Sitting to your left is our interpreter, Ms. De
20 Gascon. She is going to interpret for us from English to
21 Spanish and Spanish to English. Now, I understand you may know
22 some English. But it's difficult for our court reporter to go
23 between the two. So for purposes of today only, would you
24 provide your answers in Spanish so that Ms. De Gascon can
25 translate to English?

1 THE WITNESS: Okay.

2 JUDGE THOMPSON: And try not to speak in English, but only
3 in Spanish.

4 THE WITNESS: Okay.

5 JUDGE THOMPSON: Okay.

6 THE WITNESS: Very good.

7 JUDGE THOMPSON: Okay. Thank you. Now the instructions.
8 First, as you may know, we're recording the proceedings. Would
9 you please give us a verbal response --

10 THE WITNESS: Okay.

11 JUDGE THOMPSON: -- and try to avoid uh-huh or huh-uh?

12 THE WITNESS: Very good.

13 JUDGE THOMPSON: Next, if you don't understand a question
14 that either of the attorneys ask you, would you tell them I
15 don't understand your question? That way they will repeat it
16 or rephrase it until you understand what they're asking you.

17 THE WITNESS: Okay.

18 JUDGE THOMPSON: Next, if either of the attorneys object,
19 they're going to say objection. Please just hold your response
20 until I can address their concern. And lastly, when you are
21 providing your testimony, could you pause for a moment so Ms.
22 De Gascon can translate to English and then continue on with
23 whatever you're going to testify and then pause again until you
24 conclude. Sound good?

25 THE WITNESS: Yes. Very good.

1 JUDGE THOMPSON: Thank you.

2 THE WITNESS: Very good.

3 JUDGE THOMPSON: Ms. De Gascon, let me swear you in as
4 well. If you would raise your right hand?

5 (Interpreter sworn)

6 JUDGE THOMPSON: Great. Thank you.

7 And thank you, Ms. Rivera. Ms. Davila, your witness.

8 MS. DAVILA: Thank you.

9 **DIRECT EXAMINATION**

10 Q BY MS. DAVILA: Good afternoon, Ms. Rivera. Can you
11 please tell us where you work?

12 A At International Trump Hotel.

13 Q And what position do you have there?

14 A Guest room attendant.

15 Q When did you start working at the hotel?

16 A In November of '14, 2014 -- no, 2013.

17 Q Okay.

18 A Yes.

19 Q Who is your supervisor?

20 A There are several floor supervisors. There is one called
21 Maria Madera.

22 Q Okay. Who is in charge of the housekeeping department?

23 A A lady called Alejandra Magana.

24 Q And are you a fulltime or on-call employee?

25 A Fulltime.

1 Q Do you have a specific floor that you clean?

2 A Yes. I clean floor 51.

3 Q Do all fulltime employees clean a specific floor?

4 MR. KRAMER: Objection. Foundation.

5 JUDGE THOMPSON: To what extent, Mr. Kramer? I think I
6 know where you're headed. But just to make certain, she's
7 trying to establish -- so to what extent do you feel that --
8 that this witness's testimony in this regard lacks foundation?

9 MR. KRAMER: She hasn't established that she would
10 actually know that. I mean, there are several hundred
11 housekeepers, Your Honor. I don't believe the witness would
12 know the answer to that.

13 MS. DAVILA: I can qualify it to her knowledge.

14 JUDGE THOMPSON: If you can rephrase that, Ms. Davila,
15 please?

16 Q BY MS. DAVILA: As far as you know, do all fulltime
17 housekeepers -- are they assigned to one specific floor to
18 clean?

19 A No, I don't know.

20 Q Okay.

21 A I don't know.

22 Q And do you know about the organizing campaign that's going
23 on right now?

24 A Yes, of course.

25 Q When did you -- if you remember, when did you first learn

1 of -- about the Union campaign?

2 A I remember that I heard about the Union campaign in
3 February of 2015, this year.

4 Q And how did you learn about it?

5 A Through some coworkers that -- who talked to me about the
6 Union and invited me to go to the committee.

7 Q Are you a member of the committee?

8 A Yes, I am.

9 Q What are your duties as a member of the committee?

10 A As a member of the committee, I go to the meetings that we
11 hold. And the flyers that we prepare weekly, I take them to
12 show them to the coworkers.

13 Q Anything else?

14 A No, that's it.

15 Q And where do you take these flyers when you take them to
16 your coworkers?

17 A To the EDR.

18 Q Okay. And do you wear a Union button?

19 A Yes. I wear two.

20 Q Can you look up there for a sheet that says GC Exhibit 16?

21 A Yes.

22 Q Do you recognize what's on this paper?

23 A Yes. They're the Union buttons. The red one is for the
24 people who are on the committee. The yellow one is for the
25 people who are not on the committee.

1 Q And you wear both of them?

2 A Yes.

3 Q At the same time?

4 A at the same time.

5 Q Where do you wear them?

6 A On the left side of my uniform next to my name I wear
7 both.

8 MS. DAVILA: Okay. Let the record reflect that the
9 witness pointed to the top left corner of her chest.

10 Q BY MS. DAVILA: And do you remember when you started
11 wearing the button?

12 A Yes. Yes, of course.

13 Q When was that?

14 A The first button they gave me was when I attended the
15 first meeting at the committee when I signed up for the
16 committee.

17 Q And when was that?

18 A I think it was at the end of January.

19 Q Of this year?

20 A Yes, of this year.

21 Q Okay. Have you ever passed out flyers in front of the
22 hotel?

23 A Yes. Yes.

24 Q Do you remember an incident that occurred this year where
25 you were approached by hotel security?

1 A Yes.

2 Q Do you remember what part of the year it was?

3 A Yes. It was in February.

4 Q Okay. Was it -- when did this incident occur? Did it
5 occur in the morning or in the afternoon?

6 A No. It was the morning. It was at about 7:30,
7 approximately.

8 Q Do you remember what time you were scheduled to work that
9 day?

10 A Yes. My schedule is from 8 to 4:30 in the afternoon.

11 Q Have you had that same schedule all year?

12 A Well, when I first started working at the hotel, no.

13 Q Okay. And when you got to the hotel that morning, where
14 did you go first?

15 A We -- when I arrived I went in to leave my belongings.
16 I -- and I went around to the front.

17 Q Okay. Were you alone?

18 A No.

19 Q Who were you with?

20 A With me was a coworker called Eva Alcalar.

21 Q And when you went to the front of the hotel were you
22 standing on the hotel property or where were you standing?

23 A No, we were on the sidewalk --

24 Q And --

25 A -- or curb.

1 Q -- and is that -- is there a business in front of the
2 hotel?

3 A Yes.

4 Q What business is there?

5 A It's a mall, a big -- a big mall.

6 Q So was the sidewalk the hotel sidewalk or the mall
7 sidewalk?

8 A No, the hotel's.

9 Q Okay. And did anybody else join you besides Eva?

10 A Yes, with us also joined Celia Vargas and Guadalupe Barba.

11 Q And what were you wearing?

12 A My work uniform.

13 Q Can you describe that for us?

14 A Yes, of course. It's gray pants. Yes, the top it's also
15 gray. It's a long blouse.

16 Q Were Celia Guadalupe and Eva wearing the uniform?

17 A Yes, they did.

18 Q Okay. Were you joined by any employees of the Union?

19 A Oh, yes. There were three people.

20 Q Do you know their names?

21 A Only two of them.

22 Q Can you tell us those names please?

23 A Yes, the woman her name is Martita. I only know her as
24 Martita. And the man his name is Jose. Jose, I can't remember
25 his last name. Oh, Jose Pineda.

1 Q Okay. Thank you. And what were you all doing standing
2 there?

3 A We were going to distribute flyers to the guests.

4 Q What were the flyers about?

5 A About the movement that we were creating about the Union.

6 Q Okay. Were these flyers on colored paper?

7 A Yes.

8 Q What color was the paper?

9 A They were different colors. We had pink, green and blue.

10 Q And had you ever passed out flyers in front of the hotel
11 before?

12 A No, that was the first time.

13 Q Okay. And can you describe to us what happened that
14 morning?

15 A Oh, yes. We gathered there with the Union members and you
16 know three security people came by close. They told us that we
17 couldn't do anything. They said we could not be in front of
18 the hotel.

19 Q What else?

20 A And they asked what it was that we were doing.

21 Q And who answered?

22 A Celia Vargas answered.

23 Q And what did she say?

24 A She said that we were doing a Union activity and that we
25 had all the right to do that.

1 Q Did anyone else respond?

2 A No, I only heard Celia.

3 Q Okay. And what did the security guard say?

4 A One of the security his name is Cornelio. He told Celia
5 you know get your car if it is in the parking lot and go home
6 he told her.

7 Q Was Celia wearing her uniform?

8 A Yes.

9 Q And what did she answer?

10 A No, that she was in her right.

11 Q Was anything else said about anybody else?

12 A At that time it was the time when I had to punch in and go
13 to work so I had to go to -- go into work.

14 Q And where is the employee entrance in relationship to the
15 front of the hotel?

16 A On the opposite side. The entrance of the hotel is here.
17 The employee entrance is on the other side --

18 Q So the employee entrance is --

19 A -- in the back.

20 Q -- in the back of the hotel?

21 A Yes, in the back. Yes.

22 Q Did you end up passing out flyers that day?

23 A No, I did not.

24 MS. DAVILA: Just one minute.

25 Q BY MS. DAVILA: Okay. Can you tell us who Anthony Wandick

- 1 is?
- 2 A Yes, of course.
- 3 Q Who is he?
- 4 A He was a hotel manager.
- 5 Q Okay. In the housekeeping department?
- 6 A Yes, in the housekeeping department.
- 7 Q Okay. Do you ever work on weekends?
- 8 A Yes, all of them.
- 9 Q What time do you go into work on the weekend?
- 10 A The same, from 8 to 4:30.
- 11 Q Okay. Do you remember an incident that happened with Mr.
- 12 Wandick and Celia Vargas and you this summer?
- 13 A Yes, of course.
- 14 Q Okay. Do you remember what day of the week it was?
- 15 A No, I don't recall the day.
- 16 Q Okay. And did this incident happen in the morning or in
- 17 the afternoon?
- 18 A No, afternoon.
- 19 Q Okay. And that morning, that day were you working with
- 20 Celia Vargas?
- 21 A Yes.
- 22 Q Do employees usually work together?
- 23 A Yes, when we don't have rooms to go into we work with
- 24 another person.
- 25 Q And that day were you working with her or was she working

1 with you?

2 A No, I with her.

3 Q So that day your rooms that you had to clean were
4 occupied?

5 A Yes.

6 Q Did someone give you permission to help Celia that morning
7 or that day?

8 A I don't recall but when we have our meetings we are told
9 that if we don't have work to do that we can go help someone on
10 the same floor or the next floor.

11 Q Okay. And that day did you go to lunch with Celia?

12 A Yes.

13 Q Okay. Can you tell us what happened after lunch time and
14 when you -- after you clocked in?

15 A Yes, we went back to Celia's floor and she called the
16 supervisor to let her know that we were already working
17 together again.

18 Q Do you know what supervisor that was?

19 A Yes, the name is Denise.

20 Q Okay. And do you remember going to a room that needed a
21 full mattress?

22 A Yes.

23 Q Can you tell us what happened when you and Celia got to
24 that room?

25 A Yes, of course. Celia was given that room so we could go

1 in to put in a sofa bed, to make a sofa bed.

2 Q Was there a guest in the room?

3 A Yes, there was a guest. It was an occupied room.

4 Q Was the guest there when you got there?

5 A I did not go into the room. Celia went in. I went to get
6 linen at the locker. When -- after I got the linen from the
7 locker Celia was coming back.

8 Q Just to clarify, you said that you didn't go into the room
9 the first time, correct?

10 A No, I did not.

11 Q Okay. So after you came back with the linen what
12 happened?

13 A Celia told me that we were going to go back in 15 minutes
14 because the guest was requesting a foam mattress.

15 Q Okay. When you finally got -- you went into the room.
16 Did Celia go in with you?

17 A No, Celia was already in the room.

18 Q Okay. So what happened when you went in the room?

19 A When the second time Celia went in and I went back to get
20 the linen. When I came back with the linen Celia was speaking
21 on the phone.

22 Q Was this a phone located inside the room?

23 A Yes, inside the room.

24 Q Who else was around in the room?

25 A The guest but I did not see the guest because it's a large

1 room. I only went into the living room.

2 Q Can you describe the suite for us? How many rooms are
3 there?

4 A You -- where you go in there's the kitchen, there's a
5 living room and then you turn and there's the bedroom and the
6 bathrooms.

7 Q Is there more than one bathroom?

8 A Yes --

9 Q Is there --

10 A -- there's two.

11 Q -- more than -- is there more than one bedroom?

12 A No, it's one bedroom.

13 Q Okay. And -- okay. So how do you know that there was a
14 guest inside the room?

15 A When the guest came out it was a woman. It was a person.

16 Q Okay. So you actually saw her?

17 A Yes.

18 Q Okay. Let's go back to Celia being on the phone. Who was
19 she on the phone with?

20 MR. KRAMER: Objection. Foundation.

21 JUDGE THOMPSON: She testified that Ms. Vargas was --

22 MS. DAVILA: On the phone.

23 JUDGE THOMPSON: -- on the phone.

24 MR. KRAMER: She wouldn't know who she was on the phone
25 with.

1 MS. DAVILA: That's who I was asking.

2 JUDGE THOMPSON: That's what she just asked.

3 MR. KRAMER: How does she know, Your Honor?

4 JUDGE THOMPSON: Well she just --

5 MS. DAVILA: Well, she --

6 JUDGE THOMPSON: -- no, that's what she's --

7 MS. DAVILA: -- well I'm asking if she knows.

8 JUDGE THOMPSON: -- that's what she's asking now.

9 MR. KRAMER: Okay.

10 JUDGE THOMPSON: Does she know who Ms. Vargas was on
11 the -- that's -- that's the question that's --

12 MR. KRAMER: No, I --

13 JUDGE THOMPSON: -- the question that's at play.

14 MR. KRAMER: -- I had misheard the question.

15 JUDGE THOMPSON: That's okay.

16 MR. KRAMER: I apologize.

17 JUDGE THOMPSON: No, not a problem. Ms. Davila, would you
18 ask the question again.

19 Q BY MS. DAVILA: Do you know who Celia was on the phone
20 with?

21 A No, at that time I did not know who she was talking to.

22 Q Did you hear what she was saying over the phone?

23 A No, I didn't pay attention. You know I just came in to
24 take out the pillows to make the bed.

25 Q Okay. What happened after she got off the phone?

1 A She went outside because the foam mattress was being
2 brought in.

3 Q Who brought the mattress?

4 A The manager, Anthony.

5 Q Okay. When he got there with the mattress did he come in
6 the room?

7 A No, he did not go into the room. He just stopped at the
8 door.

9 Q How did you all know that he had arrived?

10 A Oh, because the door was open.

11 Q Okay. So what happened after he got there with the
12 mattress?

13 A He asked Celia where she was because he'd been looking for
14 her.

15 Q Can you describe the tone he used with that question?

16 A Yes, it was a high tone.

17 Q Can you describe it a little more? Did he sound angry or
18 upset?

19 A Yes, he seemed to be upset.

20 Q Okay. And then what happened?

21 A That she had gone to make another room because she was
22 waiting for this foam mattress.

23 Q When they were having this conversation where was Celia in
24 the room?

25 A They were -- one was at the edge of the door. The other

1 one was at the edge of the door.

2 Q At any point did you see the guest come out of the room?

3 A Yes, when she heard Anthony's voice she came out and she
4 stopped at her bedroom door.

5 Q Did she say anything?

6 A She only asked what happened, what's wrong.

7 Q Did she ask you or Celia?

8 A Celia.

9 Q And did Celia respond?

10 A No, Celia would -- just did -- would just do --

11 MS. DAVILA: Let the record reflect that the witness
12 shrugged her shoulders and put out her arms and shrugged her
13 shoulders.

14 Q BY MS. DAVILA: And then what happened?

15 A Celia was mumbling and saying you know if you're doing
16 your job, you know doing -- making the rooms why are they
17 questioning so -- you so much.

18 Q And did Anthony say anything else?

19 A Yes, Anthony thought that Celia was talking to the guest.

20 Q And what did he say?

21 A That she could not be commenting about things to the
22 guest.

23 Q Okay. Did she say anything else?

24 A Who, Celia?

25 Q Yes.

1 A No, Celia went outside to talk to him.

2 Q So did you hear them when they were talking outside?

3 A No, I just finished making the bed so that the guest would
4 be happy.

5 Q Did the guest ever address you personally?

6 A No, the guest was just looking confused like asking with
7 her eyes what was going on.

8 Q Okay. Did Celia come back in after she was done talking
9 to Anthony?

10 A Yes. Yes, Celia came back into the room after she talked
11 to Anthony but she only helped me finish making the bed and
12 then we left.

13 Q Okay. And were Anthony and Celia speaking in English?

14 A Yes.

15 Q Okay. Do you know Anthony's last name?

16 A Not really.

17 Q And this incident do you remember about when it happened?

18 A You mean what date?

19 Q What month, what year?

20 A It was this year but I don't remember what month.

21 Q Okay. And did this incident happen before or after the
22 incident outside the hotel when you were trying to pass out
23 flyers?

24 A No, it was after.

25 MS. DAVILA: And no further questions.

1 JUDGE THOMPSON: Thank you. Ms. Rivera --

2 THE WITNESS: Yes.

3 JUDGE THOMPSON: -- how do you spell your first name?

4 THE WITNESS: D-O-R-A.

5 JUDGE THOMPSON: How do you spell your last name?

6 THE WITNESS: R-I-V-E-R-A.

7 JUDGE THOMPSON: Got it.

8 THE INTERPRETER: R-I-V-E-R-A.

9 JUDGE THOMPSON: Thank you so much. Mr. Dritisas or Mr.
10 Kramer, cross?

11 MR. DRITSAS: Mr. Kramer will. Is there a Jencks
12 statement, counsel?

13 MS. DAVILA: No, there's not.

14 THE WITNESS: Okay.

15 JUDGE THOMPSON: Let the record reflect Ms. Davila said no
16 Jencks statement. I don't know --

17 MS. DAVILA: We've never taken her statement before.

18 JUDGE THOMPSON: -- if they heard you --

19 MS. DAVILA: Oh, sorry.

20 JUDGE THOMPSON: -- that the record heard you.

21 MS. DAVILA: Oh, sorry.

22 **CROSS-EXAMINATION**

23 Q BY MR. KRAMER: Ms. Rivera, my name's Ron Kramer. Good
24 afternoon.

25 A Good afternoon.

1 Q I think earlier in your testimony you indicated that you
2 heard about the Union in February of 2015. Do you recall that?

3 A No, in February is when I wore the button.

4 Q Okay. And do you remember when in February you started
5 wearing the button?

6 A I don't remember the exact date but I remember I started
7 wearing the button the day before or before we went to the
8 front of the hotel to distribute the booklet.

9 Q All right. And were you wearing the red button or the
10 yellow button or both?

11 A No, only the red one.

12 Q Okay. And did you start work in -- you indicated you
13 started work in November of 2013. Was it November or was it
14 July?

15 A No, it was in November.

16 Q Okay. Now, the day that you were going to handbill in
17 front of the hotel in February, your shift started at 8:00; is
18 that right?

19 A Yes.

20 Q Okay. And most of the housekeepers start work at 8:30; is
21 that right?

22 A Yes.

23 Q All right.

24 A Yes, that's true.

25 Q And do you know when Eva started work that day?

1 A I'm not sure. I don't know. But I think just like me at
2 8.

3 Q Okay. Do you remember whether Celia Vargas started at 8
4 that day?

5 A No. She did not start --

6 Q Okay. She didn't start at 8?

7 A No.

8 Q Okay. Do you know if she started at 8:30?

9 A Yes.

10 Q All right.

11 A She is at 8:30.

12 Q And Guadalupe Barba, did she start at 8:30?

13 A No. I believe she started at 8.

14 Q Okay. And were there any male housekeeping employees
15 there, too?

16 A Yes.

17 Q Okay. And do you remember who that was?

18 A Yes. His name is -- he's no longer working with us right
19 now. What's his name? I forgot his name.

20 Q Could it have been Rodolfo Aleman?

21 A Yes, Rodolfo Aleman.

22 Q Okay. And do you remember what time in the morning you
23 got out to the hotel?

24 A I went out, like, 7:10. Between 7:10 and 7:15.

25 Q And do you remember if anyone was out there when you got

1 out there?

2 A Outside in front of the hotel?

3 Q Correct. On the sidewalk?

4 A Someone from our part -- our side or the security?

5 Q Well, let's start with the people -- the other
6 housekeepers that were planning on handbilling, the Union
7 people there?

8 A No. When I came out it was Eva Alcala and Guadalupe
9 Barba.

10 Q Okay. And were any of the Union organizers, the non-
11 employees, out there, too?

12 A Yes. When I went out they were already waiting for us.

13 Q All three of them?

14 A Yes. Two of the people had the flyers. One person was
15 making a video.

16 Q Okay. And do you remember who was making the video?

17 A No.

18 Q Okay. And --

19 A No.

20 Q -- was that person videotaping everything?

21 A Yes.

22 Q From the time you arrived about 7, 7:15?

23 A Yes. When I arrived I saw him there.

24 Q Okay. And did he record through the time you left?

25 A Yes, I think so.

1 Q Okay. Did you watch any of it later?

2 A No.

3 Q Okay. Were you wearing a coat that day?

4 A I don't remember.

5 Q Do you remember if the other housekeepers were wearing
6 coats that day?

7 A No, I don't remember.

8 Q All right. What's the first time you remember having any
9 sort of communication with any of the hotel security guards?

10 A That day in February, when we went to hand out flyers.

11 Q All right. And when -- and where was it you had that
12 communication?

13 A Outside on the sidewalk where we were gathered.

14 Q Okay. Had you started to head up to the driveway at that
15 point in time?

16 A No.

17 Q Okay. And how many security guards did you meet with at
18 that first time?

19 A With three.

20 Q Okay. You never recall a conversation with just one
21 security guard? All right.

22 A No. There were three.

23 Q And at the time you met with the three security guards, at
24 any time had you or the other housekeepers gone onto the hotel
25 property to hand you right in front of the front door?

1 A No. No.

2 Q Okay. And you mentioned one of the security guards you
3 thought was named something like Cornelio; is that right?

4 A Yes.

5 Q And can you describe him for us?

6 A Yes, of course. It's an older gentleman, short, dark-
7 skinned?

8 Q African American?

9 A Yes.

10 Q Okay. And not light-skinned African American, but dark-
11 skinned African American?

12 A Yes, dark color.

13 Q Okay. And that's the person you recall doing the talking?

14 A When we first arrived. And Olivia, she also was one that
15 asked us.

16 Q And when did this happen?

17 A That day in the morning before we handed out flyers.

18 Q And when -- and was this before you -- and was this before
19 you met with the three security guards?

20 A No. That was when they came to us.

21 Q Okay. I mean, was Olivia alone when she spoke with you or
22 was she with the other two security guards?

23 A No. The three were together.

24 Q Okay. And this is the same conversation, the one that you
25 talked about in your direct testimony? Okay.

1 A Yes, the same one.

2 Q And you said there was a third security guard. Do you
3 know his name?

4 A Yes. I believe that the other one's name is Jose.

5 Q Okay. Could it have been Jesus?

6 A I don't know. Maybe so.

7 Q Okay. And can you describe that person for us?

8 A Yes. He's a young man, tall, Latino.

9 Q Okay. And were there any other security guards that had a
10 discussion with you besides those three?

11 A No, not while I was there.

12 Q Okay. And the African American security guard, he told
13 you that you couldn't handbill on property; is that correct?

14 A No. He was the one who told Celia to take her car and go.

15 Q Okay. Well, who was the one that told you that you
16 couldn't come onto property and handbill?

17 A Let me remember which one of the three. It seems to me
18 that Olivia was the one who told me -- who said that.

19 Q Okay. Now, I think you indicated that the -- Cornelio
20 asked you what was going on; is that correct?

21 A Okay. When we arrived, the three arrived at the same
22 time.

23 Q Okay.

24 A And all three were talking to us at the same time.

25 Q All right. So you don't recall who said what?

1 A I do remember that Cornelio said that only.

2 Q Said what?

3 A That Celia, you know, would -- should go to the parking
4 lot, get her car, and go home.

5 Q Outside of that do you remember anything else any of the
6 security guards said?

7 A Only that we could not practice the activity in the
8 property.

9 Q Okay. And did the Union -- the non-employee Union
10 organizers, what did they say?

11 A They just told us not to be nervous because we have the
12 right to do that.

13 Q Okay. And what was happening at the time you -- I mean,
14 if you started work at 8, when did you have to leave that to go
15 to check in?

16 A What time I needed to go in?

17 Q Yeah. You had to start work at 8, right?

18 A No. I only stayed outside for about ten minutes.

19 Q And if you -- okay. And then do you remember then what
20 time you actually left to go in to the building to work?

21 A I might have returned at 10:40, 10:45.

22 Q 7?

23 A 7:40, 7:45.

24 Q Thank you. And where were the -- your fellow employees
25 and the Union organizers, where were they when you left to go

1 inside?

2 A They stayed outside.

3 Q Okay. Were they on the sidewalk in front of the hotel?

4 A Yes.

5 Q Okay. And you don't know what happened after that, do
6 you?

7 A No. I did not come back.

8 Q Okay. And you said that you work on Saturdays and
9 Sundays?

10 A Yes.

11 Q Your start time is still 8:00 on Saturdays and Sundays?

12 A Yes.

13 Q Okay. And do you have Trump Talks on Saturday and Sunday?

14 A Sometimes there are.

15 Q Okay. And when you have Trump Talks on Sunday, what time
16 are they?

17 A At 9.

18 Q Okay. Now, I want to talk to you about the hotel room
19 that you talked about with Mr. Wandick and Ms. Vargas. Okay?
20 You indicated that you were assigned to the 51st floor; is that
21 right?

22 A Yes.

23 Q And do you know what room Ms. Vargas -- or what floor Ms.
24 Vargas was assigned that day?

25 A Yes, 52.

1 Q Okay. And you had indicated that she had told Denise that
2 you were going to be helping; is that right?

3 MS. DAVILA: Objection. Mischaracterizes testimony.

4 MR. KRAMER: Okay. Let me rephrase the question.

5 JUDGE THOMPSON: Can you rephrase, please?

6 MR. KRAMER: Yeah.

7 Q BY MR. KRAMER: You have indicated that there was a
8 conversation that she had with Denise?

9 A Yes.

10 Q And how do you know she had a conversation with Denise?

11 A We were -- we had come back from lunch and Celia was
12 speaking -- was talking on the phone.

13 Q What phone?

14 A The ones that are on the hallway.

15 Q Okay. And she told you she was talking to Denise?

16 A Yes.

17 Q All right. Now, if I understand this, you were going to
18 that room to make up a sofa bed; is that right?

19 A Yes.

20 Q All right. And when you got there the first time, did you
21 go in the room?

22 A No.

23 Q Okay. You went to go to the linen closet to get linen; is
24 that correct?

25 A Yes, I went to --

1 Q Okay.

2 A -- to get the linen.

3 Q And then Ms. Vargas told you that you needed to come back
4 in 15 minutes because you were -- they were requesting a
5 mattress; is that correct?

6 A Yes. Yes.

7 Q Okay. And then did you put the linen back?

8 A Yes.

9 Q All right. And then when you came back you went to get
10 the linen; is that right?

11 A Yes. I went to the locker.

12 Q All right. And then you returned to the room with the
13 linen; is that right?

14 A Yes.

15 Q Okay. And at the time you got there, Ms. Vargas was in
16 the room?

17 A Yes.

18 Q And she was on the phone?

19 A Yes.

20 Q Do you recall -- strike that. And at the time you went
21 in, you didn't know that there was a guest in the room; is that
22 correct?

23 A No. I didn't see him. I didn't know.

24 Q I'm sorry. Could you repeat the answer?

25 JUDGE THOMPSON: No, I -- she said, "No. I didn't see

1 him. No, I didn't know."

2 MR. KRAMER: Okay. I didn't hear the not part. I'm
3 sorry.

4 Q BY MR. KRAMER: And then at that point Ms. Vargas left the
5 room?

6 A No. She just went to the door to get the foam mat.

7 Q Okay. And was a foam mattress just sitting out there in
8 the front door?

9 A No.

10 Q Okay. So who was with the foam mattress?

11 A The manager, Anthony.

12 Q Okay. And prior to that had there been any conversation
13 between Anthony and you and Ms. Vargas?

14 A No.

15 Q And how did you know Anthony was at the front door? Did
16 he knock or say something?

17 A The door was open.

18 Q Okay. And he was there with the mattress?

19 A Yes.

20 Q Okay. And who brought the mattress in?

21 A Celia.

22 Q Okay. And where did Anthony go after he gave her the
23 mattress?

24 A He stayed there close to the door.

25 Q Close to the door. And is that when he had his

1 conversation with Celia about that he had been looking for her?

2 A No. That was first. That was when he handed her the
3 mattress.

4 Q So he was basically standing next to her when he was
5 asking her where she had been?

6 A No. He was in a square space outside. When she went --
7 when she went to get the foam mattress, that's when he told her
8 he had been looking for her.

9 Q Okay. So Celia was outside of the room when he -- she
10 spoke with Anthony?

11 A Yes. She was at the door.

12 Q Okay. And Mr. Wandick was in the hallway?

13 A No. It's like the -- it's that the rooms have something
14 like a little porch --

15 Q Okay.

16 A -- a little square.

17 MR. KRAMER: Could --

18 THE WITNESS: They were there.

19 MR. KRAMER: Could you show the witness Respondent's
20 Exhibit 13?

21 JUDGE THOMPSON: I don't know how this became part of my
22 job, but. 13 you said, Mr. Kramer?

23 MR. KRAMER: 13, yes.

24 JUDGE THOMPSON: Okay.

25 MR. KRAMER: Respondent's Exhibit 13.

1 JUDGE THOMPSON: Got it. Let the record reflect that I'm
2 handing the witness what's marked as Respondent Exhibit 13.

3 THE WITNESS: Okay.

4 (Counsel confer)

5 Q BY MR. KRAMER: And if you could take a look at that first
6 page, that diagram there? Is --

7 A Yes.

8 Q -- is that a diagram of the room that you were in that
9 day?

10 A Yes.

11 Q Okay. And can you tell us in -- where Mr. Wandick is when
12 he had his conversation with Ms. Vargas about where she was?

13 A Here in this little space.

14 MR. KRAMER: Your Honor, may I --

15 JUDGE THOMPSON: Let the record reflect that the witness
16 is pointing to the space -- and I don't know. It's not really
17 defined. But it's to the left of what's marked as the doorway.

18 Mr. Kramer, you may need to come up so you can --

19 MR. KRAMER: Thank you.

20 JUDGE THOMPSON: -- verify what --

21 MR. KRAMER: Describe it?

22 JUDGE THOMPSON: -- she's saying.

23 Q BY MR. KRAMER: Could you point again where Mr. Wandick
24 was?

25 A Okay. What does it say? Is this the door?

- 1 Q Doorway, correct.
- 2 A The entrance door?
- 3 Q Yes.
- 4 A They were here in the entrance. But, you know, towards
5 the room.
- 6 Q Okay. Was Mr. Wandick inside -- or on the outside of the
7 doorway or was he inside the room inside the doorway?
- 8 A No.
- 9 Q Okay. He was --
- 10 A At the door.
- 11 Q -- in the doorway?
- 12 A Yes.
- 13 Q And Ms. Vargas was next to him in the doorway facing him?
- 14 A I don't know. I think so because I was over here.
- 15 MR. KRAMER: Okay. And the witness is pointing to the
16 living room area, the far left-hand bottom side.
- 17 Q BY MR. KRAMER: So you -- is that where the sofa bed is?
18 That corner thing is the sofa bed?
- 19 A Yes.
- 20 Q And --
- 21 A Yes.
- 22 Q -- and you were making that up at that time?
- 23 A No. I was moving the tables over here. I was moving
24 the pillows.
- 25 Q Okay. So you weren't watching them as they were having

1 this conversation?

2 A No. No.

3 Q Okay. Thank you. Now, during this conversation the guest
4 was in the room; is that -- was in the bedroom; is that right?

5 A Yes. She was in her room.

6 Q Okay. And I think your testimony was, is that at some
7 point during that -- was it before or -- strike that. When is
8 it that you saw the guest stop at her bedroom door?

9 A When Celia entered the room --

10 Q After the conversation?

11 A Yes. After he had asked her where she had been because he
12 had been looking for her.

13 Q Okay. And was Celia coming back into the room? Did she
14 have a mattress with her?

15 A Yes.

16 Q All right.

17 A Uh-huh.

18 Q And just so we're clear, is it a mattress or is it, like,
19 some sort of foam insert?

20 A It's foam.

21 Q Okay. And that's when you saw the guest at the bedroom
22 door?

23 A Yes. I turned around because I heard that she asked what
24 was going on.

25 Q And who is the she? Okay.

1 A The guest. I don't know what her name is.

2 Q All right. And when you saw her, where was she on this
3 chart that's Respondent's Exhibit 13?

4 A She was, you know, standing at the door of the room
5 without coming out of the bedroom.

6 Q Okay. So she was at her bedroom door, but without coming
7 out of the bedroom? Okay.

8 A Yes. Without coming out.

9 Q Was the bedroom door completely open or just partially
10 open?

11 A When she came out?

12 Q Yeah.

13 A I didn't pay attention. I just saw her and --

14 Q Okay. And after you heard her say that, what happened?

15 A No. Celia came in and she just was doing this, and that
16 was it.

17 Q Shrugging her shoulders? Okay.

18 JUDGE THOMPSON: Was that a "yes"?

19 THE WITNESS: Yes.

20 MR. KRAMER: Thank you.

21 Q BY MR. KRAMER: And then you said Celia said something,
22 but I didn't quite catch it. Could you repeat, please, what
23 Celia said?

24 A No. Celia was talking to herself.

25 Q Okay. And what did she say?

1 A Yeah. She was upset with Anthony because we've been
2 working under pressure.

3 MR. KRAMER: Okay. Move to strike as non-responsive.
4 Could you --

5 JUDGE THOMPSON: Sustained.

6 MR. KRAMER: Huh?

7 JUDGE THOMPSON: Sustained.

8 MR. KRAMER: Thank you.

9 Q BY MR. KRAMER: Could you tell us what she said?

10 A No. I don't understand what she said, because she was
11 talking to herself.

12 Q Okay. And where was she when you heard her say that,
13 mumble that?

14 A I was extending the bed.

15 Q Okay. So you didn't see where she was?

16 A Yes. She was coming into the room talking this when
17 Anthony talked to her.

18 Q And do you know how far away she was from Anthony?

19 A No. It wasn't a big distance. It was like from the door
20 to the armchair that is there.

21 Q If you take a look at Respondent's Exhibit 13, are you
22 referring to -- what chair are you referring to?

23 A These chairs over here, because Julia came in and she put
24 the foam mattress on these chairs over here.

25 Q Which chairs?

1 A Right there.

2 Q Okay. The chairs with the little table?

3 A Yes.

4 Q Okay. All right. So the witness is pointing to the table
5 with the four chairs that's inside the room.

6 JUDGE THOMPSON: The dinette?

7 MR. KRAMER: The dinette, correct.

8 THE WITNESS: Uh-huh, yes.

9 Q BY MR. KRAMER: And at that point, could you tell us what
10 you -- did you hear what Anthony told her?

11 A I heard Anthony raise his voice and say, "You cannot talk
12 to the guests."

13 Q Did he say that, or did he say, "You cannot talk in front
14 of the guests"?

15 A No. He said that.

16 Q Do you recall him saying anything else?

17 A No. Because at that moment, Celia once again went outside
18 with him.

19 Q And then she returned, is that correct?

20 A Yes.

21 Q And you didn't see Mr. Wandick again near that room?

22 A No.

23 Q And you can talk to guests, is that right?

24 A Yes, of course.

25 Q And you do talk to guests from time to time?

1 A Yes.

2 Q And there's no rule against talking to guests?

3 A No, none.

4 Q And Mr. Wandick's never told you, you can't talk to
5 guests, is that right?

6 A Not to me, personally, no.

7 Q And we spoke on the phone a couple weeks ago. Do you
8 remember that, Ms. Rivera?

9 A Yes, yes.

10 Q And Nancy translated for us?

11 A Yes.

12 Q And when we had that conversation, didn't you tell us,
13 Nancy and I, that Mr. Wandick never saw the guests in the room?

14 A No. What I said was that he did not know that the guest
15 was in the room.

16 (Counsel confer)

17 Q BY MR. KRAMER: Just so I'm clear here, Respondent's
18 Exhibit 13, when Mr. Wandick was talking to Ms. Vargas, after
19 Ms. Vargas mumbled something that you didn't really hear,
20 Mr. Wandick was still in the doorway, is that correct?

21 A Yes, he was there.

22 Q All right. And Ms. Vargas was at the dinette?

23 A Yes. He was walking in and talking to herself.

24 Q "She" was walking in and talking to herself?

25 A Yes.

1 Q Okay. And yet, Mr. Wandick spoke to her loud enough so
2 that you could hear her (sic) from where you were near the
3 couch?

4 A Yes.

5 Q Okay. Do you remember whether Mr. Wandick was holding the
6 door open, or was the door propped open?

7 A I believe that the door was open with the doorstop.

8 Q Is there a little latch that holds the door open?

9 JUDGE THOMPSON: Mr. Kramer, I'm sorry. I'm trying to be
10 patient. Please tell me why it's relevant whether the door was
11 open with the doorstop or with his foot or with the foam
12 mattress or that he was standing at the doorway or inside the
13 doorway?

14 MR. KRAMER: I'm trying to --

15 JUDGE THOMPSON: I mean, I think I understand why -- what
16 you're trying to do, but it's beginning to become cumulative,
17 because she's asked and answered where everyone was the whole
18 time.

19 MR. KRAMER: It's the last question, Your Honor. I mean,
20 and I'm just trying to place where people were.

21 JUDGE THOMPSON: I understand. It's just that I think
22 that you've asked many multiple times in addition to the
23 General Counsel establishing that. And I think I know why you
24 went through it the first time, but I think it's becoming
25 cumulative now, and I don't care, quite frankly, whether the

1 door was open with the doorstop or not with the doorstop. The
2 relevant inquiry is what was said once he encountered
3 Ms. Vargas. So proceed with that said.

4 MR. KRAMER: Are you granting the objection, Your Honor?

5 I --

6 JUDGE THOMPSON: Well, you didn't object, and neither did
7 I, but I was just sort of saying --

8 THE WITNESS: I'm so --

9 JUDGE THOMPSON: Could you please just turn the phone off?
10 Okay. Mr. Kramer, go ahead.

11 MR. KRAMER: I'll withdraw the question, Your Honor.

12 Q BY MR. KRAMER: Ms. Rivera, did you take any notes of this
13 encounter?

14 A No.

15 Q Did you review any notes of anyone else regarding this
16 encounter?

17 A No.

18 MR. KRAMER: I have no further questions, Your Honor.

19 JUDGE THOMPSON: Okay. Thank you, Mr. Kramer.

20 Miss -- Ms. Rivera, you're going to have to turn that
21 phone off.

22 THE WITNESS: I thought I had turned it off.

23 JUDGE THOMPSON: And Ms. Davila, do you have any redirect?

24 MS. DAVILA: No redirect. So I'm sorry we made you turn
25 off your phone.

1 JUDGE THOMPSON: Oh, well then you could have kept the
2 phone on. Ms. Rivera, thank you so very much. I didn't know
3 that Ms. Davila wasn't going to have any questions. So you
4 could have kept the phone on. Thank you so very much for your
5 testimony. Please don't discuss it with anyone. Have a great
6 day and thank you so much.

7 THE WITNESS: Thank you.

8 JUDGE THOMPSON: Can we just take a five-minute break?
9 And I mean five minutes. Off the record.
10 (Off the record at 2:31 p.m.)

11 JUDGE THOMPSON: We are back on the record. Ms. Davila,
12 would you like to call your next witness?

13 MS. DAVILA: Yes, Your Honor. General Counsel calls
14 Christina Keeran.

15 JUDGE THOMPSON: Okay. Ms. Keeran, would you please come
16 up to the witness stand? Good afternoon.

17 MS. KEERAN: Hi.

18 JUDGE THOMPSON: How are you?

19 MS. KEERAN: Good. Do I just stand?

20 JUDGE THOMPSON: I'm Judge Thompson.

21 MS. KEERAN: Nice to meet you.

22 JUDGE THOMPSON: It's so good to meet you. I've been
23 assigned to preside over the hearing in this case. You have
24 been called as a witness as far as I'm concerned, on behalf of
25 the General Counsel, although I'm not certain if the Respondent

1 also has called you as a witness as well. But in any event,
2 you have been called as a witness to testify in this case, but
3 I need to swear you in before --

4 MS. KEERAN: Okay.

5 JUDGE THOMPSON: -- you do so.

6 Whereupon,

7 **CHRISTINA KEERAN**

8 having been duly sworn, was called as a witness herein and was
9 examined and testified as follows:

10 JUDGE THOMPSON: Thank you. Would you please state your
11 name for the record?

12 THE WITNESS: Christina Joy Keeran.

13 JUDGE THOMPSON: Okay. Ms. Keeran, how do you spell your
14 last name?

15 THE WITNESS: K-E-E-R-A-N.

16 JUDGE THOMPSON: Got it. Thank you. Ms. Keeran, let me
17 just give you a few reminders with regard to your testimony,
18 and I may have to remind you again, because --

19 THE WITNESS: Okay.

20 JUDGE THOMPSON: -- witnesses tend to forget. First of
21 all, there is a microphone in front of you that we're using to
22 record the proceedings. You don't have to lean in, you can
23 relax comfortably, but we would appreciate it if you could give
24 us a verbal response, "Yes," "No," or state your response, as
25 opposed to, "Huh-uh" or "Uh-huh," because it's hard for our

1 court reporter to transcribe "Huh-uh" or "Uh-huh."

2 THE WITNESS: Okay.

3 JUDGE THOMPSON: Second, if you do not understand a
4 question that either counsel ask you, would you please tell
5 them, "I don't understand your question"? So that way they can
6 restate it or rephrase it as many times as necessary so that
7 you will understand the question.

8 THE WITNESS: Okay.

9 JUDGE THOMPSON: If you answer it, we will presume that
10 you understood what they asked you.

11 THE WITNESS: Okay.

12 JUDGE THOMPSON: Three, if either Counsel object, they're
13 going to say, "Objection," could you hold your response until I
14 can address their concern? And, finally, oftentimes you may
15 know kind of where Counsel are going in their question, and
16 want to interrupt to answer. But that doesn't provide us with
17 an accurate transcript, because it will be half the question
18 and then part of your answer. So if you wouldn't mind waiting
19 until Counsel finish their question before you answer, that way
20 we can have a complete question and then your complete answer
21 on the transcript. Would you please do that for us?

22 THE WITNESS: Yes, ma'am.

23 JUDGE THOMPSON: Great. Thank you so much. And please,
24 you're welcome to drink water throughout the testimony.

25 THE WITNESS: Okay.

1 JUDGE THOMPSON: Thank you.

2 Ms. Davila, your witness.

3 MS. DAVILA: Thank you.

4 **DIRECT EXAMINATION**

5 Q BY MS. DAVILA: Good afternoon, Mr. Keeran. My name is
6 Judith Davila. I'm an attorney with the National Labor
7 Relations Board. Nathan Higley is my Co-Counsel. Can you tell
8 us who you work for, please?

9 A Trump Las Vegas.

10 Q And when were you hired at Trump Las Vegas?

11 A March 10, 2008.

12 Q And what position did you start at?

13 A Status clerk.

14 Q Can you look up there at a form that says -- well
15 actually, the sticker. It just says 22 and 23.

16 JUDGE THOMPSON: It's in this stack in front of you on the
17 left. Those are the General Counsel's exhibit. And Respondent
18 may also direct you to their exhibits, which are on the right.
19 So right now, Ms. Davila wants you to turn to a page that's
20 marked 22.

21 THE WITNESS: Is this something, Your Honor?

22 JUDGE THOMPSON: No, no, no. I'm sorry. At the bottom
23 right.

24 THE WITNESS: Oh, okay. I didn't know. I'm --

25 JUDGE THOMPSON: No, no, no. That's why I'm telling you.

1 THE WITNESS: Okay. 22.

2 JUDGE THOMPSON: It's probably closer to the end.

3 THE WITNESS: This one right here?

4 JUDGE THOMPSON: No. Keep flipping.

5 THE WITNESS: Oh, that thing. Okay.

6 JUDGE THOMPSON: Uh-oh. Counsel, I don't know where --

7 MS. DAVILA: I have a copy.

8 JUDGE THOMPSON: Okay.

9 THE WITNESS: It's not in order.

10 JUDGE THOMPSON: That's okay.

11 MS. DAVILA: I've handed the witness what's been as GC

12 Exhibit 22 and 23.

13 Q BY MS. DAVILA: Can you read the job title on 22?

14 A Job title, position overview? It says "status clerk" on
15 top.

16 Q Is that the position that you started in?

17 A Answers calls --

18 Q Just the title, ma'am.

19 JUDGE THOMPSON: You've got to read to yourself, because
20 Jacqui will hear it and transcribe everything.

21 THE WITNESS: Okay. I did start as a status clerk, but
22 I've got to see what the position says to see if I did all
23 this.

24 Q BY MS. DAVILA: Yeah. I'm just asking if that's the
25 title.

- 1 A Yes, that's the title.
- 2 Q Okay. And on 23, where it says "Job title status clerk,"
- 3 is that the position name that you started in?
- 4 A Yes.
- 5 Q Thank you. And what position do you have right now?
- 6 A Status clerk lead.
- 7 Q And do you see up there -- if not I'll give you a copy --
- 8 something marked as GC Exhibit 13? And the job title there --
- 9 or the job description four, can you read the title?
- 10 A "Status clerk lead, hourly position."
- 11 Q Is that the position that you have right now?
- 12 A Yes, ma'am.
- 13 Q Okay. And you have an email address that you use with the
- 14 hotel, correct?
- 15 A Yes, ma'am.
- 16 Q And what is that email address?
- 17 A C Keeran at Trump Hotels dot com.
- 18 Q Can you spell your last name for me, please?
- 19 A K-E-E-R-A-N.
- 20 Q Uh-huh, at?
- 21 A Oh, you want me to -- at Trump Hotels dot com.
- 22 Q Okay. And how long have you been a dispatcher lead?
- 23 A I'm not sure. Maybe, like, two years, maybe. I'm not
- 24 sure of the exact date I became a lead.
- 25 Q Okay. And do your duties only involve housekeeping

1 employees?

2 A Involve housekeeping employees? What do you mean by that?

3 I --

4 Q Is there a dispatcher center for employees in each

5 department or --

6 A Yeah. Just housekeeping department.

7 Q Okay. And you're the only dispatcher lead for the

8 housekeeping department?

9 A Yes.

10 Q About how many employees are there in housekeeping?

11 A I'm not sure of the exact amount. You'll have to ask a
12 manager that. I'm not sure exactly how many employees we have.

13 Q Okay. And about how many dispatchers are there, or status
14 clerks?

15 MR. DRITSAS: Just to be clear. Are we going to call them
16 dispatchers or status clerks?

17 MS. DAVILA: I'm sorry. Status clerks.

18 JUDGE THOMPSON: Thanks.

19 THE WITNESS: I'm trying to think. Maybe, like, 10, 12,
20 I'm not sure exact amount. I don't pay attention to that. I
21 would have to write down the names to see how many there are.

22 Q BY MS. DAVILA: And you make the schedule for the
23 housekeepers, correct?

24 A No, I do not. I assist in it.

25 Q And what do you do when you assist in making the schedule?

1 A Alejandra gives me the numbers. She gets it from Jamie
2 McCartney, and then I plug them into the computer, and it's
3 automatically done. There's formulas in the computer that
4 tells you how many GRAs you need each day.

5 Q What numbers does Alejandra give you?

6 A The forecast, the 12-day forecast.

7 Q And what does that forecasting?

8 A The hotel, how many --

9 Q How many guests?

10 A Yeah.

11 Q Okay.

12 A And departures, arrivals, the occupancies on there.

13 Q And you said you plug them into the computer. Do you use
14 a program?

15 A Yeah. It's automatically done. I just plug in the
16 numbers she gives me and then the computer does it for her.

17 Q Do you use a specific program to do this?

18 A Well, it's a formula, but I don't know what the formula
19 is. I just plug in the numbers. That's something that
20 management did. I didn't do that, so I can't tell you what
21 program.

22 Q So you don't have the name or, if it's like an Excel, you
23 know?

24 A No. It was Excel, but I don't know what the name of it is
25 inside.

1 Q Okay.

2 A What the program is. I don't know what that is.

3 Q Okay. And you also assist with the payroll, correct?

4 A Only two days a week.

5 Q And what do you do when you assist with the payroll?

6 A I edit. If someone forgets to clock in or clock out, I
7 edit the changes on the payroll. I punch their name in the
8 computer, because they'll put in the comment sections -- which
9 I don't have that in front of me. But they'll put in the
10 comment section that their finger's not working or whatever,
11 and I look and see what time they clocked in or what time they
12 tried to clock in and clock out, and then I put it in the
13 computer. But it's only two days a week I do that, when
14 Vania's not there.

15 Q Okay. And how many days a week do you work?

16 A Five.

17 Q Do you work Monday through Friday?

18 A Yes, ma'am.

19 Q And who's Vania?

20 A She is the coordinator for housekeeping department. I
21 think that's her title, I'm not sure what her title is.

22 Q Do you know her last name?

23 A Mariscal, M-A-R-I-S-C-A-L.

24 Q Okay. Back to the schedule. How do you decide who will
25 be scheduled for their -- for each day?

1 MR. DRITSAS: Objection, lack of foundation, assumes she
2 decides anything.

3 JUDGE THOMPSON: I'm sorry. Lack of foundation?

4 MR. DRITSAS: It assumes she decides anything. That's not
5 been established.

6 JUDGE THOMPSON: Sustained. But I think if you could
7 rephrase, Counsel.

8 Q BY MS. DAVILA: How do you create the schedule for each
9 week? Can you walk us through the steps?

10 A Alejandra gives me the numbers. Then I take it to the
11 computer. I plug in the numbers, and for each day, the
12 computer tells you how many GRAs you have to have for each day.
13 And then -- or Vania -- Alejandra gives me the vacations that
14 she approved to put into the system. So I have to put in the
15 vacations. And then we go one-by-one.

16 Q "One-by-one," what do you mean?

17 A If it says you need 10 GRAs on Sunday, then we only put in
18 10 GRAs. If it says you need 15 GRAs, you put in 15 GRAs.
19 Whatever the system tells you, you put in.

20 Q And where do you get the GRAs from, the name?

21 A In the -- it's all in the system with the format. They're
22 all in -- what do you call it -- seniority order.

23 JUDGE THOMPSON: So let me understand, Ms. Keeran. When
24 Ms. Magana give you the forecast for the week, let's say --

25 THE WITNESS: Uh-huh.

1 JUDGE THOMPSON: -- you put that information into the
2 computer, is that correct?

3 THE WITNESS: Correct.

4 JUDGE THOMPSON: Then you also put in -- and then it tells
5 you, based on what you've inputted, how many housekeepers you
6 need, correct?

7 THE WITNESS: Correct.

8 JUDGE THOMPSON: Okay.

9 THE WITNESS: And it's this sheet right here.

10 JUDGE THOMPSON: Okay.

11 THE WITNESS: Because it says, like, this is in ABC order,
12 so that's not what I really need. I need it by this one. So
13 it's like this.

14 JUDGE THOMPSON: And let the record reflect that the
15 witness has pulled Respondent Exhibit 9, and she has turned to
16 -- I'm not sure what page you're on.

17 THE WITNESS: This is the page of the GRA's that's in
18 seniority order, because the first page was -- the first two
19 pages are alphabetical order. So it would be the third page on
20 this paper, whatever, this is the third page.

21 JUDGE THOMPSON: Okay. So -- and thank you. But my
22 question, I just want to make certain I understand the process
23 that you testified. So you plugged in the forecast. It spits
24 out a number.

25 THE WITNESS: Correct.

1 JUDGE THOMPSON: Then you plug in the vacation schedule
2 that Ms. Magana has given you?

3 THE WITNESS: Right. And it will -- on this sheet --I'm
4 trying to find someone that has a vacation on here.

5 JUDGE THOMPSON: Oh, that's okay.

6 THE WITNESS: Okay, okay.

7 JUDGE THOMPSON: Just in general, I just want to know.

8 THE WITNESS: Yeah. I'll plug in who is on vacation or
9 who requested an extra day off through Alejandra. She gives me
10 the names. It's on a calendar in the computer. I also print
11 that out. And then she'll also have last minute vacations that
12 she'll give me that somebody wants. And I plug each one in.
13 And then the numbers are in the system that tells you how many
14 GRAs you need for each day. And then we go one-by-one and we
15 plug it in.

16 JUDGE THOMPSON: Meaning, "one-by-one," you plug who
17 you're going to call in for work?

18 THE WITNESS: The system actually kind of does it for you,
19 because it will tell you, like, say, the people who have set
20 days off, you don't have to plug them in, because they're
21 already there. The only ones you have to plug in are the full-
22 time floaters and then the on-call people. And then you just
23 go one-by-one like this. So see how right here has, like
24 there's "request off, request off," and then they're working.
25 We just go in order.

1 JUDGE THOMPSON: Okay. I got it. I understand what
2 you're saying. Okay. Ms. Davila, continue. I hope I didn't
3 lose you. But I understood what the witness said. But you go
4 ahead, if you can.

5 Q BY MS. DAVILA: Okay. When you say, "We plug in the
6 names," who's the we?

7 A Alejandra does it and I just confirm. She double checks
8 that I did the vacations right, to make sure that the vacations
9 are in there properly. The paper -- you guys don't have -- of
10 vacations here. I don't see one. But --

11 JUDGE THOMPSON: Don't worry about it.

12 THE WITNESS: Okay.

13 JUDGE THOMPSON: Just testify.

14 THE WITNESS: So there's vacations, and it has everybody's
15 name on it that requested a vacation. So once I plug it in,
16 she confirms that I plugged in the correct vacation, so there's
17 no errors. And then she confirms that the numbers that she
18 gave me are plugged into the format correctly. So she goes
19 one-by-one. Trying to see if you guys have one of those, the
20 12-day forecast. It will have the numbers, the departures and
21 then the stay-overs, and she confirms that the numbers match
22 what's on that paper. And then she makes changes --

23 JUDGE THOMPSON: What -- what -- you have to wait for her
24 to ask the question.

25 Q BY MS. DAVILA: So who actually plugs in the employees'

1 names into the sheet?

2 A There's no employee's name on the sheet. They're already
3 there in seniority order.

4 Q So how do you get from this seniority sheet to a schedule.

5 A This --

6 MR. DRITSAS: Objection. This misstates the testimony.
7 She never testified it's a seniority sheet. It's a schedule.

8 MS. DAVILA: She did.

9 THE WITNESS: Well, this is a seniority sheet for the
10 GRAs, but it's also the schedule. It's one in the same.

11 JUDGE THOMPSON: She --

12 THE WITNESS: So the 12 days connected to this --

13 JUDGE THOMPSON: Wait. Wait. Wait, because I don't want
14 you to testify.

15 THE WITNESS: Okay.

16 JUDGE THOMPSON: The objection -- I'm going to have to
17 overrule the objection because she did say that, counsel, but
18 you have to wait for Ms. Davila to ask you a question before
19 you answer.

20 THE WITNESS: Okay. I'm sorry. I'm sorry. Okay.

21 JUDGE THOMPSON: I mean, you know what you're talking
22 about, but --

23 THE WITNESS: I understand.

24 JUDGE THOMPSON: We have to go step by step so that we
25 understand.

1 THE WITNESS: Okay. I understand.

2 JUDGE THOMPSON: Okay. Ms. Davila, continue.

3 Q BY MS. DAVILA: How do you get from a sheet of paper that
4 has everybody listed in seniority and their schedule to a
5 schedule that everybody sees?

6 A Okay. It's one in the same. The schedule is actually in
7 seniority.

8 Q Okay.

9 A So all the names are already there. The 12-day format is
10 connected to this sheet too. It's GRAs, and then it -- GRAs on
11 day shift, and then the next page is swing shift, graveyard,
12 and Hilton (phonetic) GRAs, and then the 12 days after that.
13 We plug it in there. And so the names are already there, the
14 schedules are already there. The GRAs are already on this
15 sheet of paper. The only thing we plug in is the times, which
16 is right here.

17 Q Okay. And who is the "we" plug in?

18 A Alejandra.

19 Q Okay. So do you plug it in or does she?

20 A I plug it in. I start to plug it in and she confirms that
21 I do it accurately. Sometimes she'll plug it in. It depends
22 on who's busy or who's not, but she's the one that makes the
23 final decision like how many we have, because the 12-day could
24 say we need 50 GRAs and Alejandra might change it and take it
25 away and make it 40 GRAs, or she might make it more, it just

1 depends on what she decides. She's the one that makes the
2 decisions.

3 Q Got that. Thank you. Okay. So -- just so I understand
4 it, so the -- okay. Does the computer program work this way
5 for example, so if you need 40 people to work that day and
6 there's 60 people on the list, does it just take the first 40
7 who are in order of seniority and schedule them? And the other
8 20, for example, don't get scheduled?

9 A The fulltime people are automatically scheduled no matter
10 what it says you need. Alejandra's the one that makes the
11 decision to take away or to add. If there's no on call
12 working, then I'm not sure what she does. You'll have to ask
13 her how she takes -- takes that away. I'm sure she might start
14 at the bottom of the list and go up, but I'm not sure about
15 that. But the fulltime people are automatically scheduled five
16 days unless she changes it.

17 JUDGE THOMPSON: So if I understand your testimony, Ms.
18 Keeran, in Ms. Davila's hypothetical, if you needed 40
19 housekeepers, you would start -- the program would start with
20 40 fulltime housekeepers, depending on who was off, who
21 requested off, who was on vacation, and whether Ms. Alejandra
22 would have removed someone?

23 THE WITNESS: Yeah, it would be her.

24 JUDGE THOMPSON: Okay.

25 THE WITNESS: I'm not allowed to remove or take or

1 anything like that. She's the one that makes that decision.

2 JUDGE THOMPSON: Got it.

3 Q BY MS. DAVILA: Okay. And housekeeping employees come to
4 you with questions about their schedules; correct?

5 A Sometimes they do, but usually it's through Alejandra.
6 They have to go to Alejandra about their schedule. If she's
7 not available, they'll come to me and I'll write it on a piece
8 of paper what their question is and hand it to Alejandra. But
9 she's the one that changes their schedule and --

10 Q Okay. And you can change their schedule based on these
11 requests; correct?

12 A Yes, only by her.

13 Q Okay. And you can sign off on vacation requests; correct?

14 A No.

15 Q Okay. Let me introduce what's marked as GC Exhibit 25.

16 JUDGE THOMPSON: Did you say 25?

17 MS. DAVILA: Yes.

18 JUDGE THOMPSON: Okay. You don't have it yet, Ms. Keeran.

19 THE WITNESS: Oh, okay.

20 MS. DAVILA: I've given Respondent a copy as well.

21 MR. DRITSAS: You gave me a bunch of stuff, so I don't
22 know what you're --

23 MS. DAVILA: Oh, sorry, it's the calendar.

24 MR. DRITSAS: Okay.

25 Q BY MS. DAVILA: Can you explain to us what this form is?

1 A Vacation.

2 Q A vacation -- what does it pertain to in regards to
3 vacation?

4 A When they request a vacation to be off for something.

5 Q Okay. And what employee is this vacation?

6 A Eleuteria Blanco.

7 Q Okay. And is that your signature at the bottom?

8 A Yes, ma'am.

9 Q On what line is your signature on?

10 A Manager's approval.

11 MS. DAVILA: Okay. I'd like to move to introduce Exhibit
12 25, GC Exhibit 25.

13 JUDGE THOMPSON: Counsel, any objection?

14 MR. DRITSAS: Yes, Your Honor, I have an objection. It's
15 something dated in November of 2012. I don't think it has any
16 relevance to our proceeding here today.

17 JUDGE THOMPSON: Counsel, what was this proffer for?

18 MS. DAVILA: I think --

19 JUDGE THOMPSON: What was -- I mean the purpose for
20 proffering this particular exhibit?

21 MS. DAVILA: Her supervisor status is in question and it's
22 a document produced in response to the subpoena that shows her
23 signing off on the vacation requests.

24 MR. DRITSAS: Well, I wonder if I set this -- the request
25 of information was humongous and we produced what we felt were

1 necessary. But the issue is what was the status of Ms. Keeran
2 in 2015. So maybe '14, but to go back to '12 seems to be
3 irrelevant, Your Honor.

4 JUDGE THOMPSON: Ms. Davila, can we -- can I get a
5 response to Respondent's objection as to why this particular
6 document dated in 2012 would be relevant to show what your
7 purporting it to show?

8 MS. DAVILA: We think it further states to a supervisory
9 status. I can ask her if she's been demoted since then.

10 MR. DRITSAS: I've got one other objection, Your Honor, to
11 that. Ms. Magana was not even working then, so that further
12 shows this particular document irrelevant in my view. Miss --

13 MS. DAVILA: Ms. Magana is separate.

14 MR. DRITSAS: There was a different director at the time.

15 JUDGE THOMPSON: Well, I understand that.

16 MS. DAVILA: Ms. Magana is a separate person alleged in
17 this complaint. That has nothing to do with this person's
18 supervisor status.

19 JUDGE THOMPSON: Mr. Dritsas, I'm going to have to
20 overrule the objection. I can't say whether counsel will or
21 won't be able to establish what she purports to establish with
22 the document. But I will allow her to offer it to try to
23 establish what she intends to establish with it. The witness
24 has authenticated her signature on the document and has
25 identified it, so the purposes of authentication, that's not an

1 issue. So I will admit the document into evidence and overrule
2 counsel's objection. But whether it purports to do what
3 counsel intends it to do is another question entirely. But for
4 purposes of admission, I will admit the document. So GC-25 is
5 received.

6 **(General Counsel Exhibit Number 25 Received into Evidence)**

7 JUDGE THOMPSON: Counsel, continue.

8 Q BY MS. DAVILA: So, Ms. Keeran, you have granted vacation
9 requests in the past; correct?

10 A No, I did not.

11 Q Okay. You did not in the past?

12 A No.

13 Q Okay. And that is your signature on that form right
14 there?

15 A Yes, ma'am.

16 Q Okay. And you were responsible for relaying calls and
17 messages to supervisors and managers; correct?

18 A I'm what?

19 Q You're responsible for relaying calls and messages to
20 supervisors and managers; correct?

21 A It depends if someone asks me to give them information,
22 then yes. Usually everything goes through status to go to
23 them. It just depends.

24 Q Okay. And what are some of status' duties?

25 A Answering the phone for the guest, guest room attendance,

1 putting things in Hot Sauce.

2 Q What's Hot Sauce?

3 A It's a program when a guest calls that wants coffee or tea
4 or a GRA needs towels or something like that, we put it in this
5 program and it automatically goes to the person it needs to go
6 to.

7 Q Okay. And when you give messages to supervisors or
8 managers sometimes, sometimes they're about employees; correct?

9 A That a GRA needs an employee -- or a GRA needs a manager
10 or a supervisor? It depends. Like I said, it -- usually it's
11 through status. They only come to me as a last resort because
12 usually they call over the phone and get it.

13 Q But you have given a message from an employee to
14 management?

15 A Correct.

16 Q Okay. And can you give us examples of what those messages
17 are about?

18 A Someone's coming to -- they have D and Ds and they need to
19 get another room, so I relay -- I give them to call a manager
20 to assist them. Someone comes about their schedule. I send
21 them to Alejandra or take a message for Alejandra that they're
22 calling -- they want to know about their schedule, if they
23 could have this day off or that day off.

24 Q Okay. And what's a D and D?

25 A Do not disturb sign on their door.

1 Q Okay.

2 A And they need to get another room, so they call down and
3 if status is real busy, sometimes they'll call my extension and
4 ask for one of the managers.

5 Q And can you assign rooms to housekeepers?

6 A I don't do that. The opener does that.

7 Q What's an opener?

8 A Someone that opens -- they assign the rooms first thing in
9 the morning. They come in about 4:00, 4:30. But only
10 inspector or manager is the one that switches out rooms and --

11 Q And is there a specific job title of an opener?

12 A No, they're the same status clerk.

13 Q Have you ever served in the position as an opener?

14 A Yes, I have.

15 Q And can you describe for us again what the opener does?

16 A They assign the rooms to the GRAs. Usually, when I was
17 doing it, it was automatically done. I didn't really have to
18 do anything because you just plugged in the names and clicked a
19 button and the system automatically assigned the rooms to the
20 person and the station, so we really didn't have to assign it
21 too much. But now it's a new program, so it's a little bit
22 different. I haven't done the new program.

23 Q When was the last time you were an opener?

24 A Well, I had to learn to open the new system, so whenever
25 the new system came on board, I came in like at 3:00 in the

1 morning back in June or July, I came in to learn how to open.

2 JUDGE THOMPSON: Of what year?

3 THE WITNESS: It just past. In June or July that just
4 past, 2015; yeah.

5 JUDGE THOMPSON: 2015; okay. Thank you.

6 Q BY MS. DAVILA: Okay. So at the beginning of the day, if
7 there's no fulltime person assigned to an area that needs
8 serviced, you can assign an on call employee to fill in that
9 slot; correct?

10 A Some on call employees have stations, so it just depends.
11 Most of them do have stations. The one that just says open,
12 they don't have a station, so we plug them in where if someone
13 calls off or something happens, but you kind of, like I said,
14 most of them do already have stations. Even the on call people
15 have stations.

16 Q Okay. And at the beginning of a day, if a fulltime
17 employee section is closed, you can assign them additional
18 rooms; correct?

19 A I don't do that. The opener does that. I don't do that
20 at all.

21 Q And you served as a position of opener before; correct?

22 A Yes, I have.

23 Q So you've assigned a fulltime employee to do additional
24 rooms when their section is closed before?

25 A Usually when the section is closed, management tells you

1 where that person kind of goes to because everybody has a
2 station, so if a station is closed, she'll tell you maybe to
3 put them on this floor or that floor, so usually a management
4 will tell you.

5 Q Does management tell the opener?

6 A Yes.

7 Q And the opener tells the employee?

8 A No, it's a -- they -- before we used to do tash (phonetic)
9 sheets, and now it's on the iPad, so there's no telling, it's
10 just on the computer.

11 Q Okay. So before the iPad?

12 A No, they didn't have to tell them because they would get a
13 tash sheet and the rooms were already on the tash sheet, so
14 they just knew. And if they questioned like why I wasn't --
15 they would come and say, "Why I was not in my section?" Then
16 the opener would say, "Your section is closed and we were told
17 to put you in this section because this section was open." We
18 don't --

19 Q So the opener would tell them what rooms to go to instead?

20 A Well, it's on their paper. The computer would do it.

21 Q But the opener would tell them what rooms to go to based
22 on that paper?

23 A Yes.

24 MR. DRITSAS: Objection.

25 Q BY MS. DAVILA: Okay. And when employees call off, you're

1 responsible for calling task employees to fill in for them;
2 correct?

3 A Only if Alejandra tells us to call.

4 Q Who's us?

5 A Me or Vania. It depends on like if I'm not there, Vania
6 will call employees and --

7 Q Okay. So you've called off -- you've called an employee
8 before to have them fill in for another employee?

9 A It depends. It's not always that way. We wait until
10 Alejandra comes in to work for her to make that decision.
11 Sometimes people call off and she doesn't replace them because
12 the occupancy doesn't need it to be -- to have more people
13 added. It might have worked out okay or not, it just depends
14 on what she decides when she comes into work.

15 Q I don't mean to repeat my question; I'm sorry. But so
16 you've called an employee before to tell them to call in; yes
17 or no?

18 A Yes.

19 Q Okay. And you can verbally warn employees if you notice a
20 problem with their performance; correct?

21 A No. If -- usually I might say it in a nice way, like we
22 always have to answer the phone in three rings, and I might
23 just remind them, but I can't verbally tell them anything.
24 Everything has to go through management.

25 Q So you've given employees reminders about how they should

1 do their job; correct?

2 A No. I just -- like I assist in helping them. I was like,
3 "Hey, your phone's ringing," or something. I can't tell them.
4 I'm not allowed to do that. I'll get in trouble for that.

5 Q Okay. And you've verbally warned employees before;
6 correct?

7 A No.

8 Q And you verbally --

9 MR. DRITSAS: Your Honor, I'm going to object to leading
10 questions here. This witness is on direct with the general
11 counsel and these are clearly leading questions.

12 MS. DAVILA: Your Honor, I'd like to proceed under 611C.

13 MR. DRITSAS: And there's absolutely no basis for that.
14 This is not a manager. That issue is contested the supervisor
15 status. There's been no foundation laid for an adverse witness
16 of this person.

17 MS. DAVILA: Your Honor, 611C goes to the relationship of
18 the general counsel with the witness if there's hostility we
19 may proceed through leading questions.

20 MR. DRITSAS: But there's not statement -- no basis for
21 hostility here. There's a witness coming in, testifying
22 honestly about questions you've asked. I don't see how it's
23 hostility.

24 MS. DAVILA: She's being evasive with her testimony, Your
25 Honor.

1 MR. DRITSAS: I completely disagree with that. You're
2 being leading with your questions and she's correcting you, but
3 she's not being evasive.

4 JUDGE THOMPSON: The issue that I'm trying to grapple
5 with, counsel, is because the issue is whether she is -- Ms.
6 Keeran is or is not in management, whether the 611C kicks in.
7 I mean, I know what you're alleging, but that's part of the
8 dispute. And I'm trying to work out in my mind how to respond
9 to Mr. Dritsas' objection based upon that. Hold on just a
10 moment.

11 Stay on the record, Jacqui, please.

12 And, Ms. Keeran, hold your response just one second.

13 Counsel, I've just briefly read the federal rules of
14 evidence regarding 611C witnesses, and the board doesn't
15 ordinarily does not allow for counsel to ask leading questions
16 on direct except if it is necessary to further the witness'
17 testimony.

18 Ms. Davila, I'm going to not directly respond to
19 Respondent's objection, but I'm going to say this, I'm going to
20 ask you if you would begin your questioning with a non-leading
21 question and I will grant permission -- grant you permission to
22 lead to the extent that you need to develop the witness'
23 testimony further. So if you would start out with as open, as
24 direct, but open question to the extent that you need further
25 clarification, I will allow you to ask leading questions. So

1 I'm not really sustaining the objection, I guess I'm just
2 clarifying what I would appreciate for you to do going forward
3 with this witness, if you understand what I'm saying to you?

4 MS. DAVILA: Yes, Your Honor.

5 JUDGE THOMPSON: Okay. Proceed.

6 MS. DAVILA: Just if I could ask one more question on
7 point?

8 JUDGE THOMPSON: Yes.

9 MS. DAVILA: Okay.

10 Q BY MS. DAVILA: Ms. Keeran, have you had any conversations
11 with counsel -- Respondent's counsel about your testimony
12 today?

13 A No, they just told me to come and tell the truth.

14 Q Did you meet with them before you came in here today to
15 talk about your testimony?

16 A No.

17 Q You've never met with them?

18 A Yes, I have.

19 Q So you met with them before you came in today?

20 A No, you said today. I thought you meant that I met with
21 them today.

22 Q Oh, no, before today?

23 A Yes.

24 Q About how many times have you met with them?

25 A Maybe once in person I think.

1 Q And how many times over the phone?

2 A Maybe once or twice.

3 Q And with who exactly?

4 A I -- well, here in person was him, the gentleman right
5 there, Bill. But over the phone, I don't remember the name. I
6 don't remember.

7 Q And what did they tell you?

8 A Just to tell the truth.

9 Q And what did they tell you about your testimony here
10 today?

11 A Just to be honest and tell the truth and that was it
12 basically.

13 Q What questions have they asked you?

14 A I have to think of that one what they asked me. Over the
15 phone or in person?

16 Q Let's start with over the phone?

17 A They just asked if I was a supervisor and I said no.

18 Q And did they ask you about your duties?

19 A Yes.

20 Q And what else did they ask you about?

21 A That's just about that, like what my duties were, what I
22 did on a daily basis, if I was a supervisor, if I approved
23 vacations. I said no. That was it.

24 Q And did they ask you about anything about the union?

25 A No.

1 Q Okay.

2 A What do you mean about the union? Like -- no.

3 JUDGE THOMPSON: You just have to answer her question or
4 say you don't understand it.

5 THE WITNESS: No. No, I don't understand the question.

6 Q BY MS. DAVILA: Did they talk to you about the union?

7 A No, not at all.

8 Q They never asked you about anything having to do with the
9 union?

10 A Like -- like what? Depends on what?

11 Q Did they use the word "union"?

12 A No.

13 Q No. And how about in person?

14 A No.

15 Q What did they talk to you about in person?

16 A Like I said, what my job duties were and if I was a
17 supervisor, if I approved vacations or did I do the schedule.

18 Q About how long did these conversations last?

19 A Probably an hour I think, hour and a half. I don't know,
20 I didn't keep track of time. I didn't pay attention.

21 Q Were you on the clock?

22 A Yes.

23 Q And were the conversations over the phone about an hour as
24 well?

25 A Like I said, I'm not sure how long I was on the phone or

1 in person. I didn't pay attention to the clock or --

2 Q Did you take notes while you were talking to them?

3 A No.

4 Q Did they have notes when they were talking to you?

5 A No, they -- nobody was writing anything when I was talking
6 that I'm aware of.

7 Q Aside from them, was anybody else in the room?

8 A No.

9 Q Okay. Okay. Have you ever talked to an employee about
10 their attendance issues?

11 A We're not allowed to do that. We only tell them what the
12 points are.

13 MS. DAVILA: Okay. I'd like to introduce what's marked as
14 GC Exhibit 26. I've given Respondent's counsel a copy as well.

15 MR. DRITSAS: Again, I need to know what you're talking
16 about.

17 MS. DAVILA: 26 is the attendance calendar.

18 Q BY MS. DAVILA: Can you describe to us what this document
19 is?

20 A The -- I mean, the attendance calendar?

21 Q Yeah, what's the attendance calendar?

22 A Where you write down their points where they call off or
23 they're tardy or anything like that.

24 Q Who writes down their points if they're --

25 A We do, Fania (phonetic) and I do. Well, usually it's

1 Fania. I just do it two days a week.

2 Q Okay. And so no other status clerks write these in?

3 A No, they do not.

4 Q Okay. And who's -- what employee is this calendar in
5 particular about?

6 A Elveria Estrella (phonetic).

7 Q Do you recognize that name?

8 A Yes, I do.

9 Q And who is she?

10 A She was a GRA that worked at the hotel.

11 Q Okay. Can you turn back to the second page?

12 A Yes.

13 Q And can you read the entry for August 13th?

14 A "Andrew and Christina K, spoke to Elveria about her clock
15 in. She stated she sometimes forgets what time she clocked in
16 or out for lunch. She also stated she gets confused with the
17 clock when she goes at an odd time. We told her to make sure
18 she goes at zero o'clock, 15 minutes after to make it easy for
19 her to remember. She can't remember times when she goes at 10
20 or 20 after."

21 Q Are you the only Christina K in status?

22 A Yes, I am.

23 Q Is this entry about you?

24 A Yes, it is.

25 Q Do you remember having this conversation with Elveria?

1 A I didn't have the conversation with her. It was actually
2 Andrew. She came to me and wanted to know why she had so many
3 points and I tried explaining to her because she's missing
4 failure to clock in and everything, and so I sent her to
5 Andrew, which his desk was like this way towards me and Andrew
6 told me to make sure that I put in that I was trying to explain
7 to her what the problem was because he's the one that actually
8 wrote her up and then he wanted me to also explain to her about
9 the clock, like take her outside to the clock and try to
10 explain it to her what she should do to clock in or out because
11 she was having problems. She kept getting confused. She
12 couldn't comprehend the 30 minutes.

13 Q So you explained to her a little bit about the problem?

14 A After Anthony told me to, because she came to me and asked
15 me what her points was. I gave her her points and she said
16 that was too many points. And she says, "Why do I have so many
17 points?" And I says, "Because you're not clocking in or out."
18 So I sent her to Anthony, and then Anthony told me to make sure
19 to show her outside the clock to try and get her to understand
20 what 30 minutes was because she couldn't understand what the 30
21 minutes was for the lunchbreak.

22 JUDGE THOMPSON: Okay.

23 MS. DAVILA: Okay. Ma'am, sorry.

24 Q BY MS. DAVILA: When you say Anthony, do you mean Andrew
25 or Anthony?

1 A Oh, it was Andrew. Okay. Andrew. I'm sorry, I get those
2 confused, Andrew and Anthony. I apologize.

3 Q Okay. And who's Andrew?

4 A Andrew was a floor manager. He was a term floor manager
5 at the time.

6 Q Do you know his last name?

7 A No, I don't. I can't remember his last name.

8 MS. DAVILA: Okay. I'd like to move to enter GC Exhibit
9 26, please.

10 MR. DRITSAS: No objection.

11 JUDGE THOMPSON: Hearing no objections, I'll admit GC-26.

12 **(General Counsel Exhibit Number 26 Received into Evidence)**

13 Q BY MS. DAVILA: Do you ever send any supervisors or
14 managers e-mails about employees or messages related to
15 employees?

16 A I'm trying to think. I'm sure I probably have.

17 Q And can you think of examples about what those e-mails
18 would be about?

19 A Well, it depends like if someone's having problems in the
20 hallway, arguing, or there's something going on in status, I
21 might send a manager an e-mail stating that there was an issue
22 between these two people or something like that. I mean, it
23 just depends. I'm not sure. I can't remember anything exactly
24 to -- exact incident; you know what I mean?

25 Q That's fine. And so when you send messages to managers,

1 do you just do it by e-mail, or are there other ways that you
2 do it? Do you send written messages?

3 A Written messages? How would I send a written message?

4 Q Well, you could leave them a note or you could e-mail
5 them.

6 A If they come -- if a GRA comes down and they're having
7 problems or whatever, the only time I would send an e-mail to a
8 manager is if they're not there and it's pertaining to that
9 manager that the GRA wants me to relay a message to that
10 manager. Usually it -- e-mails are only done if the manager --
11 is not there, other than that I just wait until they come
12 downstairs and ask them or tell them or whatever the GR wants
13 me to tell them.

14 Q And do you relay messages often, would you say?

15 MR. DRITSAS: Objection. Vague.

16 THE WITNESS: No.

17 JUDGE THOMPSON: I'm going to sustain the objection and
18 have Ms. Davila rephrase the question, if possible.

19 Q BY MS. DAVILA: How often would you say that you relay
20 messages on behalf of employees to managers?

21 A Not very often at all because usually they come right to
22 them.

23 Q Okay. And do you have a desk in the housekeeping
24 department?

25 A Yes, I do, I share it though with other people.

1 Q Okay. And where is that desk located?

2 A Housekeeping office, I don't know what else you want me to
3 say, it's in the housekeeping office.

4 Q Okay. Is it in its own specific room, like, do you have
5 an office?

6 A No, no.

7 Q Okay. And who do you share your desk with?

8 A I share it with Cherrie Gallagher, her last name is
9 Gallagher, and then Walter Ruby, I share it with Alma, I share
10 it with Vania sometimes, I share it with the status clerk
11 sometimes it just depends.

12 Q Do the status clerks have their own room?

13 A No.

14 Q Are their desks in a specific area of the housekeeping --

15 A They don't have desks --

16 Q -- department?

17 A -- it's kind of like a counter.

18 Q Okay.

19 A It's not a desk it's a counter

20 Q So it's a counter for the status clerks?

21 A Yeah.

22 Q Okay.

23 A It's kind of short for them to scoot up their chair, but
24 it's like a counter thing, but it's short.

25 Q Does Vania have her own desk?

- 1 A Yes, ma'am.
- 2 Q But she uses your desk sometimes?
- 3 A Sometimes, it depends, like, if she needs to do something
4 at that end of the office she'll sit over there for a minute if
5 she's doing something over there.
- 6 Q Okay. And who is Cherrie Gallagher?
- 7 A She is the floor manager.
- 8 Q In the housekeeping -- housekeeping department?
- 9 A Yes.
- 10 Q And who is Walter Ruby?
- 11 A He's a supervisor.
- 12 Q For what department?
- 13 A Housekeeping.
- 14 Q And who is Alma?
- 15 A Alma is the supervisor.
- 16 Q What's her last name?
- 17 A She was -- oh, what's her last name? Patriola. And
18 sometimes status clerks sit there, but you can't ask me which
19 status clerk because it varies, it's a hit and miss --
- 20 Q That's fine, I know there's ten.
- 21 A -- yeah.
- 22 Q Yeah.
- 23 A It just depends whoever, you don't know who's going to sit
24 there.
- 25 Q Okay. And I'm sorry, I don't know if you've already

1 answered this, but who's you immediate supervisor?

2 A It would be the managers, the floor managers.

3 Q Okay. The floor managers of?

4 A Housekeeping department. And then it goes Morgan, and
5 then Kelvin and then Alejandra.

6 Q So the floor managers are above Alejandra and Kelvin?

7 A No, it -- you said who's my immediate supervisor.

8 Q Oh, you mean you're going upwards --

9 A Who --

10 Q -- sorry.

11 A -- yeah.

12 Q Okay.

13 A It would be the floor managers and then it goes Morgan,
14 and then Kelvin and then Alejandra.

15 Q And who is Morgan?

16 A He's the housekeeping department manager.

17 Q Okay.

18 A He's above the floor managers.

19 Q Okay. And Kelvin is Alejandra's assistant?

20 A He's a -- his title is assistant director.

21 Q Okay.

22 A I think.

23 Q Okay. And you know of the efforts of the -- some of the
24 employees to form a union at the hotel, correct?

25 A Yes.

1 Q And you've seen some of the employees wear union buttons
2 to work, correct?

3 A Yes.

4 Q Can you look up there to a colored paper that says FC
5 Exhibit 16?

6 A I've got to go one by one. 7, 13, 14, 14(m), 15, 16, yes.

7 Q Do you recognize what's on this form?

8 A Yes.

9 Q Can you describe it for us?

10 A It's the union buttons.

11 Q And where have you seen them before?

12 A On associates.

13 Q And do you remember when employees started wearing the
14 union buttons?

15 A No, I do not.

16 Q And you know that employees who wear this support the
17 union, correct?

18 A Some of that is not true because there's associates that
19 say they wear the button just to not be bothered, so I'm not --
20 I can't say that for honestly.

21 Q How do you know that?

22 A One associate told me before.

23 Q Okay. And you know that some, obviously, some employees
24 chose not to wear the button, right?

25 A Correct.

1 Q Okay. And have you ever witnesses any union activity in
2 the EDR?

3 A Yes.

4 Q Can you describe that for us?

5 A They'll come in with flyers and pass out flyers in the
6 Employee Dining Room before Trump talk. They'll pass it out at
7 lunch time, they'll do their clapping chat sometimes they're
8 outside in the mornings.

9 Q Okay. Have you ever been given -- given any instructions
10 from managers about what to say about the union organizing
11 campaign?

12 A No.

13 Q Okay. Have you ever talked to any managers about what
14 employees support the union?

15 A No.

16 Q Okay. Have you ever told any managers about any union
17 activity that's been going on?

18 A No.

19 Q Okay.

20 MS. DAVILA: I'd like to admit what's been marked as GC
21 Exhibit -- or I'd like to show her GC Exhibit 27.

22 JUDGE THOMPSON: Okay.

23 MS. DAVILA: It's an email, the single email. I'm showing
24 the witness what's marked as 27.

25 JUDGE THOMPSON: Ms. Davila, could you put, like, GC 27 --

1 MS. DAVILA: Oh, yea, I'm sorry.

2 JUDGE THOMPSON: -- so that way we'll know which exhibit
3 it is on down the road.

4 MS. DAVILA: Yes, sorry.

5 JUDGE THOMPSON: Thanks.

6 Q BY MS. DAVILA: Ms. Keeran, can you read the "from" line
7 in this form?

8 A From Christina Keeran.

9 Q Is that your email up there?

10 A Yes, it is.

11 Q Can you read the date of this email?

12 A February 14, 2015.

13 Q Okay. And to who is this email addressed?

14 A Alejandra.

15 Q Okay. Can you read to us what it says?

16 A "Carmen stated to me that she is going to HR today, she
17 stated that she has been here longer than some of the Hilton
18 ladies and wants Hilton, I told her she should talk to you
19 first, she stated no." "They also did a quick chant in the EDR
20 this morning saying Union before 9:00 a.m."

21 Q Did you send this email?

22 A Yes, I did.

23 MS. DAVILA: I'd like to move this into the record please?

24 MR. DRITSAS: No objection.

25 JUDGE THOMPSON: Hearing no objection, I'll receive GC-27.

1 **(General Counsel Exhibit Number 27 Received into Evidence)**

2 Q BY MS. DAVILA: Have you ever sent any managers any other
3 emails about union activity?

4 A I do not know, because now I have this, because like I
5 said, I don't even remember this email, but it -- I sent it.

6 Q Okay.

7 A But I do remember Carmen complaining that she wanted to be
8 a Hilton lady and she had more seniority than some of the other
9 ladies.

10 Q What's a Hilton lady?

11 A They clean Hilton rooms only, it's I don't know, part of
12 -- the Hilton owns certain rooms at Trump Hotel and they clean
13 Hilton rooms.

14 Q Okay. Have any of the employees talked to you directly
15 about the union?

16 A What do you mean directly to me about the union, like they
17 want the union or they don't want the union, what's the --

18 Q Just talk to you about the subject of the union?

19 A Not that often really, I mean, I might in passing or
20 something, but not directly and not that often.

21 Q And do they initiate those conversations about the union?

22 A Yes, they usually come to me usually if they ask -- have a
23 question.

24 Q Have you ever initiated a conversation with another
25 employee --

1 A No.

2 Q -- about the union?

3 A No.

4 Q Okay. Turning back to the email; can you just explain to
5 us what the -- what you meant by they also did a quick chant in
6 the EDR this morning?

7 A They also did a quick chant in the EDR this morning. I'm
8 -- I guess I'm just saying they also did a quick chant in the
9 EDR this morning. And I remember this because she was mad, she
10 was saying in the EDR the reason she said --

11 JUDGE THOMPSON: Wait, wait a minute, Ms. -- Ms. Keeran.
12 She asked you --

13 THE WITNESS: -- oh.

14 JUDGE THOMPSON: -- what do you mean -- what did you mean
15 by they also did a quick chant in the EDR this morning?

16 THE WITNESS: They clap their hands and go "Union, union,
17 union."

18 Q BY MS. DAVILA: Who's they?

19 A Carmen and whoever was in there; I don't even remember
20 that day to be honest, I can't even tell you.

21 Q So employees?

22 A Yeah.

23 Q Okay. And why did you tell Alejandra about this?

24 A Because Carmen was mad because she wasn't on the Hilton
25 and she said it was because she was wearing the union button

1 and that was because of that. And I told her no, go talk to
2 Alejandra first.

3 Q Okay. So you included it because it was part of why she
4 was upset?

5 A Yes.

6 Q Okay.

7 A Anytime anybody has a --

8 JUDGE THOMPSON: Wait, wait, you've got to wait for her --

9 MS. DAVILA: Sorry.

10 JUDGE THOMPSON: -- to ask the question.

11 THE WITNESS: I was going to finish my story with this,
12 but okay.

13 JUDGE THOMPSON: But you answered her question --

14 THE WITNESS: Okay.

15 JUDGE THOMPSON: -- I'm sorry, you have to wait for her to
16 finish --

17 THE WITNESS: Okay.

18 JUDGE THOMPSON: -- to ask another one.

19 THE WITNESS: I've never been to court so I'm sorry.

20 JUDGE THOMPSON: That's all right, that's why I'm here.

21 THE WITNESS: Okay.

22 Q BY MS. DAVILA: Have you ever had any conversations with
23 employees about what would happen if the Union comes in?

24 A I don't know what the -- would happen if the Union comes
25 in, I don't know.

1 Q But have you ever talked to employees about what would
2 happen if the Union came in?

3 A I'm confused by the question because I -- I don't know
4 what would happened if the Union comes in, I don't know what
5 would happen, I don't know.

6 Q So you've never had a conversation with employees?

7 A I mean, people ask me are you going to get more hours, are
8 you going to get less hours; I don't know, I can't give them
9 that answer, I don't know.

10 Q And why do they ask you?

11 A They don't -- no, I'm just saying, if someone was to ask
12 me that I would have to say I don't know. One of the new
13 hires, and I don't remember -- I don't know all the new hire's
14 names, but they said that one of the Union said they were going
15 to get fulltime, and I said I don't know what you're going to
16 get, I don't know I -- I can't tell you if you're going to get
17 more hours or if you're going to get less hours, I don't know.

18 Q But you've been asked about how the hours would be
19 effected if the Union came in?

20 A Once in a great while, yeah.

21 Q Okay.

22 A But I don't know how many hours they will get or how many
23 hours they won't get.

24 Q And that's the response that you give?

25 A Yes.

1 Q Okay.

2 A I'll tell them you could get 40 hours, you could get less,
3 you don't know, you don't know what your hours are going to be.

4 Q Okay. And have you attended the mandatory meetings with
5 Juan Cruz?

6 MR. DRITSAS: Objection.

7 THE WITNESS: Who's that?

8 MR. DRITSAS: To --

9 JUDGE THOMPSON: To what?

10 MR. DRITSAS: -- the objection is assumes facts not in
11 evidence if they were mandatory meetings.

12 JUDGE THOMPSON: What was your question, counsel?

13 MS. DAVILA: If she attended the mandatory meetings with
14 Juan Cruz.

15 JUDGE THOMPSON: Wait --

16 THE WITNESS: They're not --

17 JUDGE THOMPSON: -- wait a minute, remember I said if
18 there's an objection --

19 THE WITNESS: Oh.

20 JUDGE THOMPSON: -- you've got to hold your -- see, all
21 those instructions were important.

22 THE WITNESS: I'm sorry.

23 JUDGE THOMPSON: I'm going to sustain the objection. But
24 counsel, can you rephrase?

25 MS. DAVILA: Yes, Your Honor.

1 Q BY MS. DAVILA: Have you ever attended any meetings with
2 Juan Cruz?

3 A Yes.

4 Q About how many have you attended?

5 A Oh, wow, I don't know, I can't give you a direct -- I
6 don't know how many I've attended.

7 Q More than two?

8 A Let's see, I know we did one in June, but they're not
9 mandatory. We did one in June and then -- was that when we did
10 the voting in June?

11 JUDGE THOMPSON: But you can't hear, you just --

12 THE WITNESS: Oh.

13 JUDGE THOMPSON: -- have to answer the question.

14 THE WITNESS: I don't know. Anyway, I don't know, I can't
15 answer that question, I don't know.

16 Q BY MS. DAVILA: So you've been to at least one?

17 A Yes, definitely.

18 Q Okay. And what was it about?

19 A Just what your rights were.

20 Q You rights about what?

21 A To vote, or not to vote.

22 Q For the Union?

23 A Either way, they --

24 Q Okay. But it was about the Union --

25 A Yes.

1 Q -- is my question.

2 A Yes.

3 Q Okay, good. One second. Okay. And so just so I
4 understand the process; so when employees call in that they're
5 not going to come in, do they have their own phone number that
6 they call in?

7 A No, they call status clerks.

8 Q Okay, the status clerks. And what does the status clerk
9 do with that information?

10 A They send the emails out.

11 Q And who do those emails go to?

12 A It goes to the managers --

13 Q Uh-huh.

14 A -- and then it goes to Vania and it goes to me.

15 Q Okay.

16 A But they seem to always forget me.

17 Q Okay. I'm going to show you a stack of emails where they
18 didn't forget you. I given Respondent's Counsel the -- this
19 stack. And I apologize I don't have a binder -- like a clip or
20 something.

21 A Okay.

22 Q But I sure you have --

23 JUDGE THOMPSON: Okay, counsel, first I need you to --

24 MS. DAVILA: We're going to mark them.

25 JUDGE THOMPSON: -- mark it.

1 THE WITNESS: Okay.

2 MS. DAVILA: I think it's in here.

3 THE WITNESS: I'm going to mark it or you're going to mark
4 it?

5 MS. DAVILA: I'll mark it, sorry.

6 THE WITNESS: Okay.

7 MS. DAVILA: What number are we, 20?

8 MR. DRITSAS: 28.

9 JUDGE THOMPSON: 28.

10 MS. DAVILA: 28.

11 **(General Counsel Exhibit Number 28 Marked For Identification)**

12 JUDGE THOMPSON: I got this one.

13 MS. DAVILA: Thank you.

14 MR. DRITSAS: Your Honor, this is a pretty thick stack, I
15 don't know if we want to take them in off the record and make
16 sure we all have the same stack? I don't know how you want to
17 proceed, but there are probably 40 documents here.

18 JUDGE THOMPSON: Well, I'm going to trust that we all have
19 the same stack and I'm going to have counsel --

20 MS. DAVILA: I can number them.

21 JUDGE THOMPSON: -- to direct us to the specific document
22 that she is going to inquire. I'm hoping that we aren't going
23 to go through every single page of this stack. But to the
24 extent that, Ms. Davila, you can direct us accordingly and
25 you're going to have to kind of be specific with which

1 documents, since they're not page numbered.

2 MS. DAVILA: Yes, I'll just go through the first three.

3 JUDGE THOMPSON: Okay.

4 Q BY MS. DAVILA: So can you --

5 JUDGE THOMPSON: That'll work.

6 Q BY MS. DAVILA: -- so can you read for us the date on the
7 first email?

8 A March 23, 2014.

9 Q And who is the email from?

10 A Peme Wilson.

11 Q And who is that?

12 A Status clerk.

13 Q Okay. And who is that email to?

14 A HLV Trump Hotels Management and then my name is on there.

15 Q And what does the body of the email say?

16 A "The above mentioned GRA is a no call, no show for today."

17 Q And is that a message that you get -- or explain to us
18 what that message means?

19 A That she didn't show up, she was scheduled to work and she
20 didn't show up for work.

21 Q And why did she email you and management?

22 A Because Vania and I are the ones that put in the -- the --
23 what do you call it; the points. And that's why we got it
24 because we have to put in the points in the -- in the call off
25 sheet.

1 Q And why isn't Vania copied?

2 A I think Vania just barely started, if I remember
3 correctly, I think it was two -- I think February 28th is when
4 she started doing that position and they seem to always forget
5 her. She was a hit and miss when she first went into that
6 position, sometimes they would remember to put her name on it,
7 sometimes they wouldn't put her name on it.

8 Q Okay. Can you turn to the next one please? Can you read
9 for us the date on that one?

10 A "Please be informed the Eleuteria Blanco --

11 JUDGE THOMPSON: The -- the --

12 Q BY MS. DAVILA: The date.

13 A -- oh, I'm sorry, March 24, 2014.

14 Q And who is it from?

15 A Peme Wilson again.

16 Q And to -- who is it to?

17 A To Alejandra, Trump Management, and then my name is on it.

18 Q And what does the message say?

19 A "Please be informed that Eleuteria Blanco is a no call, no
20 show for today for shift 8:30 a.m., to 5:30 p.m.

21 Q And again, if you could explain to us?

22 A Like I said, because Vania and I would be putting in the
23 points depending on the --

24 JUDGE THOMPSON: Hold, hold it. I'm sorry, this is what
25 counsel was referring to; that's not my first page -- or second

1 page that was my third page.

2 MS. DAVILA: Sorry, we'll just pull out these two, March
3 24th and March 23rd.

4 JUDGE THOMPSON: I mean, I have them, I just --

5 MS. DAVILA: Oh, okay.

6 JUDGE THOMPSON: -- they were just out of order.

7 MS. DAVILA: Oh, yeah, I'm only going to go through these
8 two.

9 JUDGE THOMPSON: Okay. Okay, go ahead.

10 THE WITNESS: They sent it to -- not just to the
11 management, they would send it to me and Vania because like I
12 said, we're the ones that put the points -- well, if they call
13 off as a no call, no show we put them in the call off calendar.
14 But again, she just started -- I can't remember the exact date
15 when she started, but they would -- it was a hit and miss, they
16 would add her name or not add her name.

17 Q BY MS. DAVILA: Okay. And these were two emails that went
18 to your email address, correct?

19 A Correct.

20 MS. DAVILA: I'd like to introduce GC Exhibit 28, page one
21 and two.

22 JUDGE THOMPSON: You do not want to include the rest of
23 these?

24 MS. DAVILA: No.

25 JUDGE THOMPSON: Okay.

1 THE WITNESS: So I go back to this thing here?

2 JUDGE THOMPSON: No --

3 THE WITNESS: Oh.

4 JUDGE THOMPSON: -- you just stay right there.

5 THE WITNESS: Okay.

6 JUDGE THOMPSON: Counsel, any objections to GC 28, page
7 one and page two?

8 MR. DRITSAS: No, Your Honor.

9 JUDGE THOMPSON: Hearing no objection, I'll receive GC-28.

10 **(General Counsel Exhibit Number 28 Received into Evidence)**

11 JUDGE THOMPSON: And before we move on, do you want to --

12 MS. DAVILA: I'll just --

13 JUDGE THOMPSON: -- collect?

14 MS. DAVILA: -- yeah.

15 JUDGE THOMPSON: So that we don't get lost with all the
16 other documents.

17 MR. DRITSAS: Might as well leave that there because I'm
18 going to talk about them too.

19 JUDGE THOMPSON: Okay. Well, you're going to talk about
20 all the packets or just --

21 MR. DRITSAS: No not all of them, but there's a lot of
22 names with Vania in there. So --

23 JUDGE THOMPSON: Okay.

24 MR. DRITSAS: -- we're going to get those in and some of
25 those.

1 JUDGE THOMPSON: Okay. Ms. Davila, continue.

2 Q BY MS. DAVILA: Okay. Back to the attendance calendar
3 process. So you said you input points; can you describe that
4 process? So do you just input points from information you get
5 from emails or do you get information from somewhere else?

6 A Emails, it comes from the emails the computer like what it
7 says right here.

8 Q Okay.

9 A And before we -- they actually put this as a no call, no
10 show, you'll take it to Alejandra to see if there's anything
11 else. Because like I said, this one right here, there might be
12 an email, like, Vania and I missed because like you see, her
13 name is not on here. Because they have to input ours because
14 we're not part of the management team. Management team is a
15 whole bunch of names inside this little thing right here.

16 Q Uh-huh.

17 A So I don't know what management was there at the time and
18 so her and I have to be separate because we input the points
19 and then we take it to Alejandra and talk to her about it.

20 MR. DRITSAS: Your Honor, can you -- can you identify what
21 she's talking about, she said "This right here"?

22 JUDGE THOMPSON: Let the record reflect that the witness
23 was pointing to the email address that begins, capital T-L-V-H-
24 K Management, and then it has bracket,
25 TLVHKManagement@TrumpHotels.com. Ms. Davila, please proceed.

1 Q BY MS. DAVILA: Okay. So you put in the points from the
2 emails directly?

3 A Correct.

4 Q Okay. And --

5 A Only two days a week though.

6 Q -- okay. And -- but you get the emails on the other days?

7 A Yes, everybody gets the emails, they'll send it because
8 they don't know if Vania is on vacation or not on vacation, so
9 status will try to make sure they send it to me. Sometimes
10 they don't and I have to go ask status who called off for the
11 day.

12 Q So when you say they send it to everybody, you mean you
13 and Vania and the -- and --

14 A The send it --

15 Q -- the management?

16 A -- to all the managers, yeah.

17 Q Okay. And this attendance calendar that you're inputting
18 in is it electronic?

19 A Yes, it's in the computer.

20 Q Okay. And how often are they printed off, if ever?

21 A What do you mean printed out?

22 Q Do you ever print out the attendance calendars; are there
23 hard copies?

24 A If they have to have a write up and the manager is saying
25 there is -- their -- they need the copy of that for the write

1 up we'll print it and give it to the manager.

2 Q Okay. And when did you start putting in information into
3 the attendance calendars?

4 A Oh, I don't know. A long time ago before Alejandro came
5 all us status would help whoever was in that position before
6 Vania, to help them put the points in if they needed help they
7 would -- a manager would ask status to help them put them in or
8 whatever.

9 Q And what position is that?

10 A I don't -- I don't remember what -- I -- like I said, I
11 think she's -- god what did I -- she's like the, I said it
12 before, the coordinator, she's like a coordinator, but I don't
13 know if that's the exact title that Vania is or not.

14 Q That's fine. And was there a status clerk before you?

15 A No.

16 Q So the -- you were the first one to hold the position
17 since you've been there?

18 A Correct.

19 Q Okay.

20 (Counsel confer)

21 Q When -- so if you could look at GC Exhibit 26, this is --
22 I'm just using this calendar as an example.

23 MR. DRITSAS: One second.

24 THE WITNESS: I don't think I have 26.

25 MS. DAVILA: I can give you one.

1 THE WITNESS: It's not all in order.

2 MR. DRITSAS: I think I've got it.

3 MS. DAVILA: I'm giving the witness another copy of 26.

4 THE WITNESS: Oh, it's over here.

5 MS. DAVILA: Okay.

6 THE WITNESS: They're just two piles, so I had to go
7 through the second pile.

8 Q BY MS. DAVILA: Okay. Can you explain to us what's on the
9 top of the second page, that box; what that means?

10 JUDGE THOMPSON: I'm sorry, counsel, what?

11 Q BY MS. DAVILA: The box on top of the -- describing the
12 points system; what is that -- what is that about?

13 A So when they have four points they get a documents verbal
14 coaching, when they have five point -- five points they get a
15 first written.

16 Q Okay. I just need less summary. What is -- what is this
17 describing?

18 A Their points; I don't understand.

19 Q The point -- is this the Hotel's attendance policy?

20 A Yes.

21 Q Okay. And when an -- when an employee reaches one of
22 these point levels how -- how are you alerted to that?

23 A Each time you put in their -- when they call off you'll
24 see it on there.

25 Q So if you, for example, see an employee has reached four

1 points what do you do?

2 A Five it to their manager and tell them that -- that they
3 have four points and then they write them up.

4 Q What manager do you give it to?

5 A Whatever manager is on duty at that time, because I don't
6 usually do it, it's usually Vania that does the main part of
7 that, I don't.

8 Q So you never have told --

9 A Yes, I have told a manager, but like I said, it depends on
10 -- it's only very seldom do I have to do it because it's only
11 two days a week, so it just depends what manager's there at the
12 time.

13 Q I guess my question is, is you and Vania are on the
14 lookout for --

15 A Yes.

16 Q -- when reached point levels?

17 A Correct.

18 Q Okay. Have you ever been told by Alejandra to take off
19 points?

20 A Yes, but she -- she does it, we don't do it she does it
21 and then she'll tell us to make notes. Whenever she takes
22 points off there's notes in the thing to take off the points.
23 She'll tell us how many points and then we take them off and
24 then she'll confirm what we wrote down is -- how many points we
25 take off she'll tell you to take off this many points or

1 whatever and then we do that.

2 Q And why does she take off points?

3 MR. DRITSAS: Objection. Lack of foundation.

4 THE WITNESS: I don't know.

5 JUDGE THOMPSON: Miss -- Ms. Keeran --

6 THE WITNESS: I'm sorry.

7 JUDGE THOMPSON: -- when there's an objection --

8 THE WITNESS: I know, you told me.

9 JUDGE THOMPSON: -- you can't respond. You have to let me
10 deal with the objection first.

11 THE WITNESS: I'm sorry.

12 JUDGE THOMPSON: So let me strike the witness's answer
13 until I can deal with the objection. Counsel, objection?

14 MR. DRITSAS: Lack of foundation; she asked why the
15 manager -- the director does something, she has to establish
16 she has any basis to know why.

17 MS. DAVILA: She said that she writes and explains why
18 Alejandra told her to took off points -- take off points.

19 JUDGE THOMPSON: Well, in that instance I think she's
20 asking based upon her testimony so I'm going to overrule the
21 objection. Could you rephrase the question or restate the
22 question?

23 Q BY MS. DAVILA: When you take off points and you make a
24 note that Alejandra told you to do so what are some of the
25 reasons that you've inputted?

1 A She doesn't tell us the reason she just says remove
2 points. She usually doesn't say the reason, she'll just say
3 remove two points from this employee, or something like that,
4 she doesn't tell us why.

5 Q And do you ever note that it was Alejandra who
6 specifically told you to remove points?

7 A Oh, we always have to note that, yes.

8 Q Okay. And are there instances where someone else besides
9 Alejandra removes points?

10 A Not that I'm aware of, it's only Alejandra that removes
11 that points usually --

12 Q So --

13 A -- oh, Kelvin will remove a point because he's assistant
14 director he'll remove it. And if Alejandra is not there and
15 Kelvin is not there, and it's the last -- resort, they're not
16 supposed to, but maybe a manager might remove it, but usually
17 it's only Alejandra or Kelvin.

18 Q Okay. I'm done with this, thank you.

19 MS. DAVILA: I have no further questions, Your Honor.

20 JUDGE THOMPSON: Counsel, do you need a minute before
21 cross?

22 MR. DRITSAS: I'm --

23 JUDGE THOMPSON: You're ready?

24 MR. DRITSAS: -- I could go either way.

25 JUDGE THOMPSON: Okay. Let's just continue.

1 MR. DRITSAS: Okay.

2 JUDGE THOMPSON: Thank you, Ms. Davila.

3 **CROSS-EXAMINATION**

4 Q BY MR. DRITSAS: Okay. Let's start with the scheduling,
5 Ms. Keeran. You mentioned -- I believe you mentioned forecast,
6 and a vacation sheet; is that right?

7 A Yes.

8 Q By the way, can you take a look at what the -- what the
9 attorney for the Government pointed out, which is Respondent's
10 Number 9, that's a schedule, do you remember that?

11 JUDGE THOMPSON: Actually the witness pointed that out,
12 but go ahead.

13 MR. DRITSAS: Oh, okay.

14 JUDGE THOMPSON: She has it.

15 MR. DRITSAS: Okay, thank you.

16 Q BY MR. DRITSAS: Can you identify whose marking is on
17 here?

18 A Looks like Alejandra's --

19 Q Is it yours.

20 A -- on some and some are mine.

21 Q Where are yours?

22 A Let me find one. Number 50 Theresa Vilchaz (phonetic) is
23 me.

24 Q Which page are you on?

25 JUDGE THOMPSON: Oh, you're --

1 THE WITNESS: Oh.

2 JUDGE THOMPSON: -- she's on page three.

3 THE WITNESS: Three, page three, I'm sorry.

4 JUDGE THOMPSON: Line 50.

5 THE WITNESS: Oh, I'm sorry, just because I had it open on
6 that page, I apologize.

7 JUDGE THOMPSON: That's okay. Counsel, she's at page
8 three of Respondent's Exhibit 9, line 50.

9 Q BY MR. DRITSAS: Okay. And -- and how is it that you made
10 an entry there; what would've been the reason for that?

11 A Alejandra had me change it.

12 Q Okay.

13 A We're not allowed to make any changes unless it comes from
14 Alejandra.

15 Q Okay.

16 A And it's posted on the board so everybody see it.

17 Q So there's some other edits on this document, if you look
18 at the first page, there's a bunch of writing on the second
19 page there's a bunch of writing?

20 A Yeah, it -- it would be Alejandra, Vania, me, or manager.

21 Q And how did these entries or changes get made to the
22 posted schedule?

23 A Alejandra tells the person to change it on the board for
24 her or she'll actually change it. Or to remove people from the
25 schedule and Alejandra is the one that tells you to remove or

1 take away.

2 Q Okay.

3 A Some of the handwriting I don't know. But usually those
4 are the only ones that change anything on the schedule is from
5 Alejandra, and then they put it on the schedule.

6 Q So any entries you made would have been entries directed
7 by Alejandra?

8 A Yes.

9 Q Okay.

10 A We're not allowed to change anything on the schedule at
11 all.

12 Q Okay.

13 (Counsel confer)

14 Q BY MR. DRITSAS: Okay, Ms. Keeran, you testified pretty
15 extensively on the direct, so I'm going to kind of just skip
16 around a little bit. Can you first identify what we've marked
17 as Respondent's 20?

18 A The 12 day forecast.

19 Q Okay. And let's kind of go through that. So the first
20 page, what's happening on the first page as a general matter?

21 A It gives you the arrivals, the departures, the stay overs,
22 the occupancy for the day.

23 Q Okay.

24 A The ones that are highlighted in yellow are the ones that
25 pertain to what goes into the formula in the computer, and

1 highlighted in yellow.

2 Q And then there are some handwritten entries here --
3 handwritten numbers at the bottom. In the middle of the page
4 and at the bottom of the page. Can you identify those?

5 A The middle of the page are the numbers that Alejandra had
6 me write on this paper that she said that the departures and
7 the occupancies for that day, the numbers went up. And she's
8 changed it to these numbers in the middle.

9 Q And what about the bottom of the page?

10 A That is the Hilton departures doesn't get all of the
11 Hilton departures on the sheet, because credits and rooms are
12 two different things. Some of the rooms are two credit versus
13 one credit. So we had to change the numbers at the bottom
14 also. She did, actually.

15 Q Okay. So let's turn to the second page. Tell us what you
16 see here.

17 A The second page is the vacation page.

18 Q So where do the names come from, that get into this
19 document here?

20 A It comes from the vacation sheet that Alejandra gives to
21 me.

22 Q Okay.

23 A And the handwritten marks are the ones that she added at
24 the last minute.

25 Q She being Alejandra?

1 A Yes.

2 Q Okay. And what about the third page?

3 A The third page is the same thing. It's just the
4 inspectors, the directors, assistant directors, linen
5 attendants, and PAD.

6 Q PAD stands for?

7 A Public Area Department, and our housekeeping department.
8 It's just the vacations for all the -- our whole entire
9 department.

10 Q Okay. And how does this document -- you told us how it
11 was amended. How does it get generate?

12 A Alejandra gives the vacation forms that are approved, and
13 then I input them in the computer.

14 Q Okay. That's for the vacation piece. How about the first
15 page? How does that document -- that page get generated?

16 A It comes from Jamie McCartney. And I don't know what
17 department she works, but I just know it comes for, her.

18 Q Okay. Now take a look at Respondent's 21. It's daily --
19 it says, "Daily GRA update, new schedule."

20 A That is the formula that's in the computer that I was
21 talking about.

22 Q Okay. And --

23 A It tells you how many GRAs you need, and how many you have
24 scheduled for that day.

25 Q So, and then lastly is Respondent's 22. The multicolor

1 version.

2 A Yes.

3 Q So that appears to be a schedule?

4 A That's the schedule, yes, sir.

5 Q So can you tell us then how these two documents,
6 Respondent's 20 and 21, are used to get you to the final
7 product 22? Excuse, 20 -- yeah, 22.

8 A Number 20 is the numbers I've put into number 21.

9 Q Okay.

10 A And then that automatically tells you how many GRAs you
11 need, and then you go one-by-one in order. On the schedule it
12 tells you.

13 Q So I think you testified there was something different
14 between the full time and the non-full time?

15 A Yeah. The full time automatically are already set in
16 there. The full time floaters, their days off change.
17 Everybody in grey that says off, their days off do not change
18 at all. Everyone else that are in this -- I don't know what
19 you want to call it -- light green, their days off could
20 change. They could have the same day off for a month, and then
21 all of a sudden it could change depending on what the occupancy
22 is asking. And then the blue OC are the on-call people.

23 Q Okay. And how do we know how the -- well I understand the
24 full time people just have their regular days off, so they're
25 just scheduled unless maybe they're taking a day off, or are on

1 vacation. How is it determined how the other people are
2 assigned hours?

3 A Well the full time floaters will get 40 hours. Then this
4 format here tells you how many people you need each day. So
5 it's done through this format. This --

6 JUDGE THOMPSON: R --

7 THE WITNESS: -- formula.

8 JUDGE THOMPSON: -- or Respondent 21.

9 THE WITNESS: Oh, I'm sorry. 21.

10 JUDGE THOMPSON: Okay.

11 Q BY MR. DRITSAS: Okay. And you're -- you said you feed
12 this off some kind of computer program to get this?

13 A Yes. This right here. This I plug into this, and it
14 tells you right here --

15 Q You've got to take --

16 A -- 20 to 21 --

17 Q -- thank you.

18 A -- tells you how many GRAs you need each day. Like GRAs
19 needed per occupancy is 99. She's scheduled 113.

20 Q She being?

21 A Alejandra.

22 Q Okay. So when is the schedule posted?

23 A On Fridays.

24 Q And do you give your work product to Alejandra? Do you
25 give Respondent's 22, for example, to Alejandra?

1 A Yes. She goes over it. Well, it's in the computer. She
2 doesn't have an actual printed form. It's -- she looks at it
3 in the computer.

4 Q Okay.

5 A But she adds, and takes away, and makes changes, and
6 stuff. And then we print the final copy and it gets -- and she
7 tells me to post it on the board.

8 Q Okay. How are the on-calls scheduled?

9 A Can you rephrase the question? I'm not sure what you're
10 asking.

11 Q Yeah. How do we know -- how does the computer, or --

12 A Oh. It tells --

13 Q -- what's the process?

14 A -- you. If it says you need 50 GRAs, then you just go on
15 row and schedule 50 GRAs straight down.

16 Q Okay.

17 A And she evens it out evenly.

18 Q What does that mean?

19 A The on-call people, she tries to give them all the equal
20 amount of days, trying to go down in a row so that everybody
21 tries to get days instead of --

22 Q I see.

23 A -- the first top -- first on call people getting 40 hours,
24 and the bottom people not getting anything. She tries to even
25 it out completely.

1 Q She being?

2 A Alejandra.

3 Q Okay. Is that a judgment you make, or did she make?

4 A No. She's the one that makes that decision. I just
5 assist in the scheduling.

6 Q Okay. So if we take a look back at Respondent's 8, which
7 I asked you first, that would go -- that would be in the
8 computer --

9 JUDGE THOMPSON: You mean 9.

10 MR. DRITSAS: Excuse me, 9 Your Honor. Thank you.

11 Q BY MR. DRITSAS: That would be in the computer without the
12 markings. And then as the week goes on there's additions or
13 changes made?

14 A Yes. And never take it off the wall. We leave it on the
15 wall, the changes, so that everybody sees what the changes are,
16 including the guestroom attendants. Because a lot of guestroom
17 attendants come and take pictures of the scheduling so that way
18 they see. Instead of constantly printing paper over and over,
19 they just make the changes on the wall.

20 Q Okay. Do you have any responsibility for determining how
21 many GRAs are scheduled on any given day?

22 A No.

23 Q Can you adjust the schedule without permission from
24 Alejandra or a manager?

25 A No.

1 Q Do you also prepare the manager's schedule?

2 A No.

3 Q Okay. Who has the final authority for approving the
4 schedules?

5 A Alejandra.

6 Q Have you ever approved a schedule without Alejandra, or
7 some other manager's approval?

8 A No.

9 Q When do you work on schedules?

10 A On -- it depends. If I get the numbers on Wednesday,
11 sometimes if I'm not too busy with doing Vania's part, if I
12 have a few minutes, I'll try and start it on Wednesday. But
13 usually it starts exactly on Thursdays.

14 Q Okay. And they're -- you said they're posted Friday?

15 A Yes.

16 Q Has an employer ever come to you, said they want to change
17 something on the schedule?

18 A Yes.

19 Q What did you do?

20 A I send them to Alejandra.

21 Q What if someone requests a day off? Do you have authority
22 to grant a day off?

23 A No.

24 Q What do you do?

25 A Send them to Alejandra.

1 Q Have you ever scheduled days off that's not requested --
2 not approved by a manager?

3 A No.

4 Q What if someone wants to leave early? Do you have the
5 authority to grant that?

6 A No.

7 Q Do you have the authority to approve vacations that are
8 not approved by management?

9 A No.

10 Q So sometimes the hotel -- well, strike that. Does
11 Alejandra schedule sometimes more employees than otherwise
12 would be needed if everyone showed up at work?

13 A Yes.

14 Q Okay. So are there are times that maybe you have too many
15 employees?

16 A Yes.

17 Q Okay. And who makes the judgment what happens to those
18 employees, whether they stay or go home?

19 A Management. Alejandra tells -- Alejandra is the one that
20 tells manage -- the floor managers to take away this many GRAs,
21 or not. And they're the ones that do that.

22 Q Okay. Are there times when there are more people
23 scheduled than are needed that you've been told to call
24 employees at home?

25 A Yes.

1 Q All right. Give me an example of that.

2 A They -- if -- well first, they try to give the people the
3 opportunity to go home at Trump and Trump talk. If they have
4 too many GRAs scheduled, it depends. If Alejandra is in --
5 comes to work really super early, then she'll try to start
6 making phone calls. And you go in order, from the top of the
7 seniority list down. If she comes in and the GRAs already are
8 headed, or already at work, then she'll go in the lunch room
9 and tell the managers to see if they can get people to stay
10 home.

11 Q So have you ever called someone and said, "Hey, do you
12 want to take the day off today?"

13 A Yes.

14 Q Okay. Did you have the authority to do that yourself?

15 A No.

16 Q Did you do it at any time without direction from
17 management?

18 A Absolutely not.

19 Q Okay. Are there times when you have needed people, you
20 know, beyond what was scheduled? You were short people.

21 A Yes.

22 Q Have you ever called people too try to bring them in?

23 A Yes I have. But we have to wait until Alejandra gets in
24 to make that decision. Because sometimes we might need people
25 and she'll say, "Don't call them in." So it depends what she

1 makes -- she makes the decision when she comes in. Whatever
2 she decides.

3 Q Okay. Do you have the authority to call in anyone extra
4 because you needed -- because a shift needs people without
5 management approval?

6 A No.

7 MR. DRITSAS: Your Honor, I move admission of Employer --
8 excuse me -- Respondent's 20 through 22.

9 JUDGE THOMPSON: Counsel, any objection?

10 MS. DAVILA: 22 and what?

11 JUDGE THOMPSON: 20 through 22.

12 MS. DAVILA: Okay. No objection.

13 JUDGE THOMPSON: Hearing no objection, I'll receive
14 Respondent's Exhibit 20, 21, and 22 into evidence.

15 **(Respondent Exhibit Number 20 through 22 Received into**
16 **Evidence)**

17 Q BY MR. DRITSAS: And counsel asked you some questions
18 about the attendance log. Do you have the authority to remove
19 points yourself?

20 A No.

21 Q Do you have the authority to issue any discipline based on
22 points?

23 A No.

24 Q Do you have the authority to hire people?

25 A No.

1 Q Are you involved in interviewing or recommending
2 candidates for hire?

3 A No.

4 Q Do you have the authority to transfer people?

5 A No.

6 Q Do you have the authority to suspend people?

7 A No.

8 Q Do you have the authority to lay people off?

9 A No.

10 Q Do you have the authority to recall people from layoff?

11 A No.

12 Q Do you have the authority to promote people?

13 A No.

14 Q Do you have the authority to reward people?

15 A No.

16 Q Do you have the authority to discipline people?

17 A No.

18 Q Do you have the authority to discharge people?

19 A No.

20 Q Other than the scheduling work that you talked about, do
21 you have the authority to assign people?

22 A No.

23 Q Okay. Do you go to management meetings?

24 A No.

25 Q All right. Are you hourly paid or salaried?

- 1 A Hourly.
- 2 Q You're wearing a uniform now, is that right?
- 3 A Yes.
- 4 Q Is that your regular uniform?
- 5 A Yes.
- 6 Q What type of uniform do the other staff clerks wear?
- 7 A Same as I do.
- 8 Q Does management wear a uniform?
- 9 A No.
- 10 Q Are you involved in performing -- in preparing performance
11 appraisals for anyone?
- 12 A Do -- am I involved in what?
- 13 Q Do you prepare performance appraisals?
- 14 A No.
- 15 Q Do you handle any employee complaints or grievances?
- 16 A No.
- 17 Q When you think of your job, Ms. Keeran, is there any part
18 of your job where you exercise any independent judgment and
19 discretion?
- 20 A No.
- 21 Q Okay. Do you know who Ryan Aguayo is?
- 22 A Yes I do.
- 23 Q Do you know who Jose Perez is?
- 24 A Yes I do.
- 25 Q Did you ever tell Mr. Aguayo, with Mr. Perez present, that

1 if the Union came in he would have his hours cut to 20 hours?

2 A No.

3 Q Is there any schedule that you're aware of in the
4 housekeeping department where housemen receive 20 hours a week?

5 A No. That's impossible because they're eight hour shift
6 each day.

7 Q Okay. Do you have the authority to determine how many
8 hours that someone works?

9 A No.

10 Q Did anyone from management ever tell you to tell employees
11 that their hours would be cut if the Union was voted in?

12 A I didn't hear what you said, I'm sorry.

13 Q Did anyone in management ever tell you to tell employees
14 that their hours would be cut --

15 A No.

16 Q -- if the Union was voted in?

17 A No.

18 Q Okay. I may have asked this, but do you have authority to
19 reduce someone's hours?

20 A No.

21 Q What's a hotel out? Have you ever heard of that term?

22 A A hotel -- it's -- hotel out is early out, actually.
23 Someone is going to do an early out.

24 Q Okay. So what does that -- explain it to us. What does
25 that mean?

1 A If someone finished their credits, they can leave early,
2 and it's approved by a manager. Or if someone is sick they
3 might leave early. Then it's a NEO.

4 Q Okay. Do you have authority to grant people early out?

5 A No.

6 Q Have you, after receiving direction from management,
7 informed people that they can have an early out?

8 A If the manager tells someone they can have an early out
9 and they tell us to tell that person, then we'll tell that
10 person. But it has to come from a manager. We're not allowed
11 to say -- to tell them to do an early out, because we'll get in
12 trouble.

13 Q Okay. Now you said -- I think you said two days a week
14 you fill in for Vania?

15 A Yes.

16 Q Okay. And part of your responsibility there, I think you
17 said, was to record the -- to review the e-mails from status,
18 and then translate that into points and electronic calendar?

19 A Yes. We put it on the calendar.

20 Q Okay. Do you have any discretion in that in terms of
21 whether or not you put the points on or not?

22 A No. We have to, and then when Vania comes in I print all
23 my e-mails that I put into points. Because again, sometimes
24 there's a hit and miss that I might not get. And then I paper
25 -- or staple it and hand it to Vania so she knows which points

1 I put in. And then she checks her e-mails to confirm that
2 they're there in case there's one I didn't get, and then she
3 has to input it in. So she knows what I put in or what I
4 didn't put in.

5 Q Okay. Okay, let's see. Take a look at what's marked as
6 General Counsel 28. It's the -- it's the two e-mails. And
7 we're dealing with Ms. -- one with Ms. -- they're both in the
8 block orders. Do you see that? Do you see that?

9 A Yeah, I see it.

10 Q Okay. So are there other -- well, maybe we can do this.

11 (Counsel confer)

12 MR. DRITSAS: Do you still have your stack --

13 JUDGE THOMPSON: I do not.

14 MR. DRITSAS: -- the big stack?

15 JUDGE THOMPSON: Counsel, can you hand me the stack back?

16 THE WITNESS: Do we have the stack still?

17 MS. DAVILA: They should be in order of date.

18 JUDGE THOMPSON: Okay. We'll see how this works.

19 (Counsel confer)

20 Q BY MR. DRITSAS: Okay. So let's just -- not to overly
21 paper this case here, maybe we should just -- if you could just
22 take your stack from April 1 through July 14th.

23 JUDGE THOMPSON: So you want her to grab all of the
24 documents between April 1 and July 14?

25 MR. DRITSAS: Yes, Your Honor.

1 JUDGE THOMPSON: Okay. Do you understand what he's
2 asking?

3 THE WITNESS: Yes.

4 JUDGE THOMPSON: Okay, perfect.

5 Q BY MR. DRITSAS: It should be 11 pages. Actually it might
6 -- the examination will be pretty easy because the documents
7 speak for themselves.

8 Can you tell -- let's take a look at the first page. One
9 dated April 1, 2014. Do you see that, Ms. Keeran?

10 A Yes, I do.

11 Q Is Vania's name and e-mail listed on here?

12 A I don't see her name, but let me go one-by-one. No. Oh,
13 yes, she is.

14 Q Okay. And you were copied on all of these e-mails?

15 A I have to look at each one to see.

16 Q Take a quick look to see if your name is on it.

17 A Okay. Let me look at it, because I didn't look for my
18 name when I was on this one. That one is there.

19 MR. DRITSAS: Well, Your Honor, I mean, the documents
20 speak for themselves. I mean, I'll represent her name -- so
21 this is number 1, except -- and Vania's name is on all of them.
22 So I don't think I need to go through each one. I just move
23 the admission of Respondent's --

24 THE WITNESS: Yeah.

25 MR. DRITSAS: -- 23, and the record can speak for itself.

1 JUDGE THOMPSON: Okay. So Ms. Keeran, counsel doesn't
2 need you to --

3 THE WITNESS: Oh.

4 JUDGE THOMPSON: -- go through this to make sure that your
5 name is on everything because the documents -- there's a rule
6 in evidence that says the documents speak for itself.

7 THE WITNESS: Okay.

8 JUDGE THOMPSON: So where are we, counsel? Respondent 23?

9 MR. DRITSAS: 23, yes, Your Honor.

10 JUDGE THOMPSON: Okay. Ms. Davila, with respect to
11 Respondent Exhibit 23, any objection?

12 MS. DAVILA: No, Your Honor.

13 MR. DRITSAS: Thank you, Your Honor. Let me --

14 JUDGE THOMPSON: Hearing no objection, I'll receive
15 Respondent 23.

16 **(Respondent Exhibit Number 23 Received into Evidence)**

17 MR. DRITSAS: Thank you, Your Honor.

18 Q BY MR. DRITSAS: One other clarification, Ms. Keeran. If
19 you take a look at the first page of Respondent's 23, the first
20 -- the addressee section, right below your name it says Trump
21 LVHK status. Can you tell us what that means?

22 A Hold on. I'm looking for this. If she stands it goes to
23 status also. All the e-mails go to status too.

24 Q So that's all the eight to ten people that you mentioned
25 earlier in your testimony?

1 A Yes.

2 Q Okay. Thank you.

3 (Counsel confer)

4 Q BY MR. DRITSAS: So let's see. There's another one I'd
5 like to ask you about here. Yes. If you take a look at this
6 old attendance roster. November 2012.

7 A Yes.

8 Q So --

9 JUDGE THOMPSON: What is that, GC --

10 MR. DRITSAS: 25.

11 JUDGE THOMPSON: -- 25? Thank you.

12 Q BY MR. DRITSAS: So your name is -- this is your signature
13 on the bottom, right?

14 A Yes.

15 Q Were you a manager in November 2012?

16 A No.

17 Q Who was the director at that time, if you know? Well let
18 me ask this. Was Ms. Magana the director in 2012?

19 A No.

20 Q Okay. Why is it that you signed under the manager
21 approval line?

22 A Because when it goes upstairs it has to have approval on
23 it. And the manager -- if the director wasn't there and we
24 would call and say, "Hey, this isn't signed." And the
25 assistant director is not there, and it's going upstairs for

1 payroll to close, it has to have a signature. And then they
2 would give me approval and say, "Well just sign it." And
3 usually some -- I don't know why I didn't do it, but usually I
4 cross out the manager's approval, and I put status clerk
5 usually on it.

6 Q Okay.

7 A If I had to do it.

8 Q When you said they would tell you to sign, specifically --

9 A Well, I'm sorry, the director. I apologize. The director
10 would tell me.

11 Q So when you signed this document, it was after you had
12 approval from someone in management?

13 A Correct. It was already on the board, but when it goes up
14 -- when it goes to go upstairs, or in the file to be headed
15 upstairs, it has to be signed by somebody.

16 Q What does upstairs mean?

17 A It goes to payroll.

18 Q Okay. Can you take a look at your stack there and find
19 the documents marked GC 13? It's a document that says job
20 description for status clerk leave.

21 A Okay.

22 Q Have you found that?

23 A Yes, sir.

24 Q Have you ever seen this document before?

25 A No.

1 Q Okay. I'm going to ask you about a few things here. Do
2 you supervise the status clerks?

3 A No.

4 Q Do you oversee the duties of the status clerks?

5 A No.

6 Q Do you do anything -- on the second page you'll see
7 there's some reference here to insure lost and found is logged,
8 and inquiries addressed in a timely manner. Do you do that?

9 A No.

10 Q There's a reference here to -- on the second page now --
11 guest preferences and all other reports in Opera. What is
12 Opera?

13 A We don't use -- well we use Opera still, but not quite as
14 much, because we use Rec. That was a thing where if they -- if
15 you wanted to see a guestroom, if it was vacant, clean, or
16 dirty, or needed service, or didn't want service, it was in
17 Opera.

18 Q So is that system no longer used?

19 A We use it, but not quite as -- not like we used to use it
20 before. We don't do the task sheets through there anymore. We
21 used to do task sheets through there, and now we don't. We do
22 it through the Rec system.

23 Q Okay. What's a Rec system?

24 A It's another -- it's kind of like Opera. It's -- we're
25 doing the same thing. We're doing a task -- not a task sheet.

1 Everything is done through IPods. IPods? Is that what they're
2 called? Yeah. And so we plug in -- it tells you the same
3 thing. If the rooms are vacant, clean, or dirty or not, and it
4 interfaces with Hot SOS. So if the guest doesn't want service,
5 or something like that, it'll pop up no service.

6 Q Okay. So there are -- the status clerks, you said they
7 receive phone calls?

8 A Yes.

9 Q Do you ever fill in for status clerks?

10 A Sometimes I do, yes.

11 Q Okay. Depending on breaks, and vacations, and things like
12 that?

13 A Correct.

14 Q And you do the same job duties then as they do?

15 A Yes.

16 Q Okay. You said you assist with the payroll two days a
17 week. What does that involve?

18 A We take the sign-in sheets, and we have -- some people,
19 the finger doesn't work on the timeclock. So we have to look
20 at the time sign-in sheets to see who put their finger doesn't
21 work, and we put one-by-one. And then we have to go in and
22 edit to add their time if they missed a punch in the clock for
23 whatever reason.

24 Q Does any --

25 A That's what they do.

1 Q -- does any manager approve that?

2 A Approves? What do you mean?

3 Q The edits.

4 A We don't -- we -- well, on the sign-in sheets, it tells
5 you if they missed or not, and then we put it on. Vania's the
6 one that approves it at the end. When it goes upstairs for the
7 -- payroll closes, she approves it.

8 Q Okay. So that's looking to see if someone's finger --

9 A Didn't work, yeah. If you -- like say you come to work
10 and clock in at 8:30, and you go to clock in but your finger
11 doesn't work you'll put it on your sign-in sheet that it
12 doesn't work. And then Vania or I go in and add that time that
13 she clocked in. If someone is late, we can't edit without a
14 manager's approval. Like if they come in and say, "Oh, my
15 finger didn't work, but I was here 30 minutes ago," we can't
16 change it. We have to get a manager's approval to change that
17 part of it.

18 Q So when you say your finger didn't work, you have a --
19 some sort of biometric clock?

20 A Yes. Yes.

21 Q Okay.

22 A And everybody has to clock in with their finger.

23 Q Okay. So you can fix a correct clock in, but if you have
24 to edit the time, you have to go to management?

25 A Yes.

1 Q Okay. There was some testimony you had about the opening
2 status clerk, the 4 to 4:30 a.m. status clerk. Something where
3 there may be rooms that are plugged in. I didn't quite
4 understand that. Can you tell me what does a 4 a.m. status
5 clerk do relative to rooms for housekeepers?

6 A They -- on -- they assign the rooms in the morning, but
7 everybody has a section. So you have the schedule, and it
8 tells you on the schedule.

9 Q What are you referring to now? If you refer to something,
10 you've got to let us know.

11 A Oh, okay. It's -- there's no number on it.

12 JUDGE THOMPSON: It's Exhibit -- Respondent's Exhibit 9.

13 THE WITNESS: So right here next to their name it --

14 JUDGE THOMPSON: Page 3.

15 THE WITNESS: -- has what station they are on. And so --

16 Q BY MR. DRITSAS: Can you --

17 JUDGE THOMPSON: Okay.

18 Q BY MR. DRITSAS: -- slow down please. Can you identify
19 where it says the station?

20 A Top on Guadalupe, Barbara, it says STN. Right below it it
21 says 57.2. That is her station.

22 Q Okay.

23 A So you know to put her on 57.2. Everybody has stations.

24 Q Okay. So what is the -- I'm trying to understand. Is the
25 status clerk doing anything at 4 a.m. in the morning?

1 A Yes. She's putting them on their stations. Each person
2 on their stations in the morning.

3 Q And --

4 A To get it ready for the iPods.

5 Q -- okay, I see. So they have preassigned stations, and
6 the 4 a.m. person programs that into the iPod?

7 A Correct.

8 Q Okay. Thank you. Okay. There's one document where
9 Andrew Gam (phonetic) is listed. Let me try to find that.

10 JUDGE THOMPSON: I believe that was on the attendance
11 calendar, counsel.

12 MS. DAVILA: 26. G-26.

13 JUDGE THOMPSON: This is 26.

14 MR. DRITSAS: Okay, got it.

15 JUDGE THOMPSON: Second page.

16 MR. DRITSAS: Thank you, I got it.

17 THE WITNESS: I have to find it.

18 JUDGE THOMPSON: Okay. The witness has to find it.

19 THE WITNESS: Was it Anthony or was it -- 26 is --

20 JUDGE THOMPSON: No. It was -- yeah. He was referring to
21 Andrew.

22 THE WITNESS: Okay. I was going to say --

23 JUDGE THOMPSON: That's what you -- you have it.

24 THE WITNESS: Okay. I was --

25 MR. DRITSAS: At the turn of the second page there.

1 THE WITNESS: -- I was going to say I was confused. Okay.

2 Q BY MR. DRITSAS: So on this entry, I want to make sure I
3 understand it, are you recording what -- how did you come about
4 to record what you did here? Are you recording what you wanted
5 to do, or are you recording what Andrew said, or what somebody
6 else said? You can read it to yourself.

7 A Oh. So, I'm sorry. Okay. I'm not sure exactly word for
8 word what she said to Andrew over at his desk, but when she
9 came to me and asked me about her points, and asked why she had
10 so many points, I explained to her because she wasn't coming
11 back properly for her lunch. And then she walked over to
12 Andrew and then Andrew told me to mark what I had spoken to her
13 about.

14 Q Okay.

15 A Telling that she was confused about the lunch, because she
16 was questioning her points. But like I said, I'm not sure word
17 for word what he said to her. He just said to tell -- put in
18 my words, because he was also trying to explain it to her. And
19 then he asked me to go out to the clock to try and explain to
20 her what 30 minutes was.

21 Q Okay. I want to take you to a different topic now. You
22 testified that there was something dealing with Carmen wanting
23 to have a Hilton room. Do you recall that?

24 A She wanted to be on the Hilton team.

25 Q Okay, just -- I'll get you there. Is that -- do you

1 recall --

2 A Okay.

3 Q -- that question?

4 A Yes.

5 Q Okay. So being on the Hilton team means what?

6 A Just that you're doing Hiltons.

7 Q Okay. So Hiltons are -- they're condominiums owned by
8 people?

9 A They're actually the same room as what the GRAs do. They
10 just get less rooms, and there's dishes in those rooms that --
11 I think. I'm -- don't -- I'm not positive, but I know there's
12 dishes in there. But I'm not sure exactly what the other part
13 is in there.

14 Q Okay. Do you know if Carmen was -- became, or was
15 assigned to be a Hilton GRA?

16 A Yes, she's on the Hilton team now.

17 Q Okay. And do you know how long that's been?

18 A No, I do not.

19 Q Okay. Did you have anything to do with making her a
20 Hilton GRA?

21 A No.

22 Q Okay.

23 MR. DRITSAS: Your Honor, can I have a minute?

24 JUDGE THOMPSON: Yep.

25 (Counsel confer)

1 Q BY MR. DRITSAS: So I'm showing you what's been previously
2 marked as Exhibit -- Respondent's Exhibit 15. This is a
3 redacted version -- well it's a former word -- but it's a
4 whited out version. There was some noting -- some page -- some
5 writing on here which you don't need to concern yourself with.
6 Can you tell us what this is, Ms. Keeran?

7 A This looks like it's from the Hot SOS report.

8 Q Okay. So just have us -- give us a very Reader's Digest
9 view as to what we're looking at here.

10 A It's saying room 5107, which is in the middle. The
11 requestor was Starr Ramacus. And the issue was they wanted
12 extra padding for the sofa bed. And then on the far left is
13 the order number, 1272678. And then below it it tells you who
14 it was created by. It was Starr Ramacus. And it says the GRA
15 is waiting in the room. And then it says it was -- "QA
16 deadline was changed from empty to 6/13/2015 at 4:45 p.m. by
17 housekeeping. Service call callback." So it looks like the --
18 it looks like maybe they called back to see if they got their
19 items or something. And it's -- then the next line says, "No
20 foam padding available. Per runner, none available." And then
21 it was voided by Javier Aguilera.

22 Q Okay. So you said you fill in sometimes for status,
23 right?

24 A Correct.

25 Q So are there times that you are involved in making entries

1 based on calls that come into the status?

2 A Correct.

3 Q And is this an example of a report that is entered by
4 status to track a call, and the steps that are done to see how
5 the call is satisfied?

6 A Yes.

7 MR. DRITSAS: I move admission -- remove admission, Your
8 Honor, of Respondent's 15.

9 JUDGE THOMPSON: Counsel, any objection?

10 MS. DAVILA: Is this different from the -- a copy that you
11 had before?

12 JUDGE THOMPSON: Only except the writing was redacted.

13 MS. DAVILA: Oh. No objection.

14 JUDGE THOMPSON: Hearing no objection I'll receive
15 Respondent's Exhibit 15.

16 **(Respondent Exhibit Number 15 Received into Evidence)**

17 MR. DRITSAS: Thank you, Your Honor. So, Your Honor, I
18 can either stop here and recall this witness, or I can go
19 beyond the scope of the direct. It's your call.

20 JUDGE THOMPSON: Continue.

21 MR. DRITSAS: Okay. Thank you.

22 Q BY MR. DRITSAS: Ms. Keeran, I'm going to show you -- I
23 think it's Respondent's 18. If I can get my office layout.

24 (Counsel confer)

25 JUDGE THOMPSON: Other stack.

1 THE WITNESS: Oh, there's so many stacks.

2 JUDGE THOMPSON: I know. Respondent 18 looks like this.

3 THE WITNESS: Okay. Oh, these aren't in order so I've got
4 to go one-by-one.

5 MS. DAVILA: Your Honor, may we ask -- tell the other
6 witness to leave? I don't know if we're going to get to her.

7 JUDGE THOMPSON: Let me -- counsel, how long do you think
8 you're going?

9 MR. DRITSAS: Probably 10 or 15 minutes.

10 JUDGE THOMPSON: And then you need to -- do you have any
11 redirect, counsel?

12 MS. DAVILA: At this moment, about five to 10 minutes.

13 JUDGE THOMPSON: The other witness that's outside, is it a
14 major witness?

15 MS. DAVILA: Yeah. Alejandra Magana.

16 JUDGE THOMPSON: Okay. Please ask her to --

17 MS. DAVILA: Okay.

18 JUDGE THOMPSON: -- can we stop just a second and go off
19 the record? Off the record.

20 (Off the record at 4:41 p.m.)

21 JUDGE THOMPSON: We are back on the record. Mr. Dritisas,
22 continue, please.

23 MR. DRITSAS: Thank you, Your Honor.

24 Q BY MR. DRITSAS: Ms. Keeran, if you could take a look at
25 what's been marked as Respondent's Exhibit 18. Do you have

1 that in front of you? It starts as a diagram.

2 A Yes, sir.

3 Q And there's a box there that has your name in it. Can you
4 identify that?

5 A That is the desk that I share with housekeeping.

6 Q Okay. And across the way where it says manager floor,
7 what's that?

8 A Across the way in Manager --

9 Q Across --

10 A -- well there's a floor, but that's like right next to my
11 desk.

12 Q Okay. Here, I'll do it another way. Turn, if you would,
13 please, to page 18-E.

14 A 18. I don't have an 18-E. Is it in the same packet?

15 Q Yes, it's --

16 JUDGE THOMPSON: Yes.

17 Q BY MR. DRITSAS: -- in the same packet.

18 JUDGE THOMPSON: The numbers are on the -- the letters are
19 on the side.

20 THE WITNESS: And which letter do you want me to go to?

21 Q BY MR. DRITSAS: E.

22 A Oh E, okay. Okay.

23 Q Okay. So can you identify the desk that's in the front of
24 the picture?

25 A That is the desk that I share.

1 Q Okay. And then what's against -- looking behind your
2 desk, or I'd say forward looking, what is the desk -- what is
3 that row of computers?

4 A That's the manager's computers.

5 Q The floor managers?

6 A Yes.

7 Q Okay. And just to orient yourself, to the right, the
8 closed door is Ms. Magana's door?

9 A Yes.

10 Q Okay. Now in 2000 -- June 2015, did Imelda Cretin work
11 there?

12 A When was it?

13 Q June 2015.

14 A I believe so.

15 Q Okay. And did Anthony Wandick work there?

16 A Yes.

17 Q Okay. So taking a look at Exhibit 18-E, we can see at
18 least four computer screens there.

19 A Correct.

20 Q Did Ms. Cretin have a specific place that she would
21 conduct her business a floor manager?

22 A Yes, she did.

23 Q And where was that? Can you identify that on this
24 picture?

25 A The furthest to the left. The very last one to your left

1 if you're looking at the picture.

2 Q Okay. And how about Mr. Wandick? Where did he --

3 A If you were looking at the door that is closed, he's the
4 second one in.

5 Q Okay. And who was -- was there anyone assigned, or
6 stationed at the first computer right next to Ms. Magana's
7 door?

8 A I'm not sure of the month, but before Blanca went to
9 security, it was her desk. It was right there. The very first
10 one outside Alejandra's door.

11 Q So Blanca was a floor manager. Do you remember her last
12 name?

13 A God, I forgot her last name. That's bad.

14 Q Okay. Anyway, there was a floor manager named Blanca?

15 A She wasn't a floor manager. She was a training manager.

16 Q Okay. She was a training manager. And then she went to
17 security at some point?

18 A Yes. And then it stayed blank for a little bit.

19 Q Okay. And then who -- if Ms. Cretin's computer was on the
20 far left, who would routinely use the one to the immediate
21 right of that?

22 A Nida.

23 Q What's Nida's position?

24 A Floor manager.

25 Q Okay. So tell me, you leave -- what's your regular time

1 of leaving?

2 A I work 7 to 3:30.

3 Q Okay. Do you ever work beyond that?

4 A Once in a great while.

5 Q Okay. Are there -- do you see employees, GRAs, that are
6 turning in their keys during your shift?

7 A Not that often. But usually if they do, they bring it
8 down to the manager usually at 3:30. We have some people come
9 down at 3:30, and they'll give it to Imelda when she was there.

10 Q Okay. But mostly you're gone by --

11 A Yes.

12 Q -- 3:30 or --

13 A Yes.

14 Q -- checking out, leaving?

15 A Yep.

16 Q Okay. Now does Ms. Magana tend to keep her door open or
17 closed? We see it's closed here, but does she tend to keep it
18 open or closed?

19 A It's opened.

20 Q Okay. And from where you are, had you been able -- have
21 you ever been able to overhear what's being said in the room
22 with Ms. Magana?

23 A Yes.

24 Q Okay. Does she sometimes close her door if she's speaking
25 to an employee about something private, or confidential?

1 A Yes.

2 Q Okay. Did you ever hear Ms. Magana ask anyone, you know,
3 their views or sympathies about the Union?

4 A No.

5 Q Did you ever hear her threaten anyone about what would
6 happen if the Union came in?

7 A No.

8 Q Did you ever hear her ask anyone about why they're wearing
9 a Union button?

10 A No.

11 Q Now tell me, have you talked to Ms. Magana yourself about
12 how you've been treated during this organizing campaign?

13 A One incident I went in there to complain about something.
14 But she usually refers us to HR. She'll listen, and then
15 she'll just tell us to talk to HR, or something like that. She
16 won't voice her opinion about anything, which is frustrating.
17 But she doesn't say anything.

18 Q Okay. Did you ever hear Ms. Magana say that Antonia
19 Garcia was a traitor?

20 A No.

21 Q Did you ever hear her call anyone a traitor?

22 A No. That's a word that I wouldn't think she would ever
23 use.

24 Q Okay.

25 MR. DRITSAS: If I can have a minute, Your Honor.

1 (Counsel confer)

2 Q BY MR. DRITSAS: Let me ask about one more thing. Were
3 you present in the EDR at any time when Mr. Wandick addressed a
4 couple of employees that were seeming to have some kind of
5 confrontation?

6 A Yes.

7 Q Okay. Can you tell us approximately when that was, if you
8 recall?

9 A I don't know the dates. I can't tell you the exact date.

10 Q Can you try to place it relative to when the election had
11 been scheduled?

12 A Yeah. It was right there. Right when the election
13 happened.

14 Q Okay. And what did you observe, and what did you hear?

15 A There was a -- one of our employees said something to
16 another employee about voting for a union, and she says, "No,
17 I'm not voting for a union." And Anthony says, "Everyone has a
18 choice."

19 Q Okay.

20 A And then when we got ready to leave the EDR, Anthony says,
21 "I'm going to HR." And I said, "Why?" And he goes, "You know
22 it's going to get twisted, so I'm going to go say." And I
23 says, "Well, I'm your witness. You could have them talk to
24 me." But they never talked to me.

25 Q Okay. Did you hear him tell employees that they must vote

1 no, or that he --

2 A No. He always used the choice word. Everybody has a
3 choice.

4 Q Okay.

5 MR. DRITSAS: I have no further questions, Your Honor, at
6 this time. Thank you.

7 JUDGE THOMPSON: Okay. Thank you. Ms. Davila, give me
8 one second. Okay. Ms. Davila, any redirect?

9 MS. DAVILA: Yes, Your Honor. Just a few questions.

10 **REDIRECT EXAMINATION**

11 Q BY MS. DAVILA: Ms. Keeran, do you speak Spanish?

12 A No.

13 Q Do you understand Spanish?

14 A No.

15 Q Do --

16 A I know my numbers up to 10.

17 Q -- that's more than most. Okay. And you testified that
18 there was an incident where you went to HR to tell them about
19 how you were being treated about the Union, correct?

20 A I testified that there was --

21 Q There was an incident where you went to HR about something
22 about the Union?

23 MR. DRITSAS: That actually misstates her testimony. She
24 said she was told to go to HR.

25 Q BY MS. DAVILA: Okay. There was an incident where you

1 were told by Alejandra Magana to go to HR --

2 A Uh-huh.

3 Q -- about the Union?

4 A Uh-huh.

5 JUDGE THOMPSON: Yes?

6 THE WITNESS: Yes.

7 Q BY MS. DAVILA: Okay. And who did you go to in HR?

8 A God, I don't know. It was either Jeff or Gustavo. I
9 asked about wearing the buttons.

10 Q What did you ask?

11 A If they're allowed to wear union buttons, how come we
12 can't wear non-union buttons? And they said we can if we want.

13 So --

14 Q Okay. And do you wear a non-union button to work?

15 A Yes, I do.

16 Q Okay. Do you have it on right now?

17 A Yes, I do.

18 Q Okay.

19 A I had to look because --

20 Q I didn't see it before you moved your hair.

21 A -- oh, okay.

22 Q It's okay. Can you describe it for the record since we
23 don't have video?

24 A It says non-union. Non; it's circled.

25 Q And what color?

1 A White.

2 Q And all the letters are in capital letters?

3 A Yes.

4 Q Okay. And you're wearing that on the top left hand corner
5 of your chest?

6 A Yes.

7 Q Okay. And below that, is that your name tag?

8 A Yes.

9 Q Okay.

10 A I had to look to see if I had it on today, because it's --
11 you know, I don't pay attention to my uniform. Sometimes it
12 stays on my badge.

13 Q And just so we get a size -- an idea of the size, would
14 you say it's about a diameter of two-and-a-half inches?

15 A I don't know. I mean, if that's what you want to say,
16 that's --

17 JUDGE THOMPSON: Well she can't. You have to.

18 THE WITNESS: Oh. Well, I guess, yes. Maybe an inch-and-
19 a-half.

20 Q BY MS. DAVILA: Okay. And it's a circle?

21 A Yes.

22 Q Okay. And I apologize if I already asked this, but when
23 did you start working at the hotel?

24 A March 2010, 2008.

25 Q Okay. So you've been at the hotel for about five years --

1 A No --

2 Q -- correct?

3 A -- more than that.

4 Q Oh, a little more than five years.

5 A No. 2008, '9, '10 --

6 Q Oh 2008? I thought --

7 A -- '11, '12, '13 --

8 Q -- you said 2010.

9 A -- '14, '15 -- seven years.

10 Q I'm sorry. I thought you said '10.

11 A I'm sorry.

12 MR. DRITSAS: She'll be taking her shoes off here in a

13 minute.

14 THE WITNESS: I had to think when you said like about five

15 years. I'm like, wait a minute. I was like --

16 MS. DAVILA: I'm not good at math, sorry.

17 MR. DRITSAS: It's a trick question.

18 THE WITNESS: I'm sorry. You guys are making me nervous

19 here.

20 JUDGE THOMPSON: None of us are good at math.

21 THE WITNESS: Oh my God. I don't --

22 MS. DAVILA: I'm almost done.

23 THE WITNESS: -- I've never --

24 MS. DAVILA: I'm almost done.

25 THE WITNESS: -- been in court --

1 JUDGE THOMPSON: Well I won't --

2 THE WITNESS: -- in my life.

3 JUDGE THOMPSON: -- don't worry about it. Just -- you're
4 fine. You're doing fine.

5 THE WITNESS: Okay.

6 Q BY MS. DAVILA: Okay. And you've received awards from the
7 hotel, correct?

8 A Yes, I think I received one reward years ago, but I don't
9 remember the year.

10 Q And is the award the Trumpeteer award?

11 A Which one is that?

12 Q Trumpeteer?

13 A Oh my God, what's Trumpeteer? I --

14 Q You don't know?

15 A -- I'm nervous. Oh my God, am I nervous. I won employee
16 of the month once before, but I don't know what year.

17 Q And is there such a thing as a Trumpeteer award?

18 A I don't know, what is a Trumpeteer? I'm going blank?

19 JUDGE THOMPSON: You can't ask her.

20 Q BY MS. DAVILA: If you don't know, it's fine.

21 JUDGE THOMPSON: If you don't know, just --

22 THE WITNESS: I don't --

23 JUDGE THOMPSON: -- say you don't know.

24 THE WITNESS: -- I do not know.

25 Q BY MS. DAVILA: Okay. And you said that before you there

1 was no status clerk leave, correct?

2 A Correct.

3 Q I'm going to introduce GC Exhibit 29.

4 A 29?

5 JUDGE THOMPSON: She's going to give it to you.

6 THE WITNESS: Oh. I thought I was going to look for it.

7 JUDGE THOMPSON: I know it's confusing.

8 MS. DAVILA: And 30 while I'm at it.

9 THE WITNESS: I'm just trying to help.

10 JUDGE THOMPSON: That's okay. You're doing fine.

11 Q BY MS. DAVILA: I'm showing you what's marked as GC

12 Exhibit 29 and 30. For 29 -- this one, correct. Somebody hard

13 numbered them. 29, can you look at that please? Is that your

14 name at the top?

15 A Yes.

16 Q Okay. And can you read the date of that?

17 MR. DRITSAS: Which date?

18 MS. DAVILA: Of today's date on the form. The personnel

19 action form?

20 THE WITNESS: Oh you mean when it was effective?

21 JUDGE THOMPSON: No.

22 Q BY MS. DAVILA: Today's 'date.

23 JUDGE THOMPSON: She means --

24 THE WITNESS: Oh, today's date. Oh, 12/23/2013.

25 Q BY MS. DAVILA: Can you describe what this form is?

1 A It's a personnel action form giving me the promotion to
2 the status clerk lead.

3 Q Okay. And GC --

4 MS. DAVILA: I'd like to move this into evidence, please.

5 MR. DRITSAS: No objection.

6 JUDGE THOMPSON: Hearing no objection I'll receive GC-29.

7 **(General Counsel Exhibit Number 29 Received into Evidence)**

8 Q BY MS. DAVILA: And I just want to -- sorry, back to 29.

9 Would you just note the position that you had before was --

10 A Status clerk.

11 Q Okay. And then GC Exhibit 30.

12 A It says 12/24/13.

13 Q And the position title?

14 A Status clerk lead.

15 Q Okay. And -- let's see.

16 MS. DAVILA: I'd like to move this into evidence, please.

17 MR. DRITSAS: Your Honor, there's no foundation this

18 witness has seen this. Looking at it to me, it looks like a

19 management document. Her name is not on it for signature. So

20 lack of foundation.

21 MS. DAVILA: I'd like to move it into evidence. If they

22 want to challenge the authenticity --

23 JUDGE THOMPSON: Well I can't -- okay. First of all --

24 MR. DRITSAS: I'm not challenging authenticity, just to be

25 clear. I just don't think this witness has got the foundation

1 to say what's anything on this document.

2 JUDGE THOMPSON: Ms. Davila, did you ask the witness what
3 this document was?

4 MS. DAVILA: I'm sorry?

5 JUDGE THOMPSON: Did you ask this witness what this
6 document was?

7 MS. DAVILA: Not yet, not.

8 JUDGE THOMPSON: What did you ask her?

9 MS. DAVILA: I asked her for the date and the position
10 title that it was creating.

11 MR. DRITSAS: Well --

12 JUDGE THOMPSON: Okay. Can I get out of -- I mean, can I
13 get a little more examination as to the nature of this document
14 before I can rule on the objection?

15 Q BY MS. DAVILA: Okay. Ms. --

16 JUDGE THOMPSON: At this point, I'm not certain if this
17 document has been -- although counsel doesn't challenge this,
18 I'm not certain that this document has been properly
19 authenticated yet.

20 Q BY MS. DAVILA: Okay Ms. Keeran, was the status clerk lead
21 position that you took an appointed to a position title?

22 A Yes.

23 Q And was 12/24/2013 around the time that you assumed that
24 position?

25 A Probably, yes.

1 Q Okay. And did you start at the hourly rate of 18.07?

2 A I'm not -- if that's what it says, then yes. But I'm not
3 sure exactly if I did or didn't.

4 Q Okay.

5 A I don't remember that. I don't want to say I did if I
6 don't remember.

7 Q Okay. Have you ever seen this document before?

8 A No.

9 Q Okay.

10 MS. DAVILA: If counsel will stipulate to authenticity
11 I'll move to introduce it to the record.

12 JUDGE THOMPSON: Mr. Dritsas, I know you said you weren't
13 challenging authenticity, but now counsel is asking if you
14 would stipulate to it.

15 MR. DRITSAS: Right. Well listen, I'm not going to play
16 games. It's a Trump document. So I don't want to delay things
17 unnecessarily. I guess I'd have an objection then as to the
18 relevance of it, and that there hasn't been any foundation laid
19 that this witness has any personal knowledge of it. But I'm
20 not going to say it's not a Trump document.

21 JUDGE THOMPSON: Okay. With counsel's statement, and the
22 questions that you've asked the witness, I'm satisfied that
23 it's been properly authenticated. So I'm going to move it --
24 I'm going to agree to receive it into evidence. Counsel has
25 also raised the objection of relevance, so I'm not certain if

1 you're finished questioning on this document, Ms. Davila. But
2 are you offering this just to show what it purports to state on
3 the document?

4 MS. DAVILA: I'm offering it to show that it's the cover
5 page to this GC Exhibit 22.

6 MR. DRITSAS: I can't stipulate to that, Your Honor. I
7 don't know.

8 JUDGE THOMPSON: Okay. Well then we'll have -- you'll
9 have to keep asking questions.

10 MS. DAVILA: Okay.

11 JUDGE THOMPSON: Okay. So it's received. GC Exhibit 30
12 is received.

13 **(General Counsel Exhibit Number 30 Received into Evidence)**

14 Q BY MS. DAVILA: And can you -- do you see where it says,
15 "Essential functions reviewed attached job description"?

16 A Yes.

17 Q Is that box checked?

18 A Yes, it's checked.

19 Q Okay. And if -- I'll refer you back to GC Exhibit 22, I
20 believe. Somebody didn't describe it.

21 JUDGE THOMPSON: 22?

22 MS. DAVILA: Yes.

23 JUDGE THOMPSON: Okay. Oh, another pile.

24 THE WITNESS: Yeah. I don't know which pile it's in,
25 because we've had so much paper. I don't know what I'm looking

1 for.

2 JUDGE THOMPSON: You're going to be looking for a document
3 that looks like this.

4 MS. DAVILA: I'm sorry, it's 23 then.

5 JUDGE THOMPSON: Oh, 23.

6 MS. DAVILA: I just don't have it marked on my own copy.

7 JUDGE THOMPSON: All right. Okay, that's not 23. This is
8 23.

9 THE WITNESS: Okay.

10 JUDGE THOMPSON: This is --

11 THE WITNESS: I'm trying to find it.

12 JUDGE THOMPSON: -- 22.

13 THE WITNESS: Do I need to find mine, or can I use this?

14 MS. DAVILA: You can use that if you want.

15 THE WITNESS: Okay. And so --

16 JUDGE THOMPSON: Wait. Well hold on. What document is
17 that?

18 MS. DAVILA: It's the one for status clerk leave.

19 JUDGE THOMPSON: Okay. Well we need to find what exhibit
20 then?

21 THE WITNESS: Is it here?

22 JUDGE THOMPSON: 13?

23 THE WITNESS: It's this.

24 MS. DAVILA: Okay, yeah 13.

25 JUDGE THOMPSON: Okay.

1 MS. DAVILA: Oh, that's mine. Okay.

2 JUDGE THOMPSON: Okay.

3 THE WITNESS: Is it this one?

4 MS. DAVILA: Yeah.

5 THE WITNESS: Okay.

6 Q BY MS. DAVILA: And the -- could you read for us the date
7 that says -- that's titled on this document?

8 A 12/27/2013.

9 Q Okay. Thank you.

10 MS. DAVILA: Okay. No further questions, Your Honor.

11 MR. DRITSAS: Well --

12 JUDGE THOMPSON: I don't know --

13 MR. DRITSAS: -- I'd like to voir dire the witness then,
14 Your Honor.

15 JUDGE THOMPSON: -- certainly.

16 **VOIR DIRE EXAMINATION**

17 Q BY MR. DRITSAS: Looking at Exhibit 30, Ms. Keeran, have
18 you ever seen this document before?

19 A Oh, you mean 13? Oh, that one? No.

20 MR. DRITSAS: So I said I'm not going to challenge this as
21 a Trump document, but there's certainly no foundation laid that
22 she received anything. So that's my position.

23 JUDGE THOMPSON: Okay. Counsel, initially you indicated
24 you were offering this to show that GC 30 goes with GC 13,
25 correct?

1 MS. DAVILA: Correct.

2 JUDGE THOMPSON: Okay. I don't have that connection.

3 MS. DAVILA: Your Honor, she stated that she was the first
4 person to take that job. The job description is within days of
5 -- one is 12/27/13 and one's 12/24/13.

6 JUDGE THOMPSON: Oh, okay. I mean, I -- okay. All right.
7 Based on that, counsel --

8 MR. DRITSAS: Well, Your Honor -- I mean, excuse me for --
9 I don't mean to interrupt.

10 JUDGE THOMPSON: No, no. Go ahead.

11 MR. DRITSAS: 12/24 predates by my count 12/27.

12 JUDGE THOMPSON: Correct.

13 MR. DRITSAS: So there's --

14 MS. DAVILA: On the same line it says 12/30/13 it's
15 signed.

16 JUDGE THOMPSON: Counsel, let me make it easy for you.
17 I'm going to allow -- I'm going to admit the document, and I
18 will have to accord the appropriate weight based upon what
19 counsel is alleging these two documents to purport to be
20 together, and why they are together, and all of the reasons
21 that counsel has introduced, or is trying to introduce these
22 for that purpose. I will have to accord the weight based upon
23 the testimony that was elicited from Ms. Davila and yourself in
24 voir dire.

25 MR. DRITSAS: Thank you, Your Honor.

1 JUDGE THOMPSON: I can never say that right.

2 MR. DRITSAS: Voir dire.

3 JUDGE THOMPSON: So I'm going to overrule the objection,
4 and let the documents in, and as you have indicated on multiple
5 occasions, the documents speak for themselves.

6 MR. DRITSAS: Okay, Your Honor. Thank you.

7 JUDGE THOMPSON: Ms. Davila, continue.

8 MS. DAVILA: No more questions, Your Honor.

9 JUDGE THOMPSON: Nothing further?

10 MS. DAVILA: Well at least --

11 JUDGE THOMPSON: Ms. Keeran, thank you so very much --

12 THE WITNESS: Thank you.

13 JUDGE THOMPSON: -- for your testimony today. We
14 appreciate your patience with us. Thank you very, very much.
15 You are excused, and have a wonderful rest --

16 THE WITNESS: Okay, thank you.

17 JUDGE THOMPSON: -- of your day. Thank you, so much.

18 THE WITNESS: I just don't know. Do I go out this way to
19 the --

20 JUDGE THOMPSON: That way. Counsel, I think we're going
21 to adjourn for the day and return tomorrow with our next
22 General Counsel witnesses. Is there anything -- any other
23 housekeeping issue that we need to address on the record before
24 we conclude today?

25 MS. DAVILA: Not from me.

1 JUDGE THOMPSON: Ms. Ovieda, welcome.

2 MS. OVIEDA: Hi. I have to run. Stopping for the travel
3 issues.

4 JUDGE THOMPSON: That's okay. Anything further?

5 MS. DAVILA: Not from the General Counsel.

6 MR. DRITSAS: Not from Respondent, Your Honor.

7 JUDGE THOMPSON: Okay. I'll see you guys tomorrow at 9
8 a.m. We are adjourned.

9 **(Whereupon, the hearing in the above-entitled matter was**
10 **recessed at 5:06 p.m. until Tuesday, December 01, 2015 at 9:00**
11 **a.m.)**

12

13

14

15

16

17

18

19

20

21

22

23

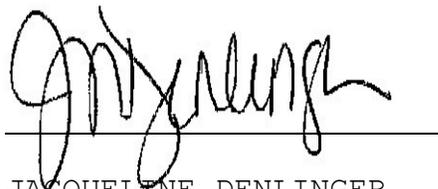
24

25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Monday, November 30, 2015, at 9:03 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: December 1, 2015

Pages: 954 through 1204

Volume: 6

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Tuesday, December 1, 2015, at 9:02 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Ryan Aguayo	961	967	973		
Janet Vazquez	979	993	1000		981
Celia Vargas	1005	1047	1088		
Alejandra Magana	1098	1165			1193

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-31	965	965
GC-32	982	982
GC-33	1010	1010
GC-34	1147	1147
Respondent:		
R-24	973	973
R-25	1064	1064
R-26	1172	1172
R-27	1172	1172
R-28	1191	1191
R-29	1195	1195

1 P R O C E E D I N G S

2 JUDGE THOMPSON: We are back on the record continuing the
3 trial of Trump Ruffin Commercial LLC, doing business as Trump
4 International Hotel Las Vegas, and Local Joint Executive Board
5 of Las Vegas, affiliated with Unite Here International Union.
6 Today is Tuesday, December 1, 2015; I'm Judge Thompson,
7 Administrative Law Judge, National Labor Relations Board, San
8 Francisco Division of Judges. I'm presiding in Region 28's
9 office -- strike that -- Region 28's Las Vegas, Nevada office.

10 Joining me are counsel of record, Judith Davila and Elise
11 Oviedo on behalf of the General Counsel and William Dritsas and
12 Ronald Kramer on behalf of the Respondent.

13 Good morning, Counsel.

14 MR. DRITSAS: Good morning.

15 MS. DAVILA: Good morning, Your Honor.

16 MS. OVIEDO: Good morning, Your Honor.

17 MR. KRAMER: Good morning.

18 JUDGE THOMPSON: Also joining us is our interpreter Ms.
19 Renee De Gascon. I believe -- well, before I say that I just
20 want to remind everyone to silence their cell phone, including
21 witnesses so that it won't go off during the trial. And also
22 reminder that the order to sequester witnesses is still valid.
23 Having said that, any housekeeping matters we need to address
24 before we continue with the GC case?

25 MS. DAVILA: Not from the General Counsel, Your Honor.

1 MR. DRITSAS: Not at this time, Your Honor.

2 JUDGE THOMPSON: Okay. Perfect. Ms. Davila, would you
3 like to call your next witness?

4 MS. DAVILA: Yes, Your Honor. The General Counsel calls
5 Ryan Aguayo.

6 JUDGE THOMPSON: Aguayo?

7 MS. DAVILA: Yes.

8 JUDGE THOMPSON: Okay. Good morning, Mr. Aguayo, how are
9 you?

10 MR. AGUAYO: Where should I sit?

11 JUDGE THOMPSON: I'm sorry, this chair here.

12 MR. AGUAYO: Pretty good, how about yourself?

13 JUDGE THOMPSON: I'm good. Thank you. As I introduce
14 myself I'm Judge Thompson. I've been assigned as the Judge to
15 preside over this trial. You have been called as a witness to
16 testify in this case. But before you do I need to swear you
17 in. So could you raise your right hand?

18 Whereupon,

19 **RYAN AGUAYO**

20 having been duly sworn, was called as a witness herein and was
21 examined and testified as follows:

22 JUDGE THOMPSON: Either yes or no.

23 MR. AGUAYO: Yes.

24 JUDGE THOMPSON: Okay. Great, thank you. Okay. Mr.
25 Aguayo, could you state your name for the record?

1 THE WITNESS: Ryan Aguayo.

2 JUDGE THOMPSON: Aguayo, how do you spell your last name?

3 THE WITNESS: A-G-U-A-Y-O.

4 JUDGE THOMPSON: Aguayo, got it. Okay. Mr. Aguayo, let
5 me give you a few instructions before you provide your
6 testimony. I want you to keep these instructions in mind as
7 the counsel ask you questions. Number one, as you see there is
8 a microphone to your left. You don't have to lean in because
9 we'll be able to capture your testimony. But we would like for
10 you to give us a verbal response to any questions and try to
11 avoid saying huh-uh or uh-huh because our court reporter can't
12 transcribe huh-uh. So if you can give us a verbal response
13 we'd appreciate that.

14 Next if either attorneys ask you a question and you don't
15 understand what they're asking you, please tell them, I don't
16 understand and so that way they can repeat the question for you
17 and if they have to restate it any number of times please
18 request that they do so, so that you can understand the
19 question. If you answer we will presume you understood what
20 they asked you.

21 Next, if either of the attorneys object, they're going to
22 say, objection, and then they're going to state their
23 objection. I need you to hold your answer when somebody says
24 objection until I can address their concern. And lastly often
25 times you may know where the attorneys question is headed and

1 so you'll interrupt to answer the question. That makes the
2 transcript difficult to read because then we have part of a
3 question and the cut off and then part of your answer. So
4 would you mind holding your response until counsel has finished
5 their question and then answer. We would appreciate it. Would
6 you do that for us?

7 THE WITNESS: Yes, I will.

8 JUDGE THOMPSON: Great. Thank you, so much.

9 Ms. Davila, your witness.

10 **DIRECT EXAMINATION**

11 Q BY MS. DAVILA: Good morning, Mr. Aguayo. My name is
12 Judith Davila with the National Labor Relations Board. My co-
13 counsel is Elise Oviedo.

14 Could you tell us where you work, please?

15 A Trump International Hotel.

16 Q When did you start working there?

17 A I started working there like a year, a little bit more
18 than a year.

19 Q Okay. And what position did you start at?

20 A I started as a GRA.

21 Q And what department is that in?

22 A That's housekeeping department.

23 Q Okay. Did you start off as an on-call or full time
24 employee?

25 A I started as on-call.

1 Q Okay. And what position do you have right now?

2 A Right now I'm a shampoo porter.

3 Q When did you start being a shampoo porter?

4 A Right now you can say like six months.

5 Q And are you full time or on-call?

6 A I am on-call right now.

7 Q On average how many hours a week do you work?

8 A Well, I've been working around 40 hours this past month,
9 normally I take like two, three days off. Three days off,
10 sorry.

11 Q Who is your supervisor?

12 A My supervisor you can say is Alejandra, Kelvin. Those are
13 my managers, I don't know specifically supervisor, but yeah.

14 Q And are shampoo porters considered part of the
15 housekeeping department?

16 A Yes, it is.

17 Q Okay. Do you attend Trump Talks?

18 A Sometimes.

19 Q Are you required to attend Trump Talks?

20 A Yes, but sometimes I only go in by myself at 9:30 because
21 there's only two shampoo porters. So no, sometimes I don't and
22 sometimes I do.

23 Q Okay. Do you know about the campaign to organize a union
24 at the hotel?

25 A Yes, I do.

1 Q How did you learn about it?

2 A By this lady Carmen told me about the benefits of the
3 union and I liked it because I don't get the benefits from
4 Trump.

5 Q And do you know Carmen's last name?

6 A No, I don't, sorry.

7 Q Do you remember when she told you about it?

8 A She told me like when I first worked, second, third month,
9 I can't remember. I don't remember.

10 Q I'm going to ask you, there's a stack of papers there, or
11 a file of papers there. In the second slot there is something
12 called GC Exhibit 16.

13 A Okay.

14 JUDGE THOMPSON: Let the record reflect that the witness
15 has been given GC-16.

16 Q BY MS. DAVILA: Do you recognize what's on this paper?

17 A Yes, I do.

18 Q Can you describe it for us?

19 A This is a union button and this is people who are
20 following the union, yeah.

21 Q Are you a leader?

22 A No, I'm not, I just follow the union.

23 Q Do you wear either of these buttons?

24 A Yes, I do. I wear this one right here.

25 MS. DAVILA: Let the record reflect that the witness is

1 pointing to the second button, the yellow one on GC Exhibit 16.

2 Q BY MS. DAVILA: Where do you wear your button?

3 A I wear it on my left shoulder, my left shoulder.

4 Q Okay. Do you wear it to work? Do you wear it to work?

5 A Yes, I wear it to work.

6 Q Okay. Do you wear it every day?

7 A Yes, I wear it every day.

8 MS. DAVILA: I'm going to introduce what's GC Exhibit --

9 JUDGE THOMPSON: 31.

10 MS. DAVILA: Okay. I'm handing the witness what's been
11 marked as GC Exhibit 31.

12 Q BY MS. DAVILA: Do you recognize what's on this form?

13 A Yes, I do.

14 Q Can you tell us about it?

15 A Yeah, when I signed it they told me that it was going to
16 help me and I signed it.

17 Q What is it exactly?

18 A I don't know. I can't tell you this. I just signed it
19 because they told me it was good for my benefits.

20 Q Who told you?

21 A Carmen.

22 Q And she told you as part of the union?

23 A Yeah.

24 Q Okay. Can you read the date for us on it?

25 A Yes, the date on this is 3/20/15.

1 MS. DAVILA: Okay. I'd like to move in GC Exhibit 31.

2 MR. KRAMER: No objection.

3 JUDGE THOMPSON: Hearing no objection I will receive GC-
4 31.

5 **(General Counsel Exhibit Number 31 Received into Evidence)**

6 Q BY MS. DAVILA: Do you remember having a conversation with
7 Christina Keeran about the union?

8 A Yes, I have. Yes, I do.

9 Q Do you remember when that conversation was?

10 A I don't know exactly the date but, yeah, I remember a
11 little bit of the conversation.

12 Q Where were you?

13 A I was in the office, the housekeeping office.

14 Q Were you inside, outside?

15 A Inside checking my schedule.

16 Q Were you alone?

17 A No, I had my friend Jose with me.

18 Q Do you know his last name?

19 A Perez.

20 Q And does he work at the hotel?

21 A Yes, he does.

22 Q What position does he have?

23 A He's a houseman.

24 Q Do you remember if you were wearing your union button that
25 day?

1 A Yes, I was.

2 Q Do you remember what time of day it was?

3 A Yeah, it was early in the morning.

4 Q Had you already clocked in?

5 A Yeah.

6 Q And where are the schedules located in the housekeeping
7 office?

8 A Right when you walk in its on your left side.

9 Q Was Christina standing there when you got there?

10 A Yes, she was.

11 Q And then what happened?

12 A And then she told me, oh, did you vote for the union and I
13 said, yes, and she said do you know that if you wear that
14 button and the union comes in you're only going to get 20
15 hours, 20 hours every pay period. I said, no, I didn't know
16 that.

17 Q What did you respond, I'm sorry?

18 A Twenty hours every week or 20 hours every pay period, I
19 don't really remember, but yeah, she told me something like
20 that.

21 Q Did you respond?

22 A No, I didn't.

23 Q Did Jose respond?

24 A Yes, he did, but I don't remember what he said. I don't
25 remember what we said exactly because it happened a long time

1 ago. I'm sorry.

2 Q It's all right. Was anyone else around besides you and
3 Jose?

4 A Yeah, there was other people but I don't quite remember
5 their names or faces. Like I told you this happened a long
6 time ago.

7 Q Did you wear your button after this conversation?

8 A Yes, I did.

9 Q When is the last time you wore your button?

10 A Yesterday.

11 MS. DAVILA: No further questions, Your Honor.

12 JUDGE THOMPSON: Thank you, Ms. Davila. Mr. Dritsas or
13 Mr. Kramer?

14 MR. DRITSAS: Can we have a Jenks statement, please?

15 Can we have a few minutes for review, Your Honor?

16 JUDGE THOMPSON: Yes. Off the record.

17 (Off the record at 9:15 a.m.)

18 JUDGE THOMPSON: We're back on the record.

19 **CROSS-EXAMINATION**

20 Q BY MR. KRAMER: Good morning, Mr. Aguayo my name is Ron
21 Kramer I'm one of the attorneys for the hotel. The -- you
22 started off as an on-call GRA; is that right?

23 A Yes.

24 Q And you were promoted to houseman; is that correct?

25 A Yeah.

1 Q And that's -- the porter job is a houseman job; is that
2 right?

3 A Yeah.

4 Q And you were promoted around June; is that right?

5 A Yeah.

6 Q Okay. Of 2015?

7 A Yeah.

8 Q Okay. And this was after you had been wearing union
9 buttons; is that correct?

10 A Yeah.

11 Q And when was it exactly you started wearing your union
12 button; do you recall?

13 A I remember but it was like two, three months after I
14 started working there.

15 Q All right. Well, you started working in September 2014;
16 is that right?

17 A Yeah, September 2014.

18 Q Okay. Now General Counsel Exhibit 31, which you talked
19 about, which you said was dated March 20, 2015; do you see that
20 document?

21 A Yeah.

22 Q Do you know when it was in relationship to when you signed
23 that document that you began wearing the union supporter
24 button?

25 A I was wearing it already.

1 Q Before that?

2 A Yeah, before that.

3 Q Okay. Do you remember whether or not you were wearing I
4 tin 2014?

5 A 2014, was I? Yeah, I think -- no, I don't think I was
6 wearing it in 2014.

7 Q Okay. But you were wearing it at least a month or so
8 before March?

9 A Uh-huh.

10 JUDGE THOMPSON: Yes?

11 THE WITNESS: Yes.

12 Q BY MR. KRAMER: And you wore it consistently every day?

13 A What was that, can you repeat that?

14 Q You wore it basically every day you worked?

15 A Yeah.

16 Q And you continued to wear it throughout this period even
17 after talking to Ms. Keeran?

18 A Yeah.

19 Q Okay. And you provided a statement to the National Labor
20 Relations Board at one point in time; is that right?

21 A Yes.

22 Q Do you remember when it was that you did that?

23 A No, I don't.

24 Q Okay. Did you talk with Mr. Perez before your testimony
25 here today?

1 A No, I didn't.

2 Q Okay. When's the last time you talked to him about what
3 happened that day?

4 A Never. I never talked to him about that day.

5 Q You never talked to him about it? And I take it you spoke
6 with the Board attorney before today?

7 A Could you repeat that again?

8 Q Yeah, did you speak with Ms. Davila before your testimony
9 today?

10 A No, I didn't.

11 Q Okay. And did you speak with the union about your
12 testimony?

13 A No, I didn't.

14 (Counsel confer)

15 Q BY MR. KRAMER: Mr. Aguayo?

16 A Yes.

17 Q Back in October do you remember being in the EDR with your
18 friend Mr. Perez when he got into an argument with Carmen?

19 A Yes.

20 Q Okay. And Carmen got aggressive with Mr. Perez in that
21 conversation; didn't she?

22 A Yes.

23 Q And you were there for that?

24 A Yes, but I wasn't paying attention at that, but yes, I was
25 there.

1 Q Okay. Well, you certainly heard that she got aggressive;
2 is that correct?

3 A Yes, she did.

4 Q And you did try and calm things down; didn't you?

5 A Yes, I did.

6 Q And Ms. Llarull basically -- excuse me, Carmen was trying
7 to convince Mr. Perez's -- to convince his girlfriend to join
8 the union; is that right?

9 A Yeah.

10 Q And Carmen told Mr. Perez that he should stop talking
11 stupidly; is that correct?

12 A Exactly, yeah.

13 Q Okay. And you made a statement about what happened to
14 human resources; is that correct?

15 A Yeah, but I don't really remember what I wrote on the
16 statement.

17 Q Okay. It's 24. Can I hand you what's been marked as
18 Respondent's Exhibit 24?

19 A Thank you, sir.

20 Q If you can take a look at that and let me know when you've
21 had a chance to look at it? You know what? I gave you the
22 wrong one. Let me give you -- I apologize, we're going to give
23 you a different 24.

24 A Do you want to take this back?

25 Q Yeah.

1 JUDGE THOMPSON: Let the record reflect that we are
2 returning what is previously been marked as Respondent 24. We
3 are returning it back to counsel.

4 THE WITNESS: Yeah.

5 Q BY MR. KRAMER: Do you recognize that?

6 JUDGE THOMPSON: You should read to yourself because the
7 record will catch everything you say.

8 THE WITNESS: Oh, I'm sorry, I'm sorry.

9 JUDGE THOMPSON: That's okay.

10 THE WITNESS: I'm --

11 Q BY MR. KRAMER: Can you identify that document?

12 A Yes.

13 Q Is that the statement that you provided to HR?

14 A Yeah, this is mine.

15 Q All right.

16 A It's my signature.

17 Q And you provided that on October 11th?

18 A October 11?

19 JUDGE THOMPSON: Make sure you speak up.

20 THE WITNESS: Yeah, October 11 and that's my signature.

21 Q BY MR. KRAMER: And that was the date the incident
22 occurred?

23 A Yeah.

24 Q Okay.

25 MR. KRAMER: I'd like to move for the admission of

1 Respondent's Exhibit 24.

2 MS. DAVILA: No objection.

3 JUDGE THOMPSON: Hearing no objection I'll receive
4 Respondent Exhibit 24.

5 **(Respondent Exhibit Number 24 Received into Evidence)**

6 MR. KRAMER: We have no further questions, Your Honor.

7 JUDGE THOMPSON: Thank you. Ms. Davila, any cross? I'm
8 sorry, redirect?

9 MS. DAVILA: Just a few, Your Honor.

10 JUDGE THOMPSON: Sure.

11 **REDIRECT EXAMINATION**

12 Q BY MS. DAVILA: Mr. Aguayo, you said Christina was the one
13 who told you about the reduction in hours; correct?

14 A Yes, she did.

15 Q Do you know what Christina's position is?

16 A I think she's an attendance lady. Yeah.

17 Q What does that mean?

18 MR. KRAMER: Your Honor, I'm going to object as outside
19 the scope and, you know, I don't have a chance to recross. So
20 it seems to me that this is a, you know, unfair, Your Honor.

21 MS. DAVILA: I'm just asking him to identify her.

22 JUDGE THOMPSON: I don't think it's outside of what's been
23 going on. So I'm going to allow the witness to answer the
24 question.

25 Ms. Davila, would you repeat it, please?

1 Q BY MS. DAVILA: What does the attendance lady mean?

2 A Attendance lady is the one that tells your attendance and
3 takes your schedule or something like that. She takes my
4 schedule and fixes my attendance sometimes. That's who I talk
5 to.

6 Q Does she have her own office?

7 A No --

8 MR. KRAMER: Objection, Your Honor, again, there is an
9 issue of supervisory status here. Counsel put this person on
10 for one specific thing. I crossed on that one specific thing,
11 didn't even ask what Ms. Keeran did, and now we're going into
12 supervisory criteria or an attempt at supervisory criteria, on
13 cross -- redirect.

14 JUDGE THOMPSON: I understand your concern, Mr. Kramer.
15 Ms. Davila, because of how this is working in terms of direct,
16 cross, redirect, although I will -- I allowed you to at least
17 have him define that I can't let you go into all that
18 questioning or else there will be some due process issues. But
19 I allowed you to ask that question to identify who Ms. -- who
20 he -- who the witness believed Ms. Keeran was, and her position
21 but because there wasn't any direct examination on that point I
22 can't allow you to go any further.

23 So I have to sustain the objection, but I will allow the
24 question to -- allow your previous questions to stand on the
25 issue.

1 MS. DAVILA: Okay. I can move on.

2 Q BY MS. DAVILA: Mr. Aguayo, do you know who Carmen is?

3 A Carmen is one of the union leaders.

4 Q And she was the one that was talking to Jose Perez that
5 you wrote this statement about?

6 A Yes.

7 Q And she was the one that gave you the union button?

8 A Yeah.

9 Q Did she also give you the authorization card that you
10 signed? The -- what I showed you?

11 A Yeah, yes.

12 Q Okay. Can you describe to us what she looks like?

13 A She's an old lady with glasses.

14 Q When you say that she was aggressive can you define how
15 she was aggressive?

16 A Well, she was -- yeah, I don't remember what she said but
17 she said stupid or she was saying stupid stuff and that's why I
18 think it was aggressive or approach to Jose, yeah.

19 Q Was she standing when she was talking?

20 A Yeah, she was standing while Jose was sitting down.

21 Q Were her arms raised?

22 A No, no.

23 Q Were there any managers or supervisors around?

24 A No, or were they? I don't know. I don't remember, sorry.

25 Q That's fine. I don't know if you've already said this but

1 where was this confrontation, what part of the facility?

2 A The EDR.

3 Q And was this -- were you on the clock during this?

4 A Yes.

5 MS. DAVILA: No further questions, Your Honor. Oh, I'm
6 sorry.

7 (Counsel confer)

8 MS. DAVILA: No further questions, Your Honor.

9 JUDGE THOMPSON: Mr. Aguayo, thank you so very much for
10 your testimony. Please don't discuss it with anyone and have a
11 great rest of your day.

12 THE WITNESS: Okay. Thank you.

13 JUDGE THOMPSON: Thank you. You can leave those there.
14 Thank you, so much. Perfect.

15 MS. DAVILA: May I have a minute to go get the next
16 witness?

17 JUDGE THOMPSON: Yes. Off the record.

18 (Off the record at 9:28 a.m.)

19 JUDGE THOMPSON: We are back on the record. Ms. Davila,
20 would you like to call your next witness?

21 MS. DAVILA: Yes, Your Honor. The General Counsel calls
22 Janet Vazquez.

23 JUDGE THOMPSON: Vazquez. Good morning, Ms. Vazquez.

24 MS. VAZQUEZ: Good morning.

25 JUDGE THOMPSON: I am Judge Thompson, and I am the

1 administrative law judge that's presiding over this trial
2 today.

3 MS. VAZQUEZ: Okay.

4 JUDGE THOMPSON: You have been called as a witness to
5 testify in this case, but before you do, I'd like to swear you
6 in. So could you please raise your right hand.

7 Whereupon,

8 **JANET VAZQUEZ**

9 having been duly sworn, was called as a witness herein and was
10 examined and testified as follows:

11 JUDGE THOMPSON: Could you please state your name for the
12 record.

13 THE WITNESS: Janet Vazquez.

14 JUDGE THOMPSON: Okay. Ms. Vazquez, you have a very soft
15 voice.

16 THE WITNESS: Okay.

17 JUDGE THOMPSON: I'm going to ask if you can speak as loud
18 as you can --

19 THE WITNESS: Okay.

20 JUDGE THOMPSON: -- so that we can hear you because we
21 want to get every word that you say.

22 THE WITNESS: Okay.

23 JUDGE THOMPSON: Ms. Vazquez, how do you spell your last
24 name?

25 THE WITNESS: V-A-Z-Q-U-E-Z.

1 JUDGE THOMPSON: V-A-Z-Q-U-E-Z. Got it. Okay,
2 Ms. Vazquez, let me give you just a few instructions that I'd
3 like for you to remember as counsel asks you some various
4 questions.

5 THE WITNESS: Okay.

6 JUDGE THOMPSON: We are recording these proceedings and
7 creating a transcript, that's why the microphone is in front of
8 you.

9 THE WITNESS: Okay.

10 JUDGE THOMPSON: We would ask, one, that you speak as loud
11 as you can; and two, that you give us a verbal response: Yes,
12 no, state what your response is, and try to avoid uh-huh or
13 huh-uh because our court reporter can't type those terms
14 because they're hard to distinguish. So if you just remember,
15 a verbal response to any question they ask, we would appreciate
16 that.

17 THE WITNESS: Okay.

18 JUDGE THOMPSON: Second, if you don't understand a
19 question that either counsel ask you, tell them, I don't
20 understand what you're asking me, or, I don't understand the
21 question so that they can restate it, repeat it, until you do
22 understand. If you answer a question, we'll presume that you
23 understood it.

24 Third, if either attorneys at either table object, they're
25 going to say objection really loudly, I want you to hold your

1 response until I can address their objection. Don't answer,
2 don't respond, just hold your response.

3 And fourth, sometimes you may know where counsel are
4 headed with their question and want to just interrupt and
5 answer because you know where they're going, but that creates
6 problems on the transcript because we get half the question and
7 half your answer. So would you hold your response until the
8 attorneys have completed their question, and then you answer,
9 okay? Would you do that for us?

10 THE WITNESS: Yes, ma'am.

11 JUDGE THOMPSON: Perfect. And remember, speak as loud as
12 you can.

13 THE WITNESS: Okay.

14 JUDGE THOMPSON: Okay. Ms. Davila, your witness.

15 MS. DAVILA: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 Q BY MS. DAVILA: Good morning, Ms. Vazquez. As you know,
18 my name is Judith Davila, I'm with the National Labor Relations
19 Board. My co-counsel is Elise Oviedo.

20 Can you tell us where you work, please?

21 A Trump Las Vegas.

22 Q And what position do you have there?

23 A I am a housekeeper.

24 Q Are you full time or on-call?

25 A On-call.

1 Q When did you start working there?

2 A I started working there May 5th, 2015.

3 Q Who is your supervisor?

4 A Alejandra Magana, I believe is her last name.

5 Q Okay. Do you know about the Union campaign that's been
6 going on at the hotel?

7 A Yes, I do.

8 Q When did you first learn about it?

9 A As soon as I first started working there.

10 Q Do you remember who told you about it?

11 A Her name was Gisella, she used to work there. She doesn't
12 work there anymore.

13 Q And what position did she have?

14 A She was always a GRA.

15 JUDGE THOMPSON: Ms. Vazquez, speak up as loud as you can.

16 THE WITNESS: Okay.

17 MS. DAVILA: Okay. I'm going to introduce GC Exhibit 32.

18 I'm handing the witness what has been marked GC Exhibit 2.

19 Q BY MS. DAVILA: Do you recognize what's on this form?

20 A Yes, I do.

21 Q Can you explain it to us, please?

22 A It's the Union card that they made me sign. Well, they
23 didn't make me sign it, but they gave it to me and I signed it.

24 Q Who gave it to you?

25 A Carmen.

1 Q Do you know her last name?

2 A No.

3 Q Do you know what position she works in?

4 A She's also a GRA.

5 Q Can you read the date for us, please, on this form?

6 A May 29th, 2015.

7 Q Is that your signature at the top?

8 A Yes, ma'am.

9 MS. DAVILA: I'd like to move in GC Exhibit 32.

10 MR. DRITSAS: Your Honor, can I voir dire on this?

11 JUDGE THOMPSON: Yes.

12 **VOIR DIRE EXAMINATION**

13 Q BY MR. DRITSAS: Ms. Vazquez, this document has -- doesn't
14 have the name Vazquez on it. It has Janet Marie --

15 A Quiroz --

16 Q -- Quiroz.

17 A -- yeah, I have two last names. It's Quiroz Vazquez.

18 Q Okay. So this is your signature on the right hand side?

19 A Yes.

20 Q Do you speak Spanish?

21 A I speak both Spanish and English.

22 Q Did you sign an English version of this?

23 A No --

24 Q This is in Spanish.

25 A I signed the Spanish version.

1 MR. DRITSAS: Okay, Your Honor. I have no objection.

2 JUDGE THOMPSON: Hearing no objection, I'll receive GC-32.

3 **(General Counsel Exhibit Number 32 Received into Evidence)**

4 MS. DAVILA: There's a stack of papers there. The
5 Judge --

6 JUDGE THOMPSON: That's okay, counsel. I got it. I'm
7 getting better at it.

8 MS. DAVILA: Sorry.

9 Q BY MS. DAVILA: Can you look at GC Exhibit 16? Do you
10 recognize what's on this form?

11 A Yes, I do.

12 Q Can you describe it to us?

13 A They are the buttons that we wear.

14 Q Who's "we"?

15 A The people who are for the Union.

16 Q Okay. Do you wear one of these buttons, or both?

17 A Yes. I wear the yellow button.

18 Q What's the difference between the yellow button and the
19 other button?

20 A The yellow button is if you support it, and then the red
21 one, if you wear both the yellow and the red and white one,
22 you're a committee leader.

23 Q And you're not a committee -- or, are you a committee
24 leader?

25 A No, I am not.

1 Q Okay. And where do you wear your button?

2 A I wear it right above my name tag.

3 Q Your uniform name tag?

4 A Yeah.

5 Q Okay.

6 MS. DAVILA: Let the record reflect that the witness
7 pointed to the top left corner of her chest.

8 Q BY MS. DAVILA: Do you wear your button every day?

9 A Yes, I do.

10 Q Do you remember when you started wearing your button?

11 A It was a little after I signed the card.

12 Q So after May 29th?

13 A Yeah.

14 Q Okay. And can you remind us what date you started?

15 A May 5th.

16 Q Of this year, correct?

17 A Yes.

18 Q Okay. Do you know who Iresyane is?

19 A Yes, I do.

20 Q Who is she?

21 JUDGE THOMPSON: I'm sorry, who, counsel?

22 MS. DAVILA: Iresyane, I don't even know how to spell it.
23 Iresyane, I-R-E-S-Y-A-N-E. Iresyane. That's how you say it,
24 right?

25 THE WITNESS: I believe that's right.

1 JUDGE THOMPSON: And the first name? I don't know --

2 MS. DAVILA: That's her -- I only know her first name.

3 Iresyane.

4 JUDGE THOMPSON: Oh, that's her first name.

5 THE WITNESS: Yeah.

6 MS. DAVILA: Uh-huh.

7 MR. DRITSAS: Is that her last name, Iris?

8 MS. DAVILA: No. It's her first name. Her -- I only know
9 her first name, and it's Iresyane. So I-R-E-S-Y-A-N-E. I
10 don't know her last name.

11 JUDGE THOMPSON: Okay.

12 Q BY MS. DAVILA: Who is she?

13 A She is one of my friends at work.

14 Q Okay. Does she work in the same department you do?

15 A Yes, she does.

16 Q What position does she have?

17 A She is also GRA.

18 Q Is she full time or on-call?

19 A On-call.

20 Q Was she already working there when you started?

21 A We both started working there at the same time.

22 Q Do you remember a conversation that you had in Alejandra
23 Magana's office right when you started about the Union?

24 A Yes, I do.

25 Q Okay. Was the conversation before you started your shift,

1 during your shift?

2 A It was before I started my shift.

3 Q What time did your shift start?

4 A Our shifts usually start at 8:30, but on Saturday -- yeah,
5 Saturdays and Sundays, we start at 9:00.

6 Q And so that day, do you remember if it was a weekend?

7 A I don't remember honestly.

8 Q Okay. And why were you in her office that morning?

9 A That was before I signed the Union card, so I was still
10 undecided of who I was going to vote for. So I -- there was
11 (sic) rumors that the Union was promising people certain things
12 like raises and full-time parts -- full-time jobs. So we
13 went -- I went into the office with Iresyane, and she --

14 Q Stop right there. Sorry. So you went into the office to
15 ask her a question.

16 A Uh-huh.

17 Q So you -- you went --

18 A Yeah.

19 Q -- she didn't call you in?

20 A No.

21 Q Okay. And was -- is Iresyane, had she started working
22 yet -- was --

23 A Yeah.

24 Q On the clock, I mean?

25 A No. We were both off the clock.

- 1 Q Okay. And who else was in the room besides --
- 2 A Anthony, he used to be a manager there.
- 3 Q Do you know his last name?
- 4 A I believe it's Wandick.
- 5 Q Do you know what department he managed?
- 6 A He was a housekeeping manager. I don't know exactly -- I
- 7 think he was a training manager.
- 8 Q Okay. And when you went in there, did you close the door?
- 9 A No. The door was open.
- 10 Q So did you and Iresyane sit down?
- 11 A No. We were standing.
- 12 Q Okay. So what happened when you walked in?
- 13 A We had asked her --
- 14 MR. DRITSAS: I'm sorry, who's the her again?
- 15 THE WITNESS: Iresyane. Oh, me and Iresyane asked
- 16 Alejandra.
- 17 MR. DRITSAS: Thank you.
- 18 Q BY MS. DAVILA: Okay. Go ahead.
- 19 A We asked her if she could -- because they were giving
- 20 papers that if the Union promised you something, you could have
- 21 them sign it. So we --
- 22 Q Hold on. Who gave you papers? Or who was giving papers?
- 23 A They were just going around, but we had asked her if we
- 24 could see them. We asked Alejandra if we could see them.
- 25 Q And can you describe the papers again?

1 A The papers, they had a -- they had -- I don't remember
2 exactly what they said on them, but they had blanks as in -- so
3 the Union could fill them out for you. So if they promise you
4 money or a better job or whatever, they could sign it for you.

5 Q Okay. So you were asking Alejandra about that?

6 A Yeah. I had asked her about them, and she pulled out a
7 little stack. She opened a little folder and she gave us one.
8 And she said that if the Union was promising us anything to
9 have them sign it, so if it was on paper, that way they
10 couldn't back out of what they were telling us. That was it.

11 Q And when she gave you the paper, did you say anything?

12 A No.

13 Q And did Iresyane say anything?

14 A Iresyane was the one who was talking the most.

15 Q Okay. But you don't remember what she said?

16 A Huh-uh.

17 Q Okay. And did Anthony say anything?

18 A Anthony was the one who asked me if I knew who I was going
19 to vote for, and I got really mad, and I --

20 Q What -- I'm sorry. What did you say?

21 A I told him that I didn't have to give him an answer to who
22 I was going to vote for.

23 Q And when you say, who you're going to vote for, what are
24 we talking about?

25 A Union -- if I was going to vote for the Union or against

1 the Union.

2 Q So what did you respond to him? I'm sorry.

3 A I told him I didn't have to tell him who I was going to
4 vote for.

5 Q And what did he say?

6 A He just stayed quiet.

7 Q And then did Alejandra say anything?

8 A No.

9 Q And then what happened?

10 A And then we left because it was almost time for us to
11 clock in.

12 Q Did Anthony ask Iresyane who she was going to vote for?

13 A No. She was pretty positive on who she was going to vote
14 for already, so. She was just taking me to the office because
15 she --

16 MR. DRITSAS: Objection, Your Honor. There's no question
17 pending.

18 JUDGE THOMPSON: You can't keep -- you've answered.

19 THE WITNESS: Okay.

20 JUDGE THOMPSON: You have to wait for counsel to ask a
21 question.

22 THE WITNESS: Okay.

23 MS. DAVILA: Okay.

24 Q BY MS. DAVILA: And have you attended any meetings at the
25 hotel led by Juan Cruz?

- 1 A Yes, I have.
- 2 Q How many have you attended?
- 3 A 'Til this -- to this date, I want to say about five.
- 4 Q Did you attend them at work?
- 5 A Yes, I did.
- 6 Q Were you on the clock?
- 7 A Yes.
- 8 Q Were these meetings optional?
- 9 A No. They're mandatory.
- 10 Q Where are the meetings usually held?
- 11 A They're usually held on the 64th floor in the meeting
12 rooms.
- 13 Q And is it just housekeeping who goes?
- 14 A No. Everybody. All departments go.
- 15 Q And are there any of your managers or supervisors at this
16 meeting?
- 17 A No.
- 18 Q Who introduces the meetings?
- 19 A In the first three meetings, it was Mr. -- I don't know
20 how you say his last name -- Baudreau, I believe.
- 21 Q Baudreau.
- 22 A Yeah.
- 23 Q I don't know how to say it either. What position does he
24 have?
- 25 A He's -- I believe he's, like, the main one there.

1 Q And what would he say at these three -- at these three
2 meetings where you remember him there?

3 A He would just say, like, he would introduce himself, and
4 then he would introduce Juan and his other assistant, and then
5 tell us what the meetings were going to be about.

6 Q And what were the meetings going to be about?

7 A About the Union, the truth about the Union.

8 Q And did he say anything else?

9 A No. And then once he was done introducing himself, he
10 would leave.

11 Q And then Juan Cruz would give the meeting?

12 A Yes.

13 Q Can you tell us what information he gave you at this -- at
14 these meetings?

15 A They would just tell us mainly, like, what they would make
16 us do, supposedly, if we were to vote for the Union. So they
17 would make us go on strikes, and that if we did vote for the
18 Union, it wasn't a -- it wasn't going to be a for-sure thing
19 that they were going to enter, because they still had to go --
20 it was going to be everyone voting, so it wasn't going to be --
21 just because we voted they weren't going to be coming to the --
22 to Trump. So there still had to be -- and even if they did
23 win, there was going to have to be a -- what did he say? They
24 were going to have to come to an agreement on pay and all that.
25 So they were just going through brief things, brief overview.

1 JUDGE THOMPSON: Ms. Davila, I'm certain that you're going
2 to get to wherever you're going with this line of questioning,
3 but I just want to caution that I don't want this to be about
4 the campaign. I want this to be about alleged unfair labor
5 practices. So I'm certain that you're headed somewhere. I
6 just want to put that out there. But continue.

7 Q BY MS. DAVILA: And you said you'd been to five, correct?

8 A Yes.

9 Q And when's the last time you attended one?

10 MR. DRITSAS: Objection. Relevance.

11 MS. DAVILA: I'm just trying to give it context, when she
12 started --

13 JUDGE THOMPSON: I'll allow this question, but as I was
14 trying to caution, because I knew that counsel was headed
15 there, I don't -- again, I want this to --

16 MS. DAVILA: I was aware too, yeah.

17 JUDGE THOMPSON: -- the UL -- the alleged ULP in the case.
18 So I'll allow this question.

19 MS. DAVILA: Okay.

20 JUDGE THOMPSON: Repeat it for us, please.

21 Q BY MS. DAVILA: When was the last time you attended one of
22 these meetings?

23 A It was, I want to say about a -- last week. I don't
24 remember what day exactly, but it was last week.

25 Q Have you received any written warnings at work?

1 A To this date, yes.

2 Q About how many?

3 A One.

4 Q And what was it for?

5 A It was a suspension, but it was because I accidentally
6 poked myself with a needle, so they had to wait 'til the drug
7 test came back. So I was suspended until they got the drug
8 test back.

9 MS. DAVILA: No further questions, Your Honor. Oh, I'm
10 sorry. Maybe --

11 (Counsel confer)

12 MS. DAVILA: Yeah, no further questions, Your Honor.

13 JUDGE THOMPSON: Okay. Thank you. Mr. Dritsas or Kramer.

14 MR. DRITSAS: Thank you, Your Honor. Do you have a
15 statement for this witness?

16 MS. OVIEDO: We have the grievance from that. You had to
17 return all Jencks statements.

18 MR. DRITSAS: Well, we don't need to return it right now.

19 JUDGE THOMPSON: Yeah, you do. Once the witness has
20 finished testifying, you have to give it back.

21 MR. DRITSAS: Okay.

22 MS. OVIEDO: Well, not right now, but --

23 MR. DRITSAS: That's what I meant, this minute. But I'll
24 pull it out.

25 JUDGE THOMPSON: Thanks.

1 MS. OVIEDO: There's several I think you have still.

2 MS. DAVILA: Your Honor, since it's a long statement can
3 I -- can we take five minutes?

4 JUDGE THOMPSON: Sure. Let's come back at 10 o'clock.
5 It's about seven minutes to 10:00. Off the record.
6 (Off the record at 9:51 a.m.)

7 JUDGE THOMPSON: We are back on the record for
8 cross-examination. Mr. Dritsas, your witness.

9 MR. DRITSAS: Thank you, Your Honor.

10 **CROSS-EXAMINATION**

11 Q BY MR. DRITSAS: Morning.

12 A Good morning.

13 Q Just to be clear of this person's name that we're talking
14 about, is her first name Iris?

15 A Her name is Iresyane. It's --

16 Q Is it Iris Ynette (phonetic)?

17 A No. I don't know how they spelled it there, but I don't
18 think it's spelled correctly. I think the way they told you
19 earlier is the correct way to spell it.

20 Q Okay. And that's her first name?

21 A Uh-huh.

22 JUDGE THOMPSON: Yes?

23 THE WITNESS: Yes. Sorry.

24 Q BY MR. DRITSAS: Okay. So you said you started to wear
25 your Union button a little after you signed the authorization

1 card.

2 A Yeah.

3 Q What does a little mean?

4 A Maybe a couple days after.

5 Q And did you wear it every day?

6 A Yeah.

7 Q Okay. And you went into -- I don't know if you identified
8 the time. If you did I missed it. When did this -- when did
9 you and -- I'm going to screw up her name, I know it.

10 A Iresyane?

11 Q Yes. When did you and this woman you have identified --
12 I'm going to say Iris, if that's okay. It's easier for me.
13 When did you and Iris go into the office and have a
14 conversation with Ms. Magana?

15 A It was in the morning.

16 Q What week or month was it?

17 A Week or month, I don't remember.

18 Q Okay. So how -- let's try to put it in context to when
19 you started. How soon after you started was it?

20 A I want to say maybe, like, a week or two.

21 Q Okay. And it was before you started wearing your button?

22 A Yeah.

23 Q Okay. And you said that, if I understand, you said that
24 Iris asked Ms. Magana to see the paper with the blanks on it;
25 is that right?

1 A Uh-huh.

2 Q Is that -- you have to --

3 A Yes.

4 Q Okay. That's the paper where it says that if the Union
5 promises you something, have them sign to show they're going to
6 live up to their promise?

7 A Yes.

8 Q Okay. Sometimes has that been referred to as a guarantee?

9 A Okay, yeah.

10 Q Now, you met with someone, a representative of the
11 National Labor Relations Board on July 9, 2015; is that right?

12 A Yes.

13 Q And you gave a statement?

14 A Yes.

15 Q And you reviewed the statement before you signed it?

16 A Yes.

17 Q And you knew that you were obligated under penalty of
18 perjury to tell the truth?

19 A Yes.

20 Q Okay. In that statement, did someone say to you that if
21 the Union keeps their promises, they should sign the guarantee
22 that Iris asked for?

23 A Yes.

24 Q Okay. Was that Ms. Magana?

25 A Yes.

1 Q Okay. Now, when you testified that Mr. Wandick asked if
2 you knew who you were going to vote for --

3 A Yes.

4 Q -- but in your statement, is it -- do you agree that you
5 never mentioned Mr. Wandick's name at all in six pages?

6 A It was Anthony. It was in --

7 Q Just -- my question please, is, do you agree in your
8 statement, signed under penalty of perjury, that you never
9 mentioned Mr. Wandick's name?

10 A Yes.

11 Q And the events that took place in or about May of 2015,
12 you remember it better in July than it is today, some six,
13 eight months later, right?

14 A No. I'm not going to say I remember it better, but --

15 Q It was --

16 A -- I know he was the one who told me.

17 Q Okay. It was close to the time, you still agree with me
18 on that?

19 A Yeah.

20 Q Okay. And there's nothing in your statement that says
21 anything about Mr. Wandick, or for that matter, anyone else
22 asking you who you were going to vote for; is that right?

23 A Yeah.

24 Q And is it also true there's nothing in your statement
25 saying you got mad because they asked me a question I didn't

1 like?

2 A No. It doesn't say that.

3 Q My statement's correct? There's nothing --

4 A Yes.

5 Q Okay. Thank you. And you were standing -- I'm a little
6 unclear as to where you were. There was you and Iris. Were
7 you standing in --

8 A In front of her desk.

9 Q In front of whose desk?

10 A Alejandra's desk.

11 Q So you were actually inside her office?

12 A Yes.

13 Q So you and Iris, and where was Mr. Wandick?

14 A Wandick was right next to Alejandra.

15 Q So was he --

16 A He was --

17 Q -- he's facing out towards the entranceway?

18 A Yes.

19 Q Okay. And what time of day was it?

20 A It was in the morning before we clocked in. So I want to
21 say around 8:00 in the morning.

22 Q Okay. And immediately outside the desk there -- excuse
23 me, immediately outside her office is a desk that is shared by
24 floor managers and Christina Keeran?

25 A Yes.

1 Q Okay. Was Ms. Keeran there or any floor managers sitting
2 at that desk at that time?

3 A No.

4 Q Do you know?

5 A I don't remember.

6 Q Okay. So someone could have been sitting there, you
7 weren't really paying attention to that; is that right?

8 A Yes.

9 Q Okay. And what tone of voice was Ms. Magana? Was it
10 loud? Soft? Was it regular?

11 A She was very calm.

12 Q Calm, okay. How about Mr. Wandick?

13 A He was the same.

14 Q And you said you got mad. You have a pretty soft voice,
15 we've heard here. Did you raise your voice?

16 A No. I just, I was -- I was just, like, I don't have to
17 tell you. I don't raise my voice. It just -- it bothered
18 me --

19 Q And did --

20 A -- when he asked me that.

21 Q I'm sorry. Did Iris say anything?

22 A No.

23 Q Okay. Now, just briefly, you said you attended several
24 education meetings led by Mr. Cruz. Would you agree that he
25 was saying -- one of the things he was saying about strikes was

1 that could be a consequence of a union coming in, employees
2 could go on strike?

3 A Yes.

4 Q All right. Now, you said you were suspended. Let me just
5 ask about that for a second. You had an accident on the job?

6 A Yes, I have.

7 Q A needle stick?

8 A Yeah.

9 Q And when was that, approximately?

10 A This was -- I don't know exactly when it was, but I want
11 to say August, maybe.

12 Q August of 2015?

13 A Yes.

14 Q Okay. And you were then sent for a drug test?

15 A Yes.

16 Q Okay. And the drug test came back positive or negative?

17 A Negative.

18 Q Okay. And were you reinstated to work?

19 A Yes.

20 Q And were you given back-pay for the time you were off?

21 A Yes.

22 Q Okay. So you were never disciplined because of this
23 needle stick?

24 A No.

25 Q Okay.

1 A But it was a mandatory suspension because they didn't have
2 the drug test --

3 Q Right.

4 A -- so they couldn't let me work without it.

5 Q And are you aware that the Company has a policy that if
6 employees are injured on the job, that there may be some drug
7 testing involved with that?

8 A Yes.

9 Q Okay.

10 MR. DRITSAS: One minute, Your Honor.

11 (Counsel confer)

12 MR. DRITSAS: I have nothing further, Your Honor.

13 JUDGE THOMPSON: Thank you. Ms. Davila, any redirect?

14 MS. DAVILA: Just brief, Your Honor.

15 JUDGE THOMPSON: Certainly.

16 **REDIRECT EXAMINATION**

17 Q BY MS. DAVILA: Ms. Vazquez, have you and I met before
18 today?

19 A Personally, no.

20 Q Okay. And have we spoken over the phone?

21 A Yes, we have.

22 Q About how many times?

23 A Two or three times.

24 Q And when is the last time I spoke to you?

25 A Today.

1 Q And why did I call you this morning?

2 A To make sure I was going to come.

3 Q And what were the other two times about?

4 A To talk about what -- this whole thing, about me coming
5 here and --

6 Q And when was that conversation?

7 A About a week or two ago.

8 Q Okay. And in that conversation, did I ask you about your
9 conversation with Magana and Wandick?

10 A Yes, you did.

11 Q And what did I ask you?

12 A You asked me what happened and who was there with me.

13 Q And what did you tell me?

14 A I told you that Iresyane was there, that Wandick was the
15 one that asked me --

16 JUDGE THOMPSON: Make sure you speak up, Ms. Vazquez.

17 THE WITNESS -- that Wandick was the one who asked me the
18 question.

19 Q BY MS. DAVILA: And did I tell you that in your affidavit,
20 you had said something different?

21 A Yes, you did.

22 Q And then did I repeat my question about who had --

23 A Yes.

24 Q Okay. And so, just to clarify, we had never met in person
25 until today.

1 A Yes.

2 Q Okay.

3 MS. DAVILA: No further questions.

4 JUDGE THOMPSON: Ms. Vazquez, thank you so much for your
5 testimony.

6 THE WITNESS: You're welcome.

7 JUDGE THOMPSON: Please don't discuss it with anyone. You
8 are excused, and have a wonderful day.

9 THE WITNESS: Thank you.

10 JUDGE THOMPSON: Thank you.

11 THE WITNESS: Do you want these back?

12 JUDGE THOMPSON: No, you can leave those there.

13 THE WITNESS: Okay.

14 JUDGE THOMPSON: Thank you so much.

15 THE WITNESS: You're welcome.

16 JUDGE THOMPSON: Ms. Davila, you can call your next
17 witness if you'd like.

18 MS. DAVILA: Okay. I'll go get her.

19 JUDGE THOMPSON: Let's go off the record.

20 (Off the record at 10:12 a.m.)

21 JUDGE THOMPSON: We are back on the record. Ms. Davila,
22 would you like to call your next witness?

23 MS. DAVILA: Yes, Your Honor. The General Counsel calls
24 Celia Vargas.

25 JUDGE THOMPSON: Celia --

1 MS. DAVILA: Vargas.

2 JUDGE THOMPSON: -- Vargas, thank you. Good morning,
3 Ms. Vargas.

4 MS. VARGAS: Good morning.

5 JUDGE THOMPSON: My name is Judge Thompson, and I am the
6 administrative law judge presiding over this hearing. You have
7 been called as a witness to testify in this case. But before
8 you do, I need to swear you in. Would you please raise your
9 right hand.
10 Whereupon,

11 **CELIA VARGAS**

12 having been first duly sworn, was called as a witness herein
13 and was examined and testified, by and through an interpreter
14 as follows:

15 JUDGE THOMPSON: Ms. Vargas, would you state your name for
16 the record.

17 THE WITNESS: My name is Celia Vargas.

18 JUDGE THOMPSON: Would you spell your first name for us,
19 please.

20 THE WITNESS: C-E-L-I-A.

21 JUDGE THOMPSON: And would you spell your last name,
22 please.

23 THE WITNESS: It's V-A-R-G-A-S.

24 JUDGE THOMPSON: Thank you. Ms. Vargas, I understand you
25 speak Spanish, correct?

1 THE WITNESS: Yes.

2 JUDGE THOMPSON: I would appreciate it, then, if you would
3 answer all the questions asked in Spanish. Even if you speak
4 some English, please just speak all in Spanish for us so that
5 Ms. De Gascon, who is sitting to your left, can translate to
6 English. It makes the recording easier for us.

7 Next, would you please remember to give us a verbal
8 response and try to avoid saying huh-uh or uh-huh.

9 Next, if you don't understand a question that either of
10 the attorneys ask you, would you please let us know and tell
11 them, I don't understand. That way they can repeat the
12 question until you understand it.

13 Next, if one of the attorneys objects, they will say --
14 they will say objection. Would you please hold your answer
15 until I can address their concern.

16 And finally, since Ms. De Gascon is translating for us,
17 when you respond to a question would you pause for a moment to
18 allow Ms. De Gascon to translate what you said. Would you do
19 that for us, please?

20 THE WITNESS: Yes.

21 JUDGE THOMPSON: Thank you so much. Ms. De Gascon, let me
22 swear you in.

23 (Interpreter, sworn)

24 JUDGE THOMPSON: And, Ms. De Gascon, all of the
25 instructions that I gave to Ms. Vargas, you translated

1 accurately, did you not?

2 THE INTERPRETER: I did.

3 JUDGE THOMPSON: Great. Thank you. Ms. Davila, your
4 witness.

5 MS. DAVILA: Thank you, Your Honor.

6 **DIRECT EXAMINATION**

7 Q BY MS. DAVILA: Good morning, Ms. Vargas.

8 A Good morning.

9 Q Can you please tell us where you work?

10 A I work for the Hotel Trump.

11 Q And what position do you have there?

12 A Housekeeping.

13 Q When did you start working at the hotel?

14 A I started working at the hotel on November 6, 2013.

15 Q Have you always worked in the housekeeping department?

16 A Yes.

17 Q Who's your supervisor?

18 A We have different.

19 Q Who's the head of the housekeeping department?

20 A The general manager of housekeeping is Alejandra Magana.

21 Q And can you name some of the other managers for us?

22 A Kelvin, Christina, Nira, another Christina, and I don't
23 know who else.

24 Q And do you know the Christinas' last names?

25 A No.

1 Q And you said there was more than one Christina?

2 A Yes.

3 Q Can you describe what makes them different?

4 A The older Christina has been working at the hotel longer.
5 She has a different uniform than the younger Christina, who's
6 been at the hotel less time.

7 Q What -- can you describe the uniform of the older
8 Christina?

9 A She wears a gray uniform, like the one worn by the floor
10 supervisors.

11 Q And the younger Christina?

12 A She does not wear a uniform.

13 Q Do you know what the older Christina is in charge of? Let
14 me clarify, the older one.

15 A Christina is in charge of the work schedule.

16 Q How do you know that?

17 A Because we ask her when we need to make changes in
18 schedule, and she writes it up on the wall.

19 Q Do you go to her for anything else?

20 A No.

21 Q And does the older Christina have an office?

22 A A desk.

23 Q Where is the desk located?

24 A It's in front, there's a general office, and there's
25 Alejandra's office, Kelvin's -- Alejandra's desk, Kelvin's

1 desk, and there's a desk that she uses right in front.

2 Q And the younger Christina who doesn't wear a uniform, do
3 you know what she's in charge of?

4 A In the morning, they give us the device that has the
5 assignments for the day and the keys to the rooms.

6 Q Is the younger Christina a floor manager?

7 A That's how she was present -- introduced.

8 Q Do other floor managers wear uniforms?

9 A Yes.

10 Q Do you know about the Union campaign that's going on
11 currently at the hotel?

12 A Yes.

13 Q How do you know about it?

14 A Because I'm a member of the committee.

15 Q When did you become a member of the committee?

16 A On June 8th, 2014.

17 Q How do you remember the date?

18 A Because it's an important date for me.

19 Q Okay. I'm going to ask you to look at what's up there,
20 it's GC Exhibit 16.

21 JUDGE THOMPSON: Let the record reflect the witness has GC
22 16.

23 Q BY MS. DAVILA: Can you describe to us what's on that
24 page.

25 A It has the button that I'm wearing right now, and this is

1 the button that the other employees who are not members of the
2 committee but who are organizing wear.

3 MS. DAVILA: Let the record reflect that the witness
4 pointed to a red and white button on her left chest corner, and
5 also a yellow button on top of that on her left chest corner.

6 Q BY MS. DAVILA: Do you wear the button to work?

7 A Yes.

8 Q Do you wear it every day?

9 A Yes.

10 Q Do you remember when the first time you wore it was?

11 A Yes.

12 Q And when was that?

13 A It was on June 8th, 2013. And also on that day, I was
14 fired.

15 Q Okay. I'm going to ask you to look at what's up there, GC
16 Exhibit 6.

17 JUDGE THOMPSON: Don't worry about it, counsel. I got it.
18 I'm sorry, what was the --

19 MS. DAVILA: 6.

20 JUDGE THOMPSON: Sorry. Let the record reflect that I'm
21 handing the witness what's marked as GC Exhibit 6.

22 Q BY MS. DAVILA: If you could turn to the third page, and
23 after you look it over, can you tell me if you recognize it.

24 A Yes.

25 Q Okay. Where it says, "We will remove from our files all

1 references to suspensions of Gisella Happe, Celia Vargas,
2 Carmen Llarull, Ofelia Cardenas and Rodolfo Aleman," is that
3 talking about you?

4 A (Spanish spoken).

5 Q And where --

6 JUDGE THOMPSON: Wait, wait, wait. She needs to translate
7 before you answer. So, Ms. Davila, would you repeat the
8 question and pause so she can translate.

9 THE INTERPRETER: That's okay.

10 Q BY MS. DAVILA: Is that about you?

11 A Yes.

12 Q Okay. And where it says, "We have paid Gisella Happe,
13 Celia Vargas, Carmen Llarull, Ofelia Cardenas and Rodolfo
14 Aleman for the wages and other benefits they lost because we
15 suspended them," is that talking about you?

16 A Yes.

17 Q Okay. And did you ever see this at work?

18 A No.

19 Q And those other people listed, who are they?

20 A These are the co-workers, you know, who wore the button on
21 the same day.

22 Q Okay. I'm going to show you what's been marked
23 Exhibit 32? 33?

24 JUDGE THOMPSON: I think you may be on 33, counsel.

25 MS. DAVILA: I'm handing the witness what's been marked as

1 GC Exhibit 33.

2 Q BY MS. DAVILA: Do you recognize what's on this paper?

3 A Yes.

4 Q Is that your signature?

5 A Yes.

6 Q Can you read us the date on this card?

7 A It's 03 of 14 -- 03-14 of 2015.

8 Q And who gave you this card?

9 A When we gathered at the meeting.

10 Q Are these Union meetings?

11 A Yes.

12 Q Okay.

13 MS. DAVILA: I'd like to move GC Exhibit 33 into evidence.

14 MR. DRITSAS: No objection.

15 JUDGE THOMPSON: Hearing no objection, I've received GC-

16 33.

17 **(General Counsel Exhibit Number 33 Received into Evidence)**

18 Q BY MS. DAVILA: Ms. Vargas, do you participate in Union
19 activities at work?

20 A Yes, in my free time.

21 Q Can you describe some of the things that you do? Just go
22 slow so she can translate.

23 A We hand out handbills, information, we talk about
24 violations at work and we talk about why it's important to have
25 the Union.

1 Q And what else?

2 A We give them cards to sign. We give them the buttons to
3 indicate that they support us and that they want to organize --
4 to unionize. Continue with the campaign.

5 Q And where do you conduct most of these activities?

6 A Normally in the area where we eat.

7 Q Does that area have a name?

8 A It's EDR.

9 Q Okay. Do you remember having a conversation with
10 Christina Keeran about the Union in the EDR?

11 A Yes.

12 Q Okay. Is this Christina that you had a conversation with,
13 one of the Christinas that you described earlier in your
14 testimony?

15 JUDGE THOMPSON: Hold it just a second. Thank you. I'm
16 sorry, Ms. De Gascon, I had to interrupt because I didn't want
17 the person to hear what was going on. If you remember where
18 you were in translating, please continue.

19 THE WITNESS: Yes.

20 Q BY MS. DAVILA: Was she the old one or the young one?

21 A The older.

22 Q Okay. And when you had this conversation, was it during
23 your shift?

24 A Yes.

25 Q Okay. Do you remember if it was the first half of the day

1 or the second half of the day?

2 A In the first half.

3 Q And why were you in the EDR at that time?

4 A Because that's where they give us the day assignment --
5 the assignment for the day.

6 Q And do you remember if you were wearing your Union button
7 that day?

8 A Yes.

9 Q Were you wearing the red and white one or the yellow one?

10 A Only the red one.

11 Q And can you tell us what happened in that conversation?

12 MR. KRAMER: Object, Your Honor, to foundation. We don't
13 have a when yet here. A day.

14 JUDGE THOMPSON: Sustained. Can we get the when this
15 occurred, counsel? You asked what part of the day, but you
16 didn't ask when this happened.

17 MS. DAVILA: As far as?

18 JUDGE THOMPSON: Date.

19 MS. DAVILA: Oh, as date.

20 Q BY MS. DAVILA: Was this conversation this year?

21 A Yes.

22 Q Was it before or after the first time the Union election
23 was scheduled?

24 A Before.

25 Q And when was the first Union election scheduled?

1 A The month of June.

2 Q And do you remember approximately when this conversation
3 with Christina Keeran happened?

4 A It was at the beginning of the year.

5 JUDGE THOMPSON: Ms. Vargas, did the first Union election,
6 strike that. What year did the first Union election occur in
7 June?

8 THE WITNESS: It was going to be on June 18th.

9 JUDGE THOMPSON: Of what year?

10 THE WITNESS: Of 2015.

11 JUDGE THOMPSON: Thank you.

12 Q BY MS. DAVILA: Just to clarify, did that election happen?

13 A No.

14 Q Okay. So you said that this conversation happened at the
15 beginning of this year?

16 A Yes.

17 Q Okay. And you said the conversation was at the first half
18 of the day. Had you already started cleaning rooms when this
19 conversation happened?

20 A No, I was about to go in.

21 Q Had the Trump talk already happened?

22 A No.

23 Q What are the Trump talks?

24 A We are given information about the number of guests that
25 there are, the ranking of the hotel in the -- the position of

1 the hotel in the ranking, information if there's something new,
2 information about how we treat the guests.

3 Q Okay. And who initiated this conversation?

4 A Christina.

5 Q And were you alone when she initiated it?

6 A No.

7 Q Who were you with?

8 A Lupe Barba, Dora Rivera, Maria, Eleuteria, Carmen Llarull.

9 Q Okay. And what were you doing when she initiated the
10 conversation?

11 A Just standing waiting for the morning meeting.

12 Q Okay. And what happened?

13 A She told me, Celia, sit down.

14 Q And what happened next?

15 A I want to know why you want the Union.

16 Q Who said that?

17 A Christina.

18 Q And did you sit down?

19 A No.

20 Q And did you answer her question?

21 A No.

22 Q Okay. What happened next?

23 A I told her that I was already in my working hours and I
24 could not talk about that.

25 Q And what did she say?

1 A That she was going to look for me during my break time so
2 I could explain.

3 Q Would you consider Christina Keeran your friend?

4 A No.

5 Q Have you ever talked to her about other things besides
6 work?

7 A No.

8 Q Okay. After she told you she would look for you on your
9 break, what happened?

10 A We met in the afternoon.

11 Q Did you look for her?

12 A No.

13 Q How did you see her?

14 A We met in the hallway and she said I've been looking for
15 you.

16 Q What hallway?

17 A The one where we go to the office toward the basic.

18 Q Is this the housekeeping office?

19 A Yes.

20 Q Okay. You said in the afternoon. Was this before -- I
21 mean were you still -- were you about to clock out?

22 A Yes.

23 Q Okay. But had you clocked out yet?

24 A No.

25 Q Okay. And in the hallway when you were -- when she spoke

1 to you, was anyone else around?

2 A Yes, all the coworkers, we were all waiting. Yeah, we
3 usually wait one or two minutes, you know, to have the time on
4 the clock before we punch in or punch out.

5 Q Okay. After she told you she had been looking for you,
6 what else -- or did you respond?

7 A That we had different rest times.

8 Q Did she say anything else?

9 A No.

10 Q Did the conversation continue?

11 A No.

12 Q Okay. Have you ever handed out flyers outside of the
13 hotel?

14 A Yes.

15 Q Are these Union flyers?

16 A Yes.

17 Q Do you remember an incident that happened outside of the
18 hotel that involved hotel security?

19 A Yes.

20 Q Do you remember more or less when that was?

21 A Yes.

22 Q When?

23 A February 28th of 2015.

24 Q Do you remember if your conversation with Christina was
25 before or after this?

1 A It was after.

2 Q Okay. Now I'm going to be talking about the flyer
3 incident. What time did you go in -- were you scheduled to
4 work that day?

5 A At 9 in the morning.

6 Q And do you remember what time you got there that morning?

7 A At 7:30 a.m.

8 Q And when you got there, where did you go?

9 A To the front of the hotel.

10 Q Did you meet anybody outside the front of the hotel?

11 A Yes.

12 Q Who?

13 A Several coworkers.

14 Q Do you remember any of their names?

15 A Yes, Dora Rivera was there. There was a gentleman, last
16 name Aleman. Lupe Barba and Eve Acala.

17 Q Were there any members or employees of the Union there?

18 A Yes.

19 Q About how many?

20 A Three.

21 Q Do you know their names?

22 A Jose Pineda.

23 Q Uh-huh.

24 A And Martha.

25 Q Do you know her last name?

- 1 A I don't recall.
- 2 Q Do you remember the name of the third person?
- 3 A No.
- 4 Q Okay. Do you remember what you were wearing that morning?
- 5 A My work uniform.
- 6 Q Can you describe that for us?
- 7 A It's a gray blouse and gray pants.
- 8 Q Do you remember if you were wearing a jacket or not?
- 9 A No.
- 10 Q No, you don't remember or no, you weren't wearing a
11 jacket?
- 12 A No, I did not have a sweatier on.
- 13 Q And do you remember what Dora Rivera was wearing?
- 14 A Also her work uniform.
- 15 Q What about the gentleman with last name Aleman?
- 16 A Also a uniform.
- 17 Q And what about Lupe Barba?
- 18 A She also had on her uniform.
- 19 Q And Eva Alcala?
- 20 A She was also wearing her uniform.
- 21 Q What was Jose Pineda wearing?
- 22 A Formal clothes.
- 23 Q And Martha?
- 24 A She did -- she was wearing a sweater.
- 25 Q Do you remember what color it was?

1 A No.

2 Q And the third person, is the third person a man or a
3 woman?

4 A A man.

5 Q Okay. And do you remember what he was wearing?

6 A Denim pants.

7 Q Okay. So when you got there at 7:30, they were all there
8 already?

9 A No.

10 Q Who was there when you got there?

11 A Only my coworkers.

12 Q Okay. And so you were in front of the hotel. Can you
13 describe to us where you were standing in front of the hotel?

14 A There's the street that's called Fashion Show and we were
15 -- and there's this area where the taxis come in and we were
16 over on this side waiting for the Union organizers to arrive.
17 We were right there.

18 Q Okay. Were you on the sidewalk?

19 A Yes.

20 Q And you say you were waiting for the Union workers?

21 A Yes.

22 Q When you were waiting, did you have anything in your
23 hands?

24 A Only my purse.

25 Q Okay. And about how long were you waiting until the Union

- 1 workers got there?
- 2 A About ten minutes.
- 3 Q Okay. What happened when they got there?
- 4 A No, before they arrived.
- 5 Q What happened before they arrived?
- 6 A Olivia came.
- 7 Q Who's Olivia?
- 8 A She is a security officer at the hotel.
- 9 Q And what happened when she got there?
- 10 A She asked us what we were doing there.
- 11 Q And did anybody respond?
- 12 A Yes.
- 13 Q Who?
- 14 A I did.
- 15 Q What did you say?
- 16 A That we were going to have a Union activity.
- 17 Q Okay. Did anyone else respond?
- 18 A No.
- 19 Q Okay. What did she respond to your response?
- 20 A That we were not allowed to be there. That it was private
- 21 property and we were not allowed to be there.
- 22 Q Did any of you say anything?
- 23 A No.
- 24 Q And then what happened?
- 25 A She left.

1 Q Did you see what direction she left in?

2 A Toward the inside of the hotel.

3 Q What entrance did she use?

4 A The area where there's a gentleman where they turn in the
5 suitcases or the keys, I don't know.

6 Q Okay. And so after she left, about how much time after
7 she left did the Union people get there?

8 A At the very -- in a moment.

9 Q Did she see them?

10 A No.

11 Q Okay. And what happened when the Union people got there?

12 A We told them that she had told us that we couldn't be
13 there and at this time, she returned with two more security
14 officers.

15 Q Had you had the opportunity to explain what had happened
16 before she returned to the Union people?

17 A No.

18 Q Okay. When she returned with the two other security, were
19 they male or female?

20 A Two men.

21 Q Do you know their names?

22 A Yes.

23 Q What are they?

24 A Jesus and Cornelius.

25 Q Had you seen them before?

1 A Yes.

2 Q And I meant before like at your time working at the hotel?

3 Had you seen them another time before that date?

4 A Yes.

5 Q Okay. When they returned, did they say anything?

6 A That we could not be there. That we had to leave there.

7 Q Who said that?

8 A Mrs. Olivia.

9 Q Did either of the two gentlemen speak?

10 A Yes.

11 Q Which one?

12 A Cornelius.

13 Q And what did he say?

14 A He talked to me and he said, you, go to the parking lot,
15 get your car and go home.

16 Q What was his demeanor when he said that?

17 A Upset.

18 Q Did he raise his voice?

19 A Yes.

20 Q Did he raise his hands?

21 MR. KRAMER: Objection, Your Honor. Leading.

22 JUDGE THOMPSON: I think she's asking a direct question.

23 I'm going to allow her to ask the question. Restate it again,

24 Ms. Davila.

25 Q BY MS. DAVILA: Did he make any movements?

1 A All three security officers were making movements, you
2 know, indicating, you know, for us to move from there.

3 MS. DAVILA: Let the record reflect the witness raised her
4 hands, both hands in the air and waved them. Open hand.

5 MR. DRITSAS: I just didn't --

6 MR. KRAMER: Objection. I don't recall seeing that.

7 JUDGE THOMPSON: She did. I mean I can verify she did,
8 counsel. I mean she just gestured with her hands.

9 MR. KRAMER: Can you describe that gesture because I'm
10 hearing a total different description here, Your Honor.

11 JUDGE THOMPSON: Let the record reflect that the witness
12 raised both hands and moved them away from her as if to
13 indicate go away. Can we move on?

14 MS. DAVILA: Okay, yeah.

15 Q BY MS. DAVILA: When he told you to go get your car and
16 leave, did you respond?

17 A No.

18 Q Did anybody speak to these three security guards when they
19 returned?

20 A Yes.

21 Q Who?

22 A Jose.

23 Q And what did Jose say?

24 A That we were in our rights and that we were only going to
25 hand out information.

1 Q And then what happened?

2 A Jose asked them what their names were and who they were
3 just to have the information.

4 Q Did they respond?

5 A Ms. Olivia said that she was the commander in chief of the
6 security officers.

7 Q Did Jesus or Cornelius reply?

8 A No.

9 Q Then what happened?

10 A I went to the inside of the hotel, the coworkers as well.
11 I didn't find out anymore.

12 Q Did you pass out flyers that day?

13 A No.

14 Q Do you remember about what time you went inside?

15 A At about 8:30.

16 Q Do you remember what entrance you used?

17 A I went through the back.

18 Q Did you use an employee entrance?

19 A Yes.

20 Q Okay. You said you had Union activities in the EDR,
21 correct?

22 A Yes.

23 Q Did you pass out flyers in there?

24 A Yes.

25 Q Did other committee leaders pass out flyers there?

- 1 A Yes.
- 2 Q Do you know who Anthony Wandick is?
- 3 A Yes.
- 4 Q Who is he?
- 5 A He was a supervisor.
- 6 Q In what department?
- 7 A Housekeeping.
- 8 Q Does he still work there?
- 9 A No.
- 10 Q Can you tell us who Carmen Llarull is?
- 11 A She's a coworker and also a member of the committee as
- 12 well.
- 13 Q Do you remember an incident where Carmen was passing out
- 14 flyers in the EDR and Anthony took one?
- 15 A Yes.
- 16 Q Was that before or after the planned June election?
- 17 A It was before.
- 18 Q Do you remember if it was before or after the incident
- 19 with Olivia Green or Olivia?
- 20 A After.
- 21 Q Okay. Do you remember about what date this incident
- 22 happened?
- 23 A It was around the month of March.
- 24 Q Okay. And --
- 25 JUDGE THOMPSON: 2015?

1 THE WITNESS: Yes.

2 Q BY MS. DAVILA: Okay. And do you remember if you were on
3 the clock during this incident?

4 A No, we had not gone yet to punch in the card to go in.

5 Q Had you had a Trump talk yet?

6 A No.

7 Q Were you handing out flyers that day, too?

8 A Yes.

9 Q Okay. Can you tell us what happened?

10 A I was like at a distance like from the last bench.

11 Q Excuse me, sorry. When you say the distance, just because
12 we're not recording this, I need you to describe it. So the
13 employee dining room has tables?

14 JUDGE THOMPSON: Counsel, why don't you show her the
15 diagram of the EDR? That way we can get a better description.

16 Q BY MS. DAVILA: I'm going to show you -- that's Respondent
17 12. Respondent's 12. Does what's on that paper look like the
18 EDR?

19 A Yes.

20 Q Can you tell us where you were?

21 A I was around this part here.

22 Q Wait, wait. I have to say it out loud. Can you point
23 again to where you were? Let the record reflect that the
24 witness is pointing to the first bench on the right side if
25 Respondent's exhibit is standing straight up.

1 MR. KRAMER: The long bench.

2 JUDGE THOMPSON: Okay.

3 MS. DAVILA: The long bench.

4 MR. KRAMER: On the right hand side of the table.

5 JUDGE THOMPSON: That's not helpful.

6 MR. DRITSAS: Maybe she can make a mark.

7 MS. OVIEDO: Is the employee entrance at the bottom of the
8 page?

9 MR. KRAMER: Yes.

10 JUDGE THOMPSON: At the bottom of the page?

11 MR. KRAMER: No, actually the employee entrance is at the
12 top of the page.

13 JUDGE THOMPSON: Okay.

14 MS. OVIEDO: With the employee entrance at the bottom of
15 the page.

16 THE WITNESS: I'm sorry and I had it like this. So then
17 I'm here.

18 Q BY MS. DAVILA: The middle bench?

19 A On the second. You have the first and the second.

20 Q Okay. The employee is pointing to the second bench from
21 the left. Yeah, the middle bench. The closest to the employee
22 entrance.

23 JUDGE THOMPSON: Okay.

24 Q BY MS. DAVILA: You were standing there and then what
25 happened?

1 A And Carmen was like over here handing out the bills.
2 Here.

3 Q The employee -- I'm sorry, the witness pointed to the
4 second or the top row of tables from the employee entrance.

5 MR. KRAMER: Can you have her point where again?

6 THE WITNESS: Here in this area.

7 MS. DAVILA: The bench closest to the bench seats and the
8 pop machine.

9 MR. KRAMER: And she's between that bench and the bench
10 seats and the pop machine?

11 THE WITNESS: Yes, she was about here.

12 Q BY MS. DAVILA: Okay. And then what happened?

13 A She is handing a handbill to one of the coworkers.

14 Q Was this handbill colored -- on colored paper?

15 A No.

16 Q Okay.

17 JUDGE THOMPSON: Just a second. Counsel. Repeat what you
18 said, Ms. Vargas.

19 THE WITNESS: Young Anthony came through here, came this
20 way, all the way and he stopped behind them.

21 MS. DAVILA: The witness started at the entrance of the
22 employee dining room, made a left with her finger, past the
23 dish room and then pointed up towards the bench seat areas.
24 The area between the bench seats and the pop machine. That
25 corner.

1 Q BY MS. DAVILA: Okay. So she stood behind Carmen and the
2 other employee?

3 A Yes.

4 Q Do you know who this other employee was?

5 A No, I don't remember her.

6 Q Okay. And what happened after he stood behind them?

7 A He took away the paper that Carmen had given her.

8 Q Okay. Can you describe the way in which he took away the
9 paper?

10 JUDGE THOMPSON: You have to describe it verbally.

11 THE WITNESS: He pulled it like this.

12 MS. DAVILA: Let the record reflect the witness raised her
13 right hand shoulder level and made a pulling motion with her
14 hand quickly. Quick pulling motion.

15 Q BY MS. DAVILA: Did you hear if he said anything when he
16 did this?

17 A No, he just took the person outside.

18 Q Did Carmen say anything?

19 A No, I'm not aware.

20 Q Okay. Did you talk to Carmen after this happened?

21 A She was upset.

22 Q Did you talk to her though?

23 A No, just -- yeah, she --

24 MR. KRAMER: Objection, Your Honor, to hearsay.

25 MS. DAVILA: What part is hearsay?

1 JUDGE THOMPSON: Ms. Davila, what did you -- what was your
2 question?

3 MS. DAVILA: She -- if the translation could finish. She
4 said she commented to all of us.

5 JUDGE THOMPSON: Okay. Let me allow the translator to
6 finish. Go ahead, Ms. De Gascon.

7 THE INTERPRETER: I'm sorry, can you repeat the question?

8 Q BY MS. DAVILA: Okay. How do you know she was upset?

9 JUDGE THOMPSON: Wait a minute. Now is that your
10 objection? What she's about to say?

11 MR. KRAMER: She now -- well now it's a different question
12 than earlier, but I'm going to object to the extent it calls
13 for hearsay.

14 JUDGE THOMPSON: Okay. Well let me ask if the court
15 reporter can read the question back. Hold on just a second,
16 Ms. Vargas, hold your response.

17 THE COURT REPORTER: The last one was okay, how do you
18 know that she was upset.

19 JUDGE THOMPSON: Okay. I need the question before that.

20 THE COURT REPORTER: Okay. You talked to Carmen after
21 this happened? Yes.

22 JUDGE THOMPSON: What's the next question?

23 THE COURT REPORTER: She was --

24 JUDGE THOMPSON: Oh, then --

25 THE COURT REPORTER: She just said she was upset.

1 JUDGE THOMPSON: I don't think that's hearsay, Mr. Kramer.
2 I think she's just testifying as to what she observed of Ms.
3 Carmen I believe. So I'm going to overrule the first
4 objection. Now the second objection goes to the last question
5 Ms. Davila asked, which was?

6 THE COURT REPORTER: How do you know?

7 MS. DAVILA: She was upset.

8 THE COURT REPORTER: How do you know that she was upset?

9 JUDGE THOMPSON: Okay. I'm going to allow this question
10 because she hasn't answered it yet. So I'm going to allow this
11 question.

12 MS. DAVILA: Can I ask both again?

13 JUDGE THOMPSON: Ms. Vargas, how do you know that Carmen
14 was upset?

15 THE WITNESS: Because I am bothered when the same thing is
16 done to me.

17 JUDGE THOMPSON: Okay. That didn't answer the question.
18 What I'm asking you is how do you know that Carmen was upset
19 after this flyer was yanked -- strike that. How do you know
20 that Carmen was upset when Mr. Wandick took the flyer?

21 THE WITNESS: Because the expression on her face was of
22 discontent.

23 JUDGE THOMPSON: Okay. Ms. Davila, continue.

24 Q BY MS. DAVILA: Did she ever speak to you about this
25 incident?

1 MR. KRAMER: Objection, Your Honor.

2 MS. DAVILA: What -- she said -- then we can get --

3 JUDGE THOMPSON: Okay, wait a minute. Let -- okay. Hold
4 on. Objection on the floor. Mr. Kramer.

5 MR. KRAMER: Hearsay.

6 MS. DAVILA: The question calls for yes or no.

7 MR. KRAMER: Well, the witness tends to go beyond yes or
8 no and before she gets into that, she's calling -- if there's
9 discussions, it's hearsay, Your Honor.

10 JUDGE THOMPSON: Okay. Ms. Davila, what was your question
11 again? I just want to make certain.

12 MS. DAVILA: Did you discuss this incident with her?

13 JUDGE THOMPSON: Okay. Mr. Kramer, there has been an
14 innumerable amount of testimony about witnesses saying what
15 other witnesses told them. So I'm going to have to -- without
16 objection. So I'm going to have to overrule the objection and
17 allow the witness to answer. Repeat the question, Ms. Davila
18 for the 50th time.

19 Q BY MS. DAVILA: Did she talk to you about this incident?

20 A Yes, we all talked about this incident.

21 Q Who's we all?

22 A Eva, Dora, Maria, Carmen, me.

23 Q Okay. Did you talk about it that morning?

24 A Yes.

25 Q Did you talk about it right after it happened?

1 A Yes.

2 Q Okay. What did she say about it?

3 A Her accent, she's Argentinian, so in her accent, she said
4 did you see what happened.

5 Q Okay. Did any of you respond?

6 A Yes.

7 Q Who?

8 A Maria Mendoza said, you know, I was very scared.

9 Q Okay. Did you say anything?

10 MR. KRAMER: Can I just have a continuing objection. This
11 is all hearsay.

12 JUDGE THOMPSON: It is, counsel, however --

13 MS. DAVILA: It's not to prove the truth of the matter
14 asserted.

15 JUDGE THOMPSON: Well, it is. It's absolutely to prove
16 the truth of the matter asserted. But we have -- I've allowed
17 hearsay testimony from innumerable witnesses on conversations
18 where one person said one thing to somebody. So for purposes
19 of trying to allow the witness to testify, I'm going to allow
20 it, but I'm going to note your standing objection, Mr. Kramer,
21 to this line of questioning.

22 MR. KRAMER: Thank you. And for the record, I mean and
23 obviously sometimes we all miss things, but I believe to the
24 extent that out of court statements have been introduced, it's
25 been introduced when other witnesses for credibility purposes,

1 when other witnesses have denied certain events occurred. But
2 in any event, as long as my objection is standing. Thank you,
3 Your Honor.

4 JUDGE THOMPSON: It is. Thank you so much, Mr. Kramer.
5 Ms. Davila, would you repeat the question.

6 Q BY MS. DAVILA: Did you say anything to her?

7 JUDGE THOMPSON: I'm sorry, Ms. Vargas, who?

8 Q BY MS. DAVILA: Did you say anything to Carmen?

9 A No, I don't remember.

10 Q I'm going to move on now. Okay. Do you remember an
11 incident where you had some help from Dora Rivera getting a
12 foam mattress?

13 A Yes.

14 Q Do you remember the date of that incident?

15 A Yes.

16 Q Okay.

17 A It was June 13th of 2015.

18 Q How do you remember the date?

19 A I always remember dates. It's something.

20 Q Okay. Were you working that day?

21 A Yes.

22 Q Do you remember what day of the week it was?

23 A Saturday.

24 Q And do you have a set floor that you clean?

25 A Yes.

- 1 Q And what floor is that?
- 2 A 52nd floor.
- 3 Q Were you assigned to clean that floor that day?
- 4 A Yes.
- 5 Q Okay. And does Dora Rivera clean that floor as well?
- 6 A No.
- 7 Q Did you work with her that day?
- 8 A Yes.
- 9 Q Okay. Do you usually work with her?
- 10 A Only when we don't have open rooms so that we can go in.
- 11 Q And that day, were you cleaning -- were you both cleaning
- 12 together?
- 13 A Yes.
- 14 Q And were you cleaning the 52nd floor?
- 15 A Yes.
- 16 Q Did Dora Rivera start working with you since the morning?
- 17 A Yes, she came approximately at 11:30 in the morning.
- 18 Q To the hotel or to you?
- 19 A No, to the 52nd floor.
- 20 Q Okay.
- 21 A And she told me that she did not have open rooms.
- 22 Q What time did you take your lunch that day?
- 23 A At 12:30 and 1 p.m.
- 24 Q Did you go to lunch with Dora Rivera that day?
- 25 JUDGE THOMPSON: Ms. Davila, why is that relevant for

1 purposes of what happened in the room?

2 MS. DAVILA: That was my only question. I was just
3 establishing that they were together.

4 JUDGE THOMPSON: Can we just get to the point.

5 Q BY MS. DAVILA: What happened when you guys got back from
6 lunch?

7 A When we returned, we called the supervisor because we
8 didn't have any open rooms and it was already 1 p.m.

9 Q What supervisor did you call?

10 A That day our supervisor was Denise.

11 Q Do you know her last name?

12 A No, I don't remember.

13 Q Okay. And who's the one that spoke with Denise?

14 A I did.

15 Q And where did you call her from?

16 A From the phone that is on the hallway of the hotel.

17 Q Okay. And what did she tell you to do?

18 A She told me to wait, that she was going to come over and
19 give me something to do.

20 Q And how did you end up in the room that needed the foam
21 mattress?

22 A Denise gave me the assignment. Denise told me the only
23 assignment I have is the request by a guest to make a sofa bed.

24 Q Okay. Do you remember what room that was?

25 A Yes, it was on the floor, 5107.

1 Q Okay. Did both you and Dora go to that room?

2 A No, I went to the room and Dora went to the room where we
3 keep the clean sheets.

4 Q When you got to the room, did you knock or did you just go
5 in?

6 A I rang the bell, but the door to the room was already
7 open.

8 Q Okay. Was there a guest inside?

9 A Yes.

10 Q Okay. I'm going to ask you to look at Respondent 13.

11 JUDGE THOMPSON: Respondent 13.

12 MS. DAVILA: Yes.

13 Q BY MS. DAVILA: I'm going to pull out what's Respondent 13
14 from this stack of exhibits. Does this -- what's depicted on
15 Respondent's 13, this form, the paper, does this depict the
16 room that you were in that day?

17 A Yes.

18 Q Okay. I just want to clarify because the translation was
19 when you entered. But in the room you were in that day?

20 A Yes.

21 Q Okay. So you go, you ring the doorbell and did you speak
22 to the guests?

23 A Yes, I greeted her. And I told her that I was going to
24 make her sofa bed.

25 Q In what room is the sofa bed located?

- 1 A 5107.
- 2 Q But is it the living room, the bedroom?
- 3 A In the living room.
- 4 Q Okay. And did Dora Rivera ever come back?
- 5 A Yes.
- 6 Q And then what happened?
- 7 A Dora comes with the clean sheets. But the lady tells me
- 8 that she doesn't want me to make the bed like that. And she
- 9 said that when she checked into the hotel, that she had asked
- 10 for a foam mattress.
- 11 Q What did you say?
- 12 A That I was going to ask who was going to bring it.
- 13 Q Who did you ask?
- 14 A I went to the phone and I called. I asked and Emily
- 15 answered and she told me that the request had been made.
- 16 Q Did you use the phone in the room?
- 17 A The first time that I called, no.
- 18 Q What did you call from the first time?
- 19 A From the hallway phone.
- 20 Q So this first time that you spoke to Emily, you were in
- 21 the hall?
- 22 A Yes.
- 23 Q And does Emily work in status?
- 24 A Yes.
- 25 Q After you finished this call, what happened?

1 A I went and I told the lady that it was going to take about
2 ten minutes until they brought us the mattress. And that we
3 would be back.

4 Q And did you stay or did you go?

5 A No, we left and went to do another room.

6 Q Did you go do another room?

7 A Yes, we did two rooms.

8 Q Okay. About how much later did you return?

9 JUDGE THOMPSON: One minute, you got to wait for the
10 translation.

11 THE WITNESS: About half an hour had gone by.

12 Q BY MS. DAVILA: Okay. And then what happened?

13 A We returned. And the mattress still had not arrived.

14 Q When you came back, did you enter the suites?

15 A Yes.

16 Q Did you talk to the guest?

17 A Yes.

18 Q What did you say?

19 A I said that I was sorry that the mattress was still not
20 there, that it was Saturday and there were a lot of requests.

21 Q Then what did you do?

22 A She looked upset. And she asked me to check it out to see
23 if they were going to take it.

24 Q So what did you do?

25 A I asked her for permission to use the phone.

- 1 Q And then?
- 2 A I called and I asked to speak to Alejandra.
- 3 Q Did you use the phone in the living room?
- 4 A Yes.
- 5 Q Where was Dora Rivera during this?
- 6 A She was already taking everything out of the couch to
7 start making.
- 8 Q Okay. So you called Alejandra.
- 9 A I explained the situation to her.
- 10 Q And then what happened?
- 11 A And she told me Anthony is going in a minute.
- 12 Q Is Anthony the housekeeping manager?
- 13 A Can you repeat the question?
- 14 Q Is Anthony the housekeeping manager you mentioned earlier?
- 15 A He's supervisor. Because you're saying manager. So I get
16 confused with the question.
- 17 Q Is this the Anthony we're talking about before is my
18 question.
- 19 A Yes.
- 20 Q Okay. And did he arrive at the suite?
- 21 A Yes.
- 22 Q How did you know when he had arrived?
- 23 A Because he was screaming.
- 24 Q What was he screaming?
- 25 A Celia, where have you been? I've been looking for you for

1 two hours.

2 MS. DAVILA: Let the record reflect the witness raised her
3 voice when she quoted Anthony.

4 Q BY MS. DAVILA: Where was he standing when he said this?

5 A Yeah, he had already entered. He was here by the table,
6 you know, holding the foam mattress like this and then he was
7 screaming at me.

8 Q He was in the living room?

9 A Yes.

10 Q Okay. And then what happened?

11 A The lady came out.

12 Q The lady, you mean the guest?

13 A Yes.

14 Q She came out of what room?

15 A From the bedroom.

16 Q Okay. And then what happened?

17 A He put the mattress and he left.

18 Q Did the guest talk to him?

19 A No.

20 Q Where did he leave to?

21 A He went out like to the side of the door, outside the
22 entrance.

23 Q Okay. Was he standing inside by the door or outside by
24 the door?

25 A No, outside.

1 Q And this is the suite door?

2 A Yes.

3 Q Okay. And what happened next?

4 A He called me.

5 Q How did he call you?

6 A He made me a sign with his hand, Celia, come.

7 Q Was the sign just with his hand or verbal?

8 A Both.

9 MS. DAVILA: Let the record reflect the witness raised her
10 right hand up to her chest level and signified like come here.

11 Q BY MS. DAVILA: And then what happened?

12 A As I was leaving, the guest came out and she asked me
13 what's going on, what's going on.

14 Q Did she ask you verbally or with her body language?

15 A Both ways.

16 Q And did she -- and what was her tone of voice? Was it
17 loud? Was it a whisper? Was it soft?

18 JUDGE THOMPSON: I guess, Ms. Davila, I don't really need
19 to know about what the guest's demeanor was. This is about her
20 and Mr. Wandick. So whether the guest was using her body
21 language or not, I think the record reflects that she came out,
22 she asked what was going on. I really want to hear about what
23 happened between Ms. Vargas and Mr. Wandick. So continue, but
24 can we -- I don't want to get into the minutiae of what the
25 guest was doing and what she said and how she said it. I just

1 -- I think the record has established she came out, she asked
2 what was going on.

3 Q BY MS. DAVILA: Okay. Did Anthony see her come out?

4 A Yes.

5 Q Do you think that she heard -- he heard her say -- ask you
6 what was going on?

7 MR. KRAMER: Objection, Your Honor. Speculation.

8 JUDGE THOMPSON: Sustained, but also it's a confusing
9 sentence. So can you --

10 MS. DAVILA: I just want to know if it was loud enough,
11 the voice was loud enough for Anthony to hear that she was
12 being talked to by the guest.

13 JUDGE THOMPSON: I understand what you're getting at. But
14 the question itself was confusing, A and B, it does call -- the
15 way you phrased it calls for speculation. So can you -- I'm
16 sustaining the objection. But --

17 MS. DAVILA: Can I just ask her what tone of voice the
18 guest used so we can --

19 JUDGE THOMPSON: You can ask whatever you like.

20 MS. DAVILA: Okay, thank you.

21 Q BY MS. DAVILA: When the guest asked you what was going
22 on, what volume was her voice?

23 A Very low.

24 Q Okay. And what happened next?

25 A I told her I didn't know.

1 Q And did you shrug your shoulders?

2 A (No verbal response).

3 Q Where were you standing --

4 JUDGE THOMPSON: Wait, wait, wait. Was that -- could you
5 answer her question? She asked did you shrug your shoulders?
6 And you have to give a verbal response.

7 THE WITNESS: Yes.

8 Q BY MS. DAVILA: Okay. Where were you standing when you
9 responded to the guest?

10 A In front of her.

11 Q Okay. Were you in the living room?

12 A Yes.

13 Q Were you by the doorway?

14 A Yes.

15 Q And then what happened?

16 A I went outside and I went toward where Anthony was.

17 Q And then what happened?

18 A There he told me that I was not supposed to say -- to
19 speak anything about anything to the guests.

20 Q And then what happened?

21 A I told him that I had not given the guest any
22 explanations. I just told her that I didn't know.

23 Q And then what happened?

24 A I returned to the room to continue my work.

25 Q When you returned, were you upset?

1 A Yes.

2 Q Did you say anything to Dora or the guests when you
3 entered?

4 A No.

5 Q And what did you do when you came back in?

6 A I was saying something.

7 Q Were you talking to anyone in particular?

8 MR. KRAMER: Objection. Relevance.

9 JUDGE THOMPSON: Another witness -- it corroborates
10 another witness' testimony as to Ms. Vargas speaking after
11 speaking to Mr. Wandick. So for that purpose, I will allow it.

12 Q BY MS. DAVILA: Were you speaking to anyone in particular?

13 A No, I was just saying that I couldn't understand. I was
14 just frustrated. I was just saying that I couldn't understand
15 that system.

16 Q Okay. And what happened next?

17 A We finished doing their job.

18 MS. DAVILA: No further questions, Your Honor.

19 JUDGE THOMPSON: Okay. Mr. Dritsas or Mr. Kramer, before
20 we go to cross --

21 MR. DRITSAS: I would like to request a break, Your Honor.

22 JUDGE THOMPSON: I'm about to get there. But before you
23 do that --

24 MR. DRITSAS: We're going to ask for a statement.

25 JUDGE THOMPSON: Okay. Please proceed and then we can

1 take a break after you get the Jencks statement.

2 MR. DRITSAS: We'd like the Jencks statement, Your Honor.

3 MS. OVIEDO: Can we have all other past Jencks statements
4 back?

5 MR. DRITSAS: Yeah, we'll do that. But we'll do that --
6 how about after the lunch break?

7 MS. OVIEDO: Okay.

8 MR. DRITSAS: So can we have this Jencks statement here?

9 MS. OVIEDO: Yes. I actually just sent it to the printer.
10 If we want to go off the record right now.

11 JUDGE THOMPSON: Okay.

12 MS. OVIEDO: And I'll bring it to you.

13 JUDGE THOMPSON: I'm going to need to take a long break.

14 MS. OVIEDO: Me, too.

15 JUDGE THOMPSON: So can we come back at 1?

16 MR. DRITSAS: This is our lunch break, Your Honor?

17 JUDGE THOMPSON: Yeah.

18 MR. DRITSAS: Okay.

19 JUDGE THOMPSON: We're still on the record. And then
20 we'll pick up on cross for this witness. Ms. Vargas, we're
21 going to take a lunch break. You're going to be excused from
22 the stand. But please don't discuss your testimony. When you
23 return, you will remain under oath. And we're going to come
24 back around 1 for cross-exam. And counsel is going to ensure
25 that Respondent has the Jencks statements.

1 Q Okay. And then what other days do you work?

2 A Saturday and Sunday.

3 Q And what are your hours on Saturday and Sunday?

4 A From 9 to 5:30 p.m.

5 Q Okay. And your supervisors were Denise -- Denise is one
6 of your supervisors; is that correct?

7 A Yes, she was.

8 Q And Ana Carmona was one of your supervisors?

9 A Yes. Yes, she was also a supervisor.

10 Q And Refugio?

11 A She is.

12 Q She is a supervisor. Okay. And those were all the people
13 that you named as supervisors when you gave your statement to
14 the labor; isn't that correct?

15 A Not Refugio.

16 Q Okay. He wasn't a supervisor at the time?

17 A Yes, but she has not been involved in any problems with
18 us.

19 Q Okay. But, Ms. Vargas, in your affidavit, you did not
20 name Christina, older Christina, as a supervisor, did you?

21 A Yes, I did name her, but I did not put down whether she
22 was the older or the younger, because the other Christina was
23 not there at the time.

24 Q Okay. But you did two -- you gave two statements to the
25 Labor Board; is that right?

1 A I think it was more than two.

2 Q More than two statements to one of the representatives of
3 the National Labor Relations Board?

4 A Maybe I didn't understand the question very well.

5 Q Sure. You, at one point, came to the National Labor
6 Relations Board and you provided a statement; is that correct?

7 A Yes.

8 Q Okay. And how many times did you do that?

9 A Including this time, I think it's three.

10 Q Okay. But I'm referring to times where you signed a
11 written statement. How many times did you sign a written
12 statement?

13 A Yes, that was two.

14 Q And the first time you provided a statement was in June of
15 this year; is that correct?

16 A Yes.

17 Q And in that statement, you did not identify either
18 Christina as a supervisor of yours; is that correct?

19 A Yes.

20 Q Yes, you identified her as a supervisor or no, you did
21 not?

22 A Yes, I did identify her as a supervisor.

23 Q Ms. Vargas, I'm going to hand you a copy of your affidavit
24 from June. Take a look at it.

25 (Counsel confer)

1 Q BY MR. KRAMER: And I'd like you to take a look at the
2 first -- if I may. Do you see the third line beginning here on
3 line 3? Doesn't it say that my supervisors are Denise, Ana
4 Carmona and Refugio? Denise, Ana Carmona, and Refugio.

5 A I had remembered that I did mention her.

6 Q Okay. But you don't -- it's not on your affidavit, is it?

7 A No, not there.

8 MS. OVIEDO: Which declaration are you showing here?

9 MR. KRAMER: The June declaration.

10 Q BY MR. KRAMER: t's not on this affidavit?

11 MS. OVIEDO: Yeah.

12 Q BY MR. KRAMER: I'll take that back. Thank you.

13 JUDGE THOMPSON: I don't know if she answered your
14 question, Mr. Kramer. Could you repeat it, please?

15 MR. KRAMER: I don't think she verbalized it.

16 Q BY MR. KRAMER: Ms. Vargas, on that June affidavit I
17 showed you, you did not -- there's nothing in writing there
18 that says that Christina, any Christina, is one of your
19 supervisors; is that correct?

20 A It does say that on this paper.

21 Q Okay. Now you indicated that older Christina wears a
22 uniform; is that right?

23 A Yes.

24 (Counsel confer)

25 Q BY MR. KRAMER: And she wears the same uniforms as the

1 status clerks; is that right?

2 A No. Sometimes she does not.

3 Q Sometimes she doesn't wear the uniform of the status
4 clerk?

5 A No, it's different.

6 Q All right. Do you know what the status clerks wear?

7 A Yes.

8 Q What do they wear?

9 A Gray pants, gray shirt.

10 Q Okay. And what do you -- what is it that you believe the
11 older Christina wears?

12 A Sometimes she has something different in her uniform.

13 Q Like what?

14 A Colors, you know. Sometimes the color on the top is not
15 the same color as the other.

16 Q All right.

17 MS. DAVILA: Objection. Is it color or collar?

18 THE INTERPRETER: Color.

19 MS. DAVILA: Color? Because I heard her -- can you just
20 repeat what you said?

21 THE WITNESS: That sometimes her uniform is different and
22 the color is different.

23 MR. KRAMER: Color not like collar.

24 THE INTERPRETER: Collar.

25 MS. DAVILA: No, she's saying color.

1 JUDGE THOMPSON: Well, I'm not certain what she's saying.

2 THE INTERPRETER: (Spanish spoken) is color.

3 MR. KRAMER: (Spanish spoken) is collar.

4 JUDGE THOMPSON: Ms. Vargas, are you -- when you say (in
5 Spanish), do you mean the collar of a shirt?

6 THE WITNESS: Now what happens is that they -- you know,
7 we have uniforms with short sleeves. The color -- the collar
8 of a different color. And you know, the supervisors wear a
9 certain color. Status wear a different color. And that's what
10 I referred to.

11 JUDGE THOMPSON: Okay. Ms. De Gascon is saying color, as
12 in blue, red, green, yellow.

13 MR. DRITSAS: All right. Actually, I thought I heard he
14 say both.

15 JUDGE THOMPSON: Well, I'm referring to the last statement
16 that Ms. De Gascon just translated, to my question. The
17 witness -- Ms. De Gascon translated color, as in blue, red,
18 green, and also a different collar, as in the collar of a
19 shirt.

20 MS. DAVILA: Your Honor, if we could just have the witness
21 differentiate between collar when she's --

22 THE INTERPRETER: The interpreter would like to clarify --

23 JUDGE THOMPSON: Certainly.

24 THE INTERPRETER: -- that, you know, the word (in Spanish)
25 means color, as in blue, red, green, which is the word that was

1 used in the part of the statement. In answer to the Judge's
2 question, Ms. Vargas used the -- both the word color and the
3 collar to differentiate.

4 JUDGE THOMPSON: Okay, all right. I understand that.
5 Counsel, are you satisfied?

6 MS. DAVILA: Yes.

7 JUDGE THOMPSON: Okay. Respondent, are you satisfied?

8 MR. KRAMER: I've got a few more questions, but I
9 understand --

10 JUDGE THOMPSON: Good.

11 MR. KRAMER: -- where we are. So --

12 JUDGE THOMPSON: No, I mean in terms of that.

13 MR. KRAMER: Yes.

14 JUDGE THOMPSON: Okay. Proceed, please.

15 Q BY MR. KRAMER: Just -- Ms. Vargas, you said that the
16 status clerks wear gray; is that correct?

17 A Yes.

18 Q And you said that Ms. -- the older Christina sometimes
19 wears gray?

20 A Yes.

21 Q And what other colors does she wear?

22 A It's a uniform like an aqua-green.

23 Q And you said the collar is different?

24 A Yes.

25 Q And how is the collar different?

- 1 A It's lighter color or a darker.
- 2 Q Her collar is either lighter or darker?
- 3 A Yes.
- 4 Q Than the status clerks?
- 5 A That's only a color gray.
- 6 Q Okay. Now you have managers that don't wear uniforms; is
7 that correct?
- 8 A Yes.
- 9 Q Alejandro doesn't wear a uniform?
- 10 A No.
- 11 Q Anthony Wandick does not wear a uniform?
- 12 A No.
- 13 Q Does Morgan wear a uniform?
- 14 A No.
- 15 Q Does Kelvin wear a uniform?
- 16 A No.
- 17 Q Does Christina, younger Christina, wear a uniform?
- 18 A No.
- 19 Q Do you know what the job title is of older Christina?
- 20 A Actually, no.
- 21 Q Now I think you indicated that you received your union
22 button on June 8th of 2014; is that right?
- 23 A Yes.
- 24 Q Is that the day you became a member of the union
25 committee?

1 A Yes.

2 Q And that was a very important day for you; isn't that
3 right?

4 A Yes.

5 Q Do you believe strongly that there should be a union at
6 the Trump Hotel?

7 A Yes.

8 Q And you were going to be leading that effort; is that
9 right?

10 A Yes.

11 Q Now that was also the day that you were suspended for
12 wearing a union button; is that right?

13 A Yes.

14 Q All right. And that was for violating the uniform policy?

15 A This is what I was told.

16 Q Okay. And that suspension was later rescinded, right?

17 A I didn't understand the question.

18 Q That suspension was later taken away?

19 A Yes.

20 Q So you were never fired, were you?

21 A I understood that yes, because that's what I was told,
22 that I was fired.

23 Q And who told you you were fired?

24 A Kelvin.

25 Q Kelvin. So you had a conversation with Kelvin before you

1 were sent home that day?

2 A Yes.

3 Q Okay. But you returned to work shortly afterwards; isn't
4 that right?

5 A Yes.

6 Q And Kelvin was the one that sent you home?

7 MS. DAVILA: Objection, relevance.

8 JUDGE THOMPSON: I'm going to let her answer this
9 question, counsel, but --

10 MR. KRAMER: That's the only question I have.

11 JUDGE THOMPSON: -- sustained.

12 MR. KRAMER: After that question?

13 JUDGE THOMPSON: Yes.

14 MR. KRAMER: Thank you.

15 JUDGE THOMPSON: Repeat the question, counsel.

16 Q BY MR. KRAMER: Kelvin was the one who sent you home that
17 day?

18 A Yes.

19 Q Okay. Now you indicated that you had a conversation with
20 the older Christina in the employee dining room.

21 A Yes.

22 Q You don't remember the date of that conversation?

23 A Not the exact date, but it was like sometime in the month
24 of March of 2015.

25 Q Okay. This is one of the dates that you didn't happen to

1 remember, like other dates that you remembered; is that right?

2 A Yes.

3 Q Okay. But at the time you spoke with her, you were
4 wearing a union committee leader pin?

5 A Yes.

6 Q And you had been wearing that pin for a while?

7 A Yes.

8 Q And you were basically openly supporting the Union; is
9 that correct?

10 A Yes.

11 Q And you'd been handing out flyers?

12 A Yes.

13 Q Talking to employees about why they should be in the
14 Union?

15 A Yes.

16 Q And you were telling other people why you wanted to be in
17 the Union; is that correct?

18 A Yes.

19 Q And when she asked to speak with you about this, you did
20 not refuse to talk with her, did you?

21 A At that time, I only told her that I could not talk to her
22 at that time, because I was already during working hours.

23 Q Okay. And that's when the older Christina suggested that
24 she would try and meet up with you at a break; is that right?

25 A Yes.

1 Q All right. You never told her that you wouldn't talk to
2 her about that, did you?

3 A No.

4 Q And it -- the next time you saw Christina you said was
5 near the time clock when you were punching out?

6 A Yes.

7 Q That would have been about 5:00?

8 A No.

9 Q What time would it have been?

10 A Before 4:30.

11 Q Were you working from 8:30 to 5 that day?

12 A Sometimes we go in at 8:30 or 8, and we leave earlier.

13 Q All right. And do you recall what time you started work
14 that day?

15 A That day I started working at 8.

16 Q And so, you would have ended work at what time?

17 A At 4:30.

18 Q Okay. And are you allowed to punch out before 4:30?

19 A No.

20 Q All right. So it would have been somewhere close to 4:30?

21 A Yes.

22 Q Okay. I want to ask you some questions about February
23 28th. Now this was a date you specifically remember; is that
24 right?

25 A Yes.

1 Q Okay. And you arrived out in front of the hotel at around
2 7:30?

3 A Yes.

4 Q And I think you indicated that, at that time, Ms. Rivera,
5 Mr. Aleman, Ms. Varga, and Ms. Alcala were already there?

6 A Yes.

7 Q Okay. Was Guadalupe Barba there?

8 A Yes.

9 Q Okay. Anyone else that you can remember in terms of
10 housekeepers being there?

11 A The other people started arriving little by little.

12 Q More housekeepers?

13 A Yes.

14 Q How many housekeepers, in total, do you recall there?

15 A When I went in, about eight remained.

16 Q Okay. And how many were -- when you -- for the period of
17 time you were there -- you were there, you said, from 7:30 to
18 what time?

19 A I was there between 7:30 and 8:20. I went in about 8:30.

20 Q Okay. And what was the maximum number of housekeepers you
21 had with you during that timeframe?

22 A Carman, Ava, Lupita, Rodolfo Aleman, Jose Martinez, Carmen
23 Llarull. There was another man, but I can't remember who he
24 was.

25 Q Okay. And that's not counting the three people from the

1 Union; is that right?

2 A Yes.

3 Q Okay. But before the three people from the Union got
4 there, you had a conversation with Olivia Green?

5 A Yes.

6 Q And at that time, it was just you and the -- Ms. Rivera,
7 Mr. Aleman, Ms. Varga, Ms. Alcalá, and Ms. Barba?

8 A Yes.

9 Q All right. And at that time, the only thing I think you
10 said you had in your hand was a purse?

11 A Yes.

12 Q Okay. I take it the union representatives were the ones
13 that were bringing the flyers?

14 A Yes.

15 Q Okay. I'm going to hand you what's been marked as
16 Respondent's Exhibit 25. Why don't we just start with the
17 second page? And I apologize. I take that back. Let me
18 letter this. If I could have that back.

19 JUDGE THOMPSON: Counsel, how are you lettering, with A,
20 B, C?

21 MR. KRAMER: A, B, C, yeah.

22 JUDGE THOMPSON: Okay.

23 MR. KRAMER: I have A through H.

24 JUDGE THOMPSON: Same.

25 Q BY MR. KRAMER: All right. Now, Ms. Vargas, I'd like you

1 to turn to the second page, which is page B. Can you tell us
2 what that photo is?

3 A It's a photo of the front of the hotel.

4 Q Okay. And is that the sidewalk in front of the hotel?

5 A Yes.

6 Q Okay. And the hotel is on the left of that photo?

7 A Yes.

8 Q And on the right, do you see what looks like it'd be a
9 crosswalk on the street?

10 A Yes.

11 Q Is that the crosswalk that goes to the Fashion Show Mall?

12 A Yes.

13 Q And if you could take a look at the next picture, which is
14 page C. And is that a photo looking up from the sidewalk in
15 front of the Trump to the Fashion Show Mall?

16 A Yes.

17 Q And do you see the crosswalk there? And there's like a
18 little median between the street; is that correct?

19 A Yes.

20 Q All right. And the next photo, photog D and photo E,
21 those are both photos looking at the Trump Hotel from the
22 Fashion Show street?

23 A Yes.

24 Q And letter F, is that a photo of the driveway in front of
25 the hotel?

1 A Yes.

2 Q And photo -- skip photo G. Photo H, is that looking down
3 the driveway from the front entrance of the hotel?

4 A For me, it's the exit.

5 Q That's the exit of the hotel? And the viewpoint is you're
6 looking from the front of the hotel down the driveway to the
7 exit?

8 A Yes.

9 Q Okay. Now can you, on any of these photos, tell us where
10 you were when you encountered Ms. Green for the first time?

11 JUDGE THOMPSON: Let the record reflect the witness is
12 looking at --

13 MR. KRAMER: Exhibit --

14 JUDGE THOMPSON: -- 25-B.

15 THE WITNESS: Exactly where the sign is.

16 MR. KRAMER: Okay. Let the witness (sic) reflect she's
17 pointing to the sign beyond -- if --

18 Q BY MR. KRAMER: You see that -- there's a post there on
19 the middle along the curb? Do you see that? And you're saying
20 that you were over by the sign that is behind that post?

21 A Yeah, I was coming from that direction.

22 Q Okay. Along with the other housekeepers?

23 A I was coming and we were meeting.

24 Q Okay.

25 MS. DAVILA: Can I just ask to clarify?

1 Is it by the diamond shaped traffic sign on the sidewalk
2 or that diamond? Or --

3 JUDGE THOMPSON: That diamond.

4 THE WITNESS: This is where I was standing.

5 MS. DAVILA: Okay.

6 Q BY MR. KRAMER: All right. That was a yes?

7 A Yes.

8 Q Okay. And if you can go to the first page just so -- if
9 you look at this, if you're looking at the top of the photo
10 along with this line of the staple, could you see that that's
11 the front entrance to the hotel with the doors together?

12 A Yes. Yes.

13 Q Okay. And then below that, there's the driveway along
14 with the exit. You see that?

15 A Yes.

16 Q And then you have a street at the bottom. Is that the
17 street across from the mall?

18 A Yes.

19 Q Okay. And then you were on the sidewalk there on the
20 Trump side of the street; is that correct?

21 A Yes.

22 MR. KRAMER: I'd like to move for the admission of
23 Respondent's Exhibit 25.

24 MS. DAVILA: No objection.

25 JUDGE THOMPSON: Hearing no objection, I'll receive

1 Respondent's 25.

2 **(Respondent Exhibit Number 25 Received into Evidence)**

3 Q BY MR. KRAMER: Now, Ms. Vargas, I think you testified
4 that when Ms. Green approached -- and she approached alone; is
5 that correct?

6 A That's what I perceived, you know. She talked to all of
7 us, but I felt that she was talking directly to me, what are
8 you doing here.

9 Q Okay. But there were no other security guards with her;
10 is that right?

11 A No.

12 Q Okay. And at that point, you had not made any attempt to
13 go up onto the property to handbill in front of the front door;
14 is that right?

15 A No.

16 Q Okay. And she said hello to you, didn't she? And then
17 she asked what you were doing there?

18 A No.

19 Q She asked what you were doing there; isn't that right?

20 A Yes.

21 Q And you were the one that responded?

22 A I did.

23 Q And you said that you had business there; isn't that
24 correct?

25 A I told her that we were going to have the union activity.

1 JUDGE THOMPSON: Mr. Kramer, before you proceed, I just
2 want to clarify. I understand you have to lay some semblance
3 of a foundation, but I don't necessarily want cross-examination
4 to be a re-examination of direct examination.

5 MR. KRAMER: Understood, Your Honor.

6 JUDGE THOMPSON: So again, with the caveat that I know you
7 need to lay a foundation, to the extent that you're bringing
8 out some testimony, I would appreciate that. With that, please
9 proceed.

10 MR. KRAMER: Thank you.

11 Q BY MR. KRAMER: And you indicated that, after she left --
12 strike that. At some point after that conversation, you, the
13 other housekeepers and the union representatives started
14 working towards the exit driveway of the property; is that
15 right?

16 A Yes.

17 Q Okay. And at some point, as you were walking towards that
18 driveway, you were met by Ms. Green and two other security
19 guards; is that right?

20 A They arrived when we were gathered there.

21 Q Okay. And you were heading towards the driveway at the
22 time that they arrived; is that correct?

23 A No, we were standing on the sidewalk.

24 Q All right. Can you show us where you were standing on the
25 sidewalk?

1 JUDGE THOMPSON: Counsel, do you want to approach so that
2 you can witness?

3 Q BY MR. KRAMER: Which page -- we're looking at page E.

4 A Right here.

5 Q Okay. So right next to the stop sign?

6 A Uh-huh.

7 Q All right. And how many of there were you at that point
8 in time?

9 A About eight. And the other were more on this side over
10 here.

11 Q Can you point again on where you said more on this side
12 over here?

13 A Here. Here, you know, going around. We were as if we
14 were in line.

15 Q Okay. Were you at the front of the line?

16 A Yes, I was here.

17 Q So the front of the line had hit this -- basically, at the
18 stop sign by that point?

19 A Yes.

20 Q Okay. Now --

21 MS. DAVILA: Could you describe what page we were on?

22 Q BY MR. KRAMER: We're on page E; is that correct?

23 A E.

24 Q E.

25 MS. DAVILA: And if you could clarify what part of the

1 page she was pointing at?

2 MR. KRAMER: Let the record reflect that the witness was
3 pointing at the bottom of the page, on the sidewalk of the
4 driveway just at the exit.

5 MS. DAVILA: On the sidewalk with a stop sign?

6 MR. KRAMER: With the stop sign, yes.

7 MS. DAVILA: Okay.

8 MR. KRAMER: Thank you.

9 Q BY MR. KRAMER: And I think you testified, isn't that
10 right, that the officer that spoke initially was Officer -- was
11 Cornelius; is that right?

12 A Yes.

13 Q Okay. And the person that responded from your group was
14 Jose Pineda?

15 A Yes.

16 Q Okay. And Cornelius asked what you were doing; is that
17 correct?

18 A Yes.

19 Q And Jose said that you were going to come onto the
20 property to hand out flyers?

21 A Yes.

22 Q And Cornelius said that you could hand out flyers, but you
23 couldn't come on the property to do that; is that right?

24 A I did not hear that.

25 Q Okay. Did you hear Mr. Pineda saying he could go anywhere

1 he wants?

2 A No.

3 Q Did you hear him want to know the names of the security
4 officers?

5 A Yes.

6 Q All right. And is it your testimony that Officer Green
7 said that she was the commander in chief of the officers?

8 A Yes.

9 Q All right. Do you know who the head of security is?

10 A A tall gentleman.

11 Q Tall African American gentleman?

12 A Yes.

13 Q All right. And you knew that at the time Officer Green
14 said she was the commander in chief?

15 A Yes.

16 Q All right. And were you talking at this time as well?

17 A No.

18 Q Okay. And when -- and how long did this conversation take
19 place between Officer Cornelius and Mr. Pineda?

20 A It was not for a long time.

21 Q Okay. And then when was it in this conversation that
22 Cornelius told you that you needed to get your car?

23 A Jose started talking to the other security gentleman. And
24 Mr. Cornelius gave one step forward, because there wasn't a big
25 distance, and told me.

1 Q And he only told you?

2 A Yes.

3 Q And you didn't say anything in response to him?

4 A No.

5 Q All right. And eventually, did you all leave that area
6 and go somewhere else?

7 A No. Dora left, and I -- we were the ones who had to go in
8 to work.

9 Q And when you left, where were the other people?

10 A They remained and they were trying to organize and decide
11 whether or not they were going to hand out the flyers.

12 Q And did they eventually hand out the flyers?

13 A I think they did.

14 Q Okay.

15 (Counsel confer)

16 Q BY MR. KRAMER: And you handed out flyers in front of the
17 entrance after that date; is that right?

18 A Yes.

19 Q And while you were out there in this -- when you had this
20 conversation with the three security guards at that stop sign,
21 the Union was recording that, correct?

22 A Yes. There's always someone recording.

23 Q Okay. I want to talk -- ask you a few questions about the
24 incident in the employee dining room with Mr. Wandick. Now you
25 indicated this was before Trump talk; is that right?

1 A Yes.

2 Q A All right. And do you remember how many people were in
3 the EDR at that time?

4 A Yes. There were several.

5 Q Okay. And do you remember, was this before your Trump
6 talk? What time is your Trump talk in the morning?

7 A Usually, in the morning, when we go in at 8:30, it's at
8 8:30. When we go in at 9, it's at 9.

9 Q Okay. And other housekeepers start earlier than you?

10 A Yes.

11 Q All right. And they have a Trump talk when they come in?

12 A Yes. Yes.

13 Q And how many is several. Were there more than 10?

14 A Yes.

15 Q More than 20?

16 A Yes.

17 Q More than 30?

18 A No.

19 Q Okay. Somewhere between 20 and 30?

20 A Yes.

21 Q They're all talking to each other and eating?

22 A Yes.

23 Q And you and Carmen and the others were handing out flyers;
24 is that right?

25 A Yes.

1 Q Okay. Now you indicated that you were on -- do you have
2 Respondent's Exhibit 12 in front of you?

3 JUDGE THOMPSON: Which one, counsel?

4 MR. KRAMER: That's the map of the EDR.

5 JUDGE THOMPSON: Okay. Continue. I got it.

6 Q BY MR. KRAMER: Do you have that in front of you, Ms.
7 Vargas?

8 A Yes.

9 Q Okay. And at the time -- what were you doing at the --
10 when Ms. Carmen is handing out flyers where she was, were you
11 handing out flyers where you were?

12 A Yes.

13 Q Okay. And you were handing out people -- flyers to the
14 people at that table that you indicated you were near?

15 A Yes.

16 Q Okay. And you were basically three tables away from
17 Carmen; is that correct?

18 A Yes.

19 Q And Carmen was handing out flyers at that table?

20 A Yes.

21 Q And how many other people were handing out flyers between
22 you and Carmen?

23 A About five in total.

24 Q Okay. And you were each taking a table?

25 THE INTERPRETER: Repeat the question.

1 Q BY MR. KRAMER: Were you each taking a table?

2 A Yes.

3 Q Okay. And you couldn't hear what, if anything, was said
4 between Mr. Wandick and that employee, could you?

5 A No.

6 Q Okay. And you've indicated that Mr. Wandick walked out of
7 the room, the EDR?

8 A Yes.

9 Q All right. And that was after he took the flyer from the
10 coworker?

11 A Yes.

12 Q And you don't know what they went outside to do, do you?

13 A No.

14 Q Okay. I think -- and isn't it true, in your affidavit
15 about this, you said that he -- basically, that Anthony took
16 information about the Union from a coworker's hands; is that
17 correct?

18 A Yes.

19 Q Okay. I'm going to ask you a couple questions about the
20 room, with Ms. Rivera and Mr. Wandick. Now you actually had
21 three different calls that day. Let me take a step back.
22 Yeah. I think you testified in your direct testimony that you
23 had made two calls about the foam mattress. Do you remember
24 that?

25 A Yes, but there were more than two.

1 Q Okay. There was at least a third call that you made about
2 the mattress; isn't that correct?

3 A Yes.

4 Q All right. And you indicated that you had told the guest,
5 when she asked about why there wasn't a mattress, that it was a
6 Saturday and there'd been a lot of requests for these foam
7 inserts; is that right?

8 A Yes.

9 Q Okay. And they were having a hard time getting a foam
10 mattress; isn't that true?

11 A Yes.

12 Q And that's why Alejandra said that she was going to send
13 Anthony up?

14 A Yes.

15 Q Okay. Now when Anthony came to the room, he didn't have a
16 sofa bed, did he?

17 A No.

18 Q No, he didn't have a sofa -- no, he didn't have a foam
19 mattress or yes, he did have a foam mattress?

20 A A foam mattress, yes.

21 Q All right. That's what you remember; is that correct?

22 A Yes.

23 Q Okay. Now when you finally met Anthony in the room, it
24 had been well over half an hour since you were asked by the
25 guest to leave that -- it'd been well over a half-hour since

1 you had told the guest you were going to come back later,
2 because there was no mattress; is that correct -- or no foam
3 insert?

4 A More than 45 minutes had gone by.

5 Q Okay. And in that time, you went and cleaned two other
6 rooms with Ms. Rivera?

7 A Yes.

8 Q But when you spoke to Denise after lunch, you told her
9 that you didn't have any rooms that were available to be
10 cleaned, right?

11 A Yes.

12 Q All right. And you didn't let Denise or any managers know
13 where you were when you had found some other rooms to clean;
14 isn't that correct?

15 A They know automatically, because we dial in the number of
16 the room and the time when we're going in. They have the
17 number of the room where we're going.

18 Q Okay. So if they're checking their computers, they would
19 be able to tell; is that right?

20 A Always.

21 Q Now I'd like you to take a look at Respondent's Exhibit
22 13, which is the layout of the room. Do you see that, Ms.
23 Vargas?

24 A Yes.

25 Q Okay. And I just want to make sure I understand where you

1 were and everyone else was. Where do you remember Mr. Wandick
2 being when he said that -- in a loud voice that he had been
3 looking for you and where had you been for the last two hours?

4 A He walked in.

5 Q Okay

6 A When he went in, he was already screaming.

7 Q Okay. So as he was walking in he was telling you this?

8 And where were you?

9 MS. DAVILA: Objection. She didn't get a chance to
10 answer.

11 JUDGE THOMPSON: Sustained. Could you repeat the
12 question? You asked, so --

13 MR. KRAMER: Okay.

14 JUDGE THOMPSON: -- when he walked in he was already --
15 yeah.

16 Q BY MR. KRAMER: He was already calling to you when he
17 walked in; is that correct?

18 A Yes.

19 Q Okay.

20 JUDGE THOMPSON: Counsel, she just gave a non-verbal. So
21 I need --

22 MS. DAVILA: Yeah. That's why --

23 JUDGE THOMPSON: -- you to repeat it.

24 MR. KRAMER: No. I appreciate that, Your Honor.

25 JUDGE THOMPSON: Okay. Perfect.

1 Q BY MR. KRAMER: And at the time you first heard him start
2 calling for you, where were you?

3 A I had remained here.

4 Q Okay. So you were just basically next to the dinette
5 table, close to the side table there with the lamp at the
6 bottom of that diagram?

7 A Yes.

8 Q Okay. And Ms. Rivera was back by the couch, starting to
9 take it apart; is that right?

10 A Yes. She was over here. She was already removing
11 everything from the furniture in order to set up the mattress.

12 Q Okay.

13 MS. DAVILA: Let the record reflect that the witness
14 pointed to the sofa at the bottom left-hand corner of the page.

15 Q BY MR. KRAMER: And where was the guest at that time? Do
16 you recall?

17 A In the bedroom.

18 Q She was actually in the bedroom?

19 A Yes.

20 Q (Spanish spoken)? And did you respond to Mr. Wandick when
21 he called you and asked you where you had been?

22 A I told him to tell Denise that I was doing the assignment
23 that she had given me.

24 Q Okay. And what did Mr. Wandick do next?

25 A At that time, the guest came out. And when he saw the

1 lady, he left.

2 Q All right. And how far did the guest get out of the door?

3 A She remained exactly in the middle of the door --

4 Q She was in the middle --

5 A -- of -- to the bedroom.

6 Q -- of the bedroom doorway?

7 A Yes.

8 Q Okay. And Mr. Wandick was still at the entrance of the
9 hotel room?

10 A Yes. He remained to the side of the door.

11 Q Okay. And that's when -- at the time you saw the guest
12 come to the entrance of the hotel room door -- or the bedroom
13 door, that's when you saw Mr. Wandick leave the unit?

14 A Yes.

15 Q All right. And then at some point then he went back to
16 the doorway to waive you into the hallway?

17 A Yes.

18 Q Okay. And when he did that, did you then follow him out
19 into the hallway?

20 A As I was leaving is when the lady asked, "What happened?"
21 Like this, very softly. "Why is he screaming?"

22 Q Okay. And was the lady still in the doorway of her room?

23 A Yes.

24 Q Okay. And where were you at the time she asked you that
25 question?

1 A I was walking because he had called me.

2 Q Okay. And had Anthony walked out into the hall after he
3 called you?

4 A Yes.

5 Q Okay.

6 JUDGE THOMPSON: Counsel, I'm going to say again I
7 understand you have to lay some level of foundation. But all
8 the questions you've asked have already been asked on direct.
9 So I would like if possible -- to the extent that you want to
10 flesh out her testimony, that would be helpful. I don't
11 necessarily just want you to repeat what was already asked on
12 direct.

13 MR. KRAMER: Okay, Your Honor.

14 Q BY MR. KRAMER: And then you joined Mr. Wandick in the
15 hallway; is that correct?

16 A Yes.

17 Q And were you in the hallway or were you in the entrance
18 way of the -- of the room?

19 A In front of the doorway to the room right next to the
20 hallway. You know, the room is to this side. The hallway is
21 to this side.

22 Q All right. I'm going to -- I'd like you to point out
23 where you were on this, if you can.

24 MR. KRAMER: Respondent's Exhibit 13.

25 JUDGE THOMPSON: Ms. Davila?

1 Q BY MR. KRAMER: Now, if -- you see the doorway here,
2 correct? And there is another unit to the right of this, is
3 that correct, with another doorway?

4 A Yes. It's the room 5107. Here is the room. There is a
5 hallway. And then there is another hallway. And he
6 practically stayed here.

7 MS. DAVILA: Let the record reflect the witness pointed to
8 the top right side of the door -- the label --

9 MR. KRAMER: Okay.

10 MS. DAVILA: -- the doorway.

11 Q BY MR. KRAMER: All right. Just so I'm clear here,
12 because there is another set of doors that you could --

13 A 5108.

14 Q Okay. But then aren't there -- beyond those two doors, if
15 you look -- like this is a patio. There's another set of doors
16 that could be closed to make these two units one; is that
17 correct?

18 MS. DAVILA: Objection.

19 THE WITNESS: Yes.

20 JUDGE THOMPSON: Wait.

21 THE WITNESS: There's only one door.

22 JUDGE THOMPSON: Wait, wait.

23 MS. DAVILA: Objection. Relevance. Can he just describe
24 where we're going? Just --

25 MR. KRAMER: I'm just trying to find out where they were.

1 JUDGE THOMPSON: Okay. Can you just ask her --

2 MS. DAVILA: Can you get there?

3 JUDGE THOMPSON: -- where you were on this diagram and
4 where Mr. Wandick was?

5 Q BY MR. KRAMER: Were you --

6 MR. KRAMER: I'm trying to get there, Your Honor.

7 Q BY MR. KRAMER: Were you inside the doors that can close
8 off both units or were you outside the doors that can close off
9 both units?

10 A Outside.

11 Q Okay. So you were beyond the two doors into the actual
12 hallway area; is that correct?

13 A Yes. When he called me, yes, I went all the way outside.

14 Q Okay. So you were at least ten feet from the doorway into
15 the unit; is that correct?

16 A I don't know what is the ten feet measure.

17 Q Well, how far would you say you were from the door of the
18 hotel room?

19 A Like to the -- this door.

20 MS. DAVILA: Let the --

21 Q BY MR. KRAMER: From where you are in the witness stand to
22 the door?

23 A The small one.

24 Q Okay.

25 A The small one.

1 MS. DAVILA: Let the record reflect that the witness
2 pointed to the gate opening up into the courtroom -- hearing
3 room.

4 Q BY MR. KRAMER: Okay. So --

5 JUDGE THOMPSON: From where she is sitting --

6 MS. DAVILA: From --

7 JUDGE THOMPSON: -- on the witness stand. I don't know
8 how far that is, counsel. So she was -- I'm good with her
9 testimony as to where she was in relation to where Mr. Wandick
10 was. I don't know if you're going to be able to get this
11 witness to tell you how many feet that was.

12 MR. KRAMER: Well, we can all see it, Your Honor. It
13 looks to be -- I just base it off of 12 feet.

14 MS. DAVILA: She already said she doesn't know.

15 JUDGE THOMPSON: She doesn't know.

16 MR. KRAMER: She doesn't know. That's --

17 JUDGE THOMPSON: And I don't want you to tell me.

18 MR. KRAMER: That's fine, Your Honor. We --

19 JUDGE THOMPSON: So just can we move on?

20 MR. KRAMER: Yes. We're going to move on, Your Honor.

21 JUDGE THOMPSON: Perfect.

22 Q BY MR. KRAMER: And Ms. Vargas, and that was the
23 conversation where you say that Mr. Wandick talked to you about
24 talking to guests; isn't that correct?

25 A Yes.

1 Q All right. And that was a conversation that was far
2 enough away where the people in the room couldn't hear you,
3 could they?

4 A I don't know.

5 Q Okay. All right. And isn't it true that in your
6 affidavit to the Board about this you said that Anthony told
7 you that you had no reason to be discussing anything with the
8 guest; isn't that correct?

9 A Yes.

10 Q Okay. He didn't say you could never talk to a guest, did
11 he?

12 A Yes. He told me that I did not have to talk to the
13 guests.

14 MS. DAVILA: Let the record reflect that the witness shook
15 her head --

16 MS. OVIEDO: No.

17 MS. DAVILA: -- when she said that.

18 (Counsel confer)

19 MS. DAVILA: Oh, shook her head no. I'm sorry.

20 MS. OVIEDO: Left to right.

21 MS. DAVILA: Left to right.

22 JUDGE THOMPSON: But she also stated it.

23 MS. DAVILA: Yes.

24 JUDGE THOMPSON: So I'm good with her testimony.

25 MS. DAVILA: Okay.

1 JUDGE THOMPSON: But I appreciate it.

2 Go ahead, counsel.

3 Q BY MR. KRAMER: Ms. Vargas, I'm going to show you your
4 affidavit from June 15th. Take that. And this is the
5 affidavit you gave to the Labor Board; is that correct?

6 A Yes.

7 Q All right. And is that your signature on the last page?

8 A Yes.

9 Q And when did you do this affidavit?

10 A In July -- on June 15th of 2015.

11 Q Okay. And if you could look at the second page, line 8?

12 And isn't it true that you there said that: "Anthony told me I
13 had no reason to be discussing anything with the guests"?

14 A I'm sorry. Which number did you say?

15 Q Let me make sure the lines line up here. Okay. See this?
16 Okay. On the second page here -- oh, I gave you the wrong
17 Spanish version. I'll try another Spanish version. Sorry
18 about that. Do you recognize this affidavit?

19 A Yes.

20 Q And you gave this affidavit to the Board?

21 A Yes.

22 Q And that was on July 8th?

23 A It was not on the 15th. Yes.

24 Q All right.

25 JUDGE THOMPSON: Of what year, counsel?

1 THE WITNESS: I started --

2 MR. KRAMER: Huh?

3 THE WITNESS: I was thinking about the other one.

4 Q BY MR. KRAMER: Yeah. Sorry about that. That's my fault.

5 JUDGE THOMPSON: And I said what year, counsel?

6 MR. KRAMER: 2015, Your Honor.

7 JUDGE THOMPSON: Oh. Could you -- oh. Well, let the
8 record reflect that's what it states on there.

9 MR. KRAMER: All right.

10 MS. OVIEDO: Your Honor, can we take just a five-minute
11 bathroom break?

12 MR. KRAMER: I think I have like two minutes. But if --

13 MS. OVIEDO: Okay.

14 MS. DAVILA: So, go ahead.

15 JUDGE THOMPSON: Can you -- okay.

16 MS. OVIEDO: Okay. Sorry.

17 JUDGE THOMPSON: Okay. Just I'm going to hold you to the
18 two minutes.

19 MR. KRAMER: Well, on this point, two minutes on this
20 point.

21 MR. DRITSAS: Why don't we take a break then?

22 JUDGE THOMPSON: I really don't want you to take a break
23 in the middle of what you're about to say to her.

24 MR. KRAMER: All right.

25 JUDGE THOMPSON: Could you just finish this --

1 Q BY MR. KRAMER: Is this --

2 MR. KRAMER: Okay.

3 Q BY MR. KRAMER: If you could take a -- one, two, three,
4 four, five, six, seven, eight, the eighth line on the second
5 page here? And do you see where it says, "Anthony told me I
6 had no reason to be discussing anything with the guests"?

7 A Yes.

8 Q All right. And you didn't put anywhere in the affidavit
9 that he said you couldn't say anything to a guest, did he? Did
10 you?

11 A Can you repeat the question.

12 Q Sure. In your affidavit you never said anywhere in your
13 affidavit that Mr. Wandick told you you could never speak to a
14 guest, did you?

15 A That's what I understand, that was -- you know, I wrote
16 here that, you know, he told me that I had no reason to discuss
17 anything with any guests.

18 Q Okay. And anywhere in that paragraph of your affidavit do
19 you see anywhere where you wrote down or you told the Board
20 agent that Anthony actually brought a mattress up to you -- a
21 foam insert up to you?

22 A I did tell him.

23 Q Okay. But you didn't put it in your affidavit, though,
24 did you?

25 A I remember that I did. Maybe I didn't put it down.

1 MR. KRAMER: Okay. Take a break now, Your Honor?

2 JUDGE THOMPSON: Certainly. Off the record.

3 (Off the record at 2:21 p.m.)

4 JUDGE THOMPSON: We're back on the record.

5 Q BY MR. KRAMER: Ms. Vargas, I think you indicated that the
6 foam mattress incident occurred on a Saturday; is that correct?

7 A Yes.

8 Q Now, I believe on your testimony you said it was June
9 15th. But if I told you that June 13th was a Saturday, would
10 you agree that it must have been June 13th?

11 A It was July 13th.

12 Q Okay. Good. And you -- Ms. Vargas, did you talk to
13 anyone about what you were going to testify about here today?

14 A Besides here, no.

15 Q Okay. You didn't talk to Ms. Rivera?

16 A We always talk. But not, you know, if we were going to
17 come -- I didn't know if she was going to come or not.

18 Q All right. Did you talk -- I mean, in the last month have
19 you talked to Ms. Rivera about what happened in the hotel room
20 that day?

21 A Yes.

22 Q Okay. And when did you talk to her?

23 A Last week.

24 Q Okay. And did you approach her or did she approach her?

25 A Both. Because we worked together last Saturday.

1 Q All right. And you talked about what happened that day?

2 A Yes.

3 (Counsel confer)

4 Q BY MR. KRAMER: And just for clarification, you talked
5 about the day at the hotel room with the foam mattress and Mr.
6 Wandick; is that right?

7 A Yes.

8 MR. KRAMER: No further questions, Your Honor.

9 JUDGE THOMPSON: Ms. Davila, any redirect?

10 MS. DAVILA: Just a few questions, Your Honor.

11 JUDGE THOMPSON: Hold on just a second.

12 Ms. Vargas, during the break in this hearing you were
13 speaking with another young lady outside in the waiting room;
14 is that correct?

15 THE WITNESS: Yes.

16 JUDGE THOMPSON: Who was that person you were speaking
17 with?

18 THE WITNESS: It's Martha Guzman.

19 JUDGE THOMPSON: Did you speak with Ms. Guzman about your
20 testimony today?

21 THE WITNESS: No.

22 JUDGE THOMPSON: Okay. Ms. Davila? Oh, strike that.

23 Mr. Kramer --

24 MR. KRAMER: No follow up.

25 JUDGE THOMPSON: Okay.

1 Ms. Davila?

2 MS. DAVILA: Okay.

3 **REDIRECT EXAMINATION**

4 Q BY MS. DAVILA: Ms. Vargas, do you work in the status
5 department?

6 A No.

7 Q Okay. Do you have a status department supervisor?

8 MR. KRAMER: Objection. Foundation.

9 THE WITNESS: No.

10 MS. DAVILA: I'm asking her --

11 JUDGE THOMPSON: Go ahead.

12 MS. DAVILA: I'm just asking her because she was asked to
13 list her supervisors. And she didn't list a status employee.

14 JUDGE THOMPSON: Based on foundation in the sense of she
15 hasn't determined whether she has a status clerk supervisor,
16 counsel?

17 MR. KRAMER: I just don't know if there's any foundation
18 if she knows who might be a supervisor in the status
19 department, much less if she has one.

20 MS. DAVILA: I said if she had one.

21 JUDGE THOMPSON: Okay. She asked if Ms. Vargas has a
22 supervisor in status.

23 MS. DAVILA: From the status department.

24 JUDGE THOMPSON: So based on that I'm going to have to
25 overrule the objection and allow the witness to answer.

1 Would you repeat the question, Ms. Davila?

2 Q BY MS. DAVILA: Are you supervised by somebody in status?

3 A I don't understand the question.

4 Q Okay. Do you consider yourself a status employee?

5 A No.

6 Q Okay. What department does Christina Keeran work in?

7 A She works in the office.

8 Q Okay. But you don't know in what department?

9 A No.

10 Q Okay. Is Morgan a supervisor in the status department?

11 A I understand that he's a supervisor in the housekeeping
12 department.

13 Q Okay. And do only housekeeping employees use the EDR?

14 A No.

15 Q Do all employees use the EDR?

16 A Yes.

17 MS. DAVILA: Okay. And I promise this will be brief.

18 Q BY MS. DAVILA: Back to the diagram, Respondent's --

19 JUDGE THOMPSON: Mr. Kramer?

20 Q BY MS. DAVILA: -- Respondent's --

21 MS. DAVILA: I just will need to see the exhibit number.

22 I'm not going to stand up there. Respondent's 13.

23 Q BY MS. DAVILA: Okay. When you were describing earlier
24 about Mr. Wandick and where he was standing, okay, you said
25 that he came in with the mattress, correct?

- 1 A Yes.
- 2 Q And that he left when he saw the guest?
- 3 A Yes.
- 4 Q And he went to the doorway, correct?
- 5 A Yes.
- 6 Q And about how much time passed between him walking out and
7 you joining him?
- 8 A It didn't take long. Everything happened in a moment.
- 9 Q Okay. And after you had -- okay. So when you were
10 outside having your conversation with him, what was his tone
11 like? Was he speaking softly?
- 12 A He was pale and very upset. He looked at me very angry.
- 13 Q Was his voice loud?
- 14 A At this moment, not anymore.
- 15 Q And did you respond to him -- did you give him any
16 response?
- 17 A Yes.
- 18 Q And what volume was your voice?
- 19 A Normal.
- 20 Q When you went back inside, do you know if Anthony left?
- 21 A No.
- 22 Q No, he didn't leave? Or no, he stayed?
- 23 A He did not leave.
- 24 Q How do you know he didn't leave?
- 25 A Because I turned around to look.

1 Q About how long did he stay there.

2 MR. KRAMER: Objection. Foundation. And outside the
3 scope.

4 MS. DAVILA: I think he went exclusively over this and I
5 should be allowed to clarify.

6 MR. KRAMER: We've moved beyond what happened -- what was
7 discussed on direct or on cross.

8 MS. DAVILA: I don't see this -- they opened the door on
9 cross.

10 JUDGE THOMPSON: Well, if I recollect, I don't know that
11 Mr. Kramer discussed whatever Mr. Wandick said. I think he
12 essentially limited it to where was Ms. Vargas, where was Mr.
13 Wandick, and their proximity to one another. I don't believe
14 he got into the issue of what -- who said what and the tone of
15 their voice.

16 MS. DAVILA: I think he did, Your Honor.

17 MR. KRAMER: Well, I didn't get into the discussion of
18 what happened after that conversation, Your Honor.

19 JUDGE THOMPSON: I'm sorry. What did you say?

20 MR. KRAMER: I --

21 JUDGE THOMPSON: You -- no. Repeat what you said,
22 counsel.

23 MR. KRAMER: Your Honor, I believe I did ask the witness
24 what she said about the -- what she told -- what -- I asked the
25 witness what he told her about talking to guests. But I did

1 not discuss or raise what happened after they had their
2 conversation in the hallway.

3 JUDGE THOMPSON: That's what I was trying to say. But I
4 don't know that I said it.

5 MS. DAVILA: Your Honor, he opened the door. And the
6 witness should be allowed to explain.

7 MR. KRAMER: What door?

8 JUDGE THOMPSON: Well, she -- it -- he's saying --

9 MS. DAVILA: The literal door.

10 JUDGE THOMPSON: -- he didn't open the door. He's saying
11 that he limited his cross to just what was said during their
12 conversation and then returned to, you know, she walking back
13 into the room, which was basically what your direct was.

14 MS. DAVILA: She should be able to contextualize what
15 she --

16 JUDGE THOMPSON: What --

17 MS. DAVILA: -- what the conversation was.

18 JUDGE THOMPSON: Is this relevant, counsel?

19 MS. DAVILA: Yes, Your Honor. Do you want me to --

20 JUDGE THOMPSON: Can you give me a --

21 MS. DAVILA: -- cite the complaint?

22 JUDGE THOMPSON: Can you give me a offer of proof as to
23 why I need to know what happened after --

24 MS. DAVILA: Complaint. It's paragraph 5K. The
25 allegation is engage in surveillance and create the impression

1 of surveillance.

2 JUDGE THOMPSON: Okay. So why didn't we discuss this on
3 direct if that was part of the complaint? Because that's what
4 counsel is raising. Counsel is essentially saying that you
5 didn't open that door on direct, he didn't open it on cross, so
6 you shouldn't be allowed to explore it on redirect.

7 MS. DAVILA: I was just clarifying the instances where he
8 was in the doorway. That's what I'm trying to do now.

9 JUDGE THOMPSON: I understand. Counsel's point is well
10 taken. Mr. Kramer's point is well taken, counsel. I don't
11 recall you discussing that subject on direct such that counsel
12 broached it on cross such that he opened the door for you to
13 talk about it on direct. So I'm going to have to sustain the
14 objection and ask that you not explore that line of
15 questioning. But to the extent you have any other questions,
16 please continue.

17 Q BY MS. DAVILA: Ms. Vargas, you said that you spoke to
18 Dora Rivera last week; is that correct?

19 A Yes.

20 Q And you talked about what happened in that hotel room with
21 Anthony Wandick?

22 A Yes.

23 Q Okay. Can you tell us what you said in that conversation?

24 A I asked her if she remembered.

25 Q And what did she say?

1 A She said that she had never paid attention because she was
2 very busy, you know, taking care and, you know, moving things
3 around the sofa.

4 Q And what did you say?

5 A Well, nothing.

6 Q Did you tell her what to say?

7 A No.

8 Q Did she tell you she was going to come and testify?

9 A Yes. But, you know, she told me that she had received a
10 phone call and they had done an interview. And I told her that
11 I didn't know how this worked.

12 MS. DAVILA: If I could just object to the interpretation?
13 She said she was called to the office.

14 THE WITNESS: Dora was called and told to go to human
15 resources.

16 Q BY MS. DAVILA: Okay. Thank you. Did you discuss
17 anything else about coming here today?

18 A No.

19 Q Okay. And the affidavit that you gave to the Board --

20 JUDGE THOMPSON: Which one, counsel?

21 MS. DAVILA: Either. Both of them.

22 JUDGE THOMPSON: Okay.

23 Q BY MS. DAVILA: When you came and gave them, did you write
24 out what happened?

25 A No.

1 Q Did you give a verbal declaration?

2 A Yes.

3 MS. DAVILA: No further questions, Your Honor.

4 JUDGE THOMPSON: Ms. Vargas, thank you so very much for
5 your testimony and your patience with us.

6 THE WITNESS: And you, too. You have to have patience.

7 JUDGE THOMPSON: Thank you. Please don't discuss your
8 testimony with anyone. You are excused. And have a wonderful
9 day.

10 THE WITNESS: Thank you very much.

11 JUDGE THOMPSON: De nada.

12 MS. DAVILA: Can I walk her out?

13 JUDGE THOMPSON: Let's go off the record for a moment.

14 (Off the record at 2:43 p.m.)

15 JUDGE THOMPSON: We are back on the record.

16 Ms. Davila, would you like to call your next witness?

17 MS. DAVILA: Yes, Your Honor. The General Counsel calls
18 Alejandra Magana.

19 JUDGE THOMPSON: Thank you. Good afternoon, Ms. Magana.

20 MS. MAGANA: Yes.

21 JUDGE THOMPSON: Am I pronouncing it properly?

22 MS. MAGANA: Yes, you did.

23 JUDGE THOMPSON: Okay. Great. My name is Judge Thompson.
24 I'm an administrative law judge with the National Labor
25 Relations Board. And I have been assigned to hear this case.

1 You have been called as a witness to testify in this matter.
2 And I would like for you to testify. But before you do so, I
3 need to swear you in. So could you raise your right hand?
4 Whereupon,

5 **ALEJANDRA MAGANA**

6 having been duly sworn, was called as a witness herein and was
7 examined and testified as follows:

8 JUDGE THOMPSON: Great. Thank you. Would you please
9 state your name for the record?

10 THE WITNESS: Yes. My name is Alejandra Magana.

11 JUDGE THOMPSON: Okay. Spell your first name for us,
12 please.

13 THE WITNESS: A-L-E-J-A-N-D-R-A.

14 JUDGE THOMPSON: And spell your last name.

15 THE WITNESS: M-A-G-A-N-A.

16 JUDGE THOMPSON: Okay. Perfect. Thank you. Ms. Magana,
17 let me give you just a couple of instructions --

18 THE WITNESS: Uh-huh.

19 JUDGE THOMPSON: -- that I'd like for you to remember as
20 you give your testimony. First, there is a microphone to your
21 left that we're using to record the proceedings. You don't
22 have to lean in. You can sit comfortably. Because we'll
23 capture your testimony.

24 THE WITNESS: Okay.

25 JUDGE THOMPSON: But we would appreciate if you would, A,

1 speak as loud as you can, and B, give us a verbal response as
2 opposed to non-verbal or huh-uh or uh-huh. Because it's very
3 hard for our court reporter to transcribe.

4 THE WITNESS: I understand.

5 JUDGE THOMPSON: Secondly, if either of the attorneys
6 sitting at the tables asks a question that you don't
7 understand, would you please let us know and tell them I don't
8 understand your question so that they can rephrase it or repeat
9 it as many times as necessary for you to understand what
10 they're asking you? If you answer a question, we'll presume
11 that you understood it.

12 THE WITNESS: Okay.

13 JUDGE THOMPSON: Third, either of the attorneys may
14 object. And if they do, they'll say objection. When you hear
15 that, would you please hold your response until I can address
16 the objection?

17 Finally, oftentimes you may know where counsel are headed
18 with a question and may want to interject your answer. But
19 that creates problems when we read back the transcript because
20 we have part of a question and part of your answer. So in
21 order to avoid that, would you please hold your response until
22 the attorneys have finished their question? And then you can
23 answer. And that way we can get the full question and the full
24 response. Would you do that for us, please?

25 THE WITNESS: Yes. Of course.

1 JUDGE THOMPSON: Great. Thank you so much.

2 Ms. Davila, your witness.

3 MS. DAVILA: Thank you, Your Honor.

4 **DIRECT EXAMINATION**

5 Q BY MS. DAVILA: Good afternoon, Ms. Magana. My name is
6 Judith Davila. I'm an attorney with the National Labor
7 Relations Board. This is Elis Oviedo, my co-counsel. Can you
8 please tell us where you work?

9 A I work at the Trump Internationals.

10 Q And what position do you have there?

11 A I am the director of housekeeping.

12 Q And what are some of your duties there?

13 A Overall, my duties are to keep the hotel up to standards,
14 up to five star standards, and oversee budgeting, labor,
15 payroll, scheduling.

16 Q And you're the director, right?

17 A Yes.

18 Q Okay. And how many supervisors does the department have?

19 A I have two supervisors.

20 Q And what are their names?

21 A Alma Pattaroyo and Walter Ruby.

22 JUDGE THOMPSON: How do you spell Alma -- what was the
23 last name?

24 MS. DAVILA: Pattaroyo.

25 THE WITNESS: Pattaroyo. It's P-A-T-T --

1 MS. DAVILA: A --

2 THE WITNESS: -- R-R -- A-R-R-O. No. Y-O. Oh, yes.

3 JUDGE THOMPSON: Okay. And the other supervisor you
4 named?

5 THE WITNESS: Walter.

6 JUDGE THOMPSON: Last name?

7 THE WITNESS: Ruby.

8 JUDGE THOMPSON: R-U --

9 THE WITNESS: R-U-B-Y.

10 JUDGE THOMPSON: Okay. Got it. Thank you.

11 Q BY MS. DAVILA: And what are their titles?

12 A Supervisors. Housekeeping supervisors.

13 Q Okay. And who is Kelvin Kwon?

14 A Kelvin Kwon is my assistant. He's the assistant director
15 of housekeeping.

16 MS. DAVILA: Okay. I'd like to ask for permission to
17 proceed under 611(c), Your Honor.

18 JUDGE THOMPSON: I have no objection.

19 MS. DAVILA: Okay.

20 Q BY MS. DAVILA: And who are the floor managers currently?

21 A I have Nida.

22 Q Uh-huh.

23 A Her last name, you might have, Biehl (phonetic). I'm
24 sorry. I -- to spell it is kind of --

25 JUDGE THOMPSON: Unfortunately, you can't ask him.

1 THE WITNESS: I'm sorry.

2 JUDGE THOMPSON: If you don't know --

3 THE WITNESS: Yeah.

4 JUDGE THOMPSON: -- that's fine.

5 Q BY MS. DAVILA: Just say you don't know.

6 A I can't spell her last name. But --

7 Q That's fine.

8 A I have Cherrie Gallagher, Christina Steeles.

9 Q Uh-huh. Is that -- those three floor managers?

10 A Those three are floor managers.

11 Q Okay. When did you start working at the hotel?

12 A I started in February 3, 2014.

13 Q And did you come in with the position of director of
14 housekeeping?

15 A Yes, I did.

16 Q Where did you work before?

17 A At the Four Seasons Hotels.

18 Q And what was your position there?

19 A Director of housekeeping.

20 Q Okay. You know of the efforts of the Union to organize
21 the employees at the hotel, correct?

22 A Yes.

23 Q Okay. And you've seen a notice posting that went up on
24 behalf of the National Labor Relations Board telling the
25 employees that they had a right to Union activity, correct?

1 A Yes.

2 Q Okay. And you've seen employees wear pro-Union buttons to
3 -- on their uniforms, correct?

4 A Yes.

5 Q And you've seen employees wear no Union buttons on their
6 uniforms, correct?

7 A Yes.

8 Q Do you know if the Union is trying to organize the
9 housekeeping department?

10 A Yes.

11 Q And they are trying to organize the housekeeping
12 department, correct?

13 A Right.

14 Q Okay. And you've -- and do you know who Martha Guzman is?

15 A Yes, I know.

16 Q Who is she?

17 A She was a room attendant in housekeeping.

18 Q Did she work there when you started?

19 A Yes.

20 Q And you've seen Martha Guzman wear a Union button,
21 correct?

22 A I saw her.

23 JUDGE THOMPSON: You saw her or you saw her wearing a
24 Union button?

25 THE WITNESS: I saw her wearing the Union button.

1 JUDGE THOMPSON: Okay.

2 Q BY MS. DAVILA: And you've seen employees do Union
3 activities in the EDR, right?

4 A Yes, I see them.

5 Q Okay. You've seen them do group chants where they say,
6 "Union, Union"?

7 A I saw them once.

8 Q Okay. Do you remember when that was?

9 A During lunchtime. I don't remember -- no, I don't recall
10 the exact date.

11 Q What time do you usually get to the hotel?

12 A Around 7, 7:30.

13 Q And do you work -- how many days a week do you work?

14 A Depends on occupancy. Usually five days a week.

15 Q Okay. And you've seen some employees pass out Union
16 flyers, correct?

17 A Yes.

18 Q And where did you see them doing this?

19 A In --

20 Q What part of the hotel?

21 A In the EDR. In the hallways.

22 Q Hallways of what --

23 A Hallways --

24 Q -- building?

25 A Hallways of the back of the house building.

1 Q And you've seen employees sign authorization cards?

2 A I have not seen that.

3 Q Have you seen Union authorization cards at the facility?

4 A I haven't.

5 Q Has an employee ever brought you an authorization card to
6 show you?

7 A No.

8 Q Has an employee ever been disciplined for doing Union
9 activities on work time?

10 A No.

11 Q Do you know the employees that were suspended when they
12 wore their button to work in June of 2014?

13 A Yes.

14 Q Do you know who some of those employees were?

15 A Carmen Llarull, Ofelia Diaz, Rodolfo Aleman, Celia Vargas.

16 Q About how many employees do you supervise?

17 A Three hundred.

18 Q And the hotel is opposed to unionization, correct?

19 A Yes.

20 Q And you know that the hotel has hired a consultant named
21 Juan Cruz, correct?

22 A Yes.

23 Q Have you attended any meetings that Juan Cruz has held
24 with the employees?

25 A No.

1 Q But you know these meetings have been mandatory, correct?

2 A Yes. No. They are not mandatory.

3 Q And are these meetings held during employees' work time?

4 A Yes.

5 Q Do employees have to clock out when they go to these
6 meetings?

7 A No.

8 Q And you don't think it's a good idea for the employees to
9 form a Union, correct?

10 A We don't need it.

11 Q So you don't think it's a good idea?

12 A I say we don't need it.

13 Q Okay. And you know that a Union is established in a
14 workplace through an election, correct?

15 A Yes.

16 Q And that election is held by the National Labor Relations
17 Board, correct?

18 A Yes.

19 Q Okay. Now, I just want to understand a little bit about
20 the operations of the hotel. Can you describe what the Trump
21 talks are, please?

22 A The Trump Talks is a pre-shift meeting.

23 Q Is there more than one held a day?

24 A Yes.

25 Q Is it -- can you describe the different kinds of shifts

1 there are in one day?

2 A We have a 7:30 pre-shift at 8:00, 8:30, 9:00, 9:30.

3 Q So there's up to four Trump Talks a day?

4 A During the morning shift.

5 Q Okay.

6 A Then I have swing shift at 5:00.

7 Q Do the swing shift employees get a Trump Talk?

8 A Yes.

9 Q And who leads these Trump Talks?

10 A The P.M. manager.

11 Q And in the morning it's the A.M. manager who leads them?

12 A Yes.

13 Q And would these be floor managers?

14 A Floor managers.

15 Q So right now it's Nida giving them, Cherri, or Christina?

16 A No. Cherrie is the swing shift manager.

17 Q Oh, okay. So Nida or Christina Steeles?

18 A It would be Christina Steeles --

19 Q Okay.

20 A -- Nida.

21 Q Do you ever give Trump Talks?

22 A Yes.

23 Q Are the shifts different on the weekends, the time

24 starting for the morning shift on the weekends?

25 A Weekends and holidays they start at 9 a.m.

1 Q And what's the difference between -- and this is speaking
2 about housekeepers. What's the difference between an on-call
3 housekeeper and a fulltime housekeeper?

4 A The full-timers get -- they have -- they accrue vacation,
5 personal time off. They have insurance.

6 Q And when employees are hired are they ever hired as
7 fulltime?

8 A No.

9 Q And is there an average time that they are kept as on-call
10 before they are promoted to fulltime?

11 A I cannot tell you that.

12 Q Okay. So there's no average time?

13 A No.

14 Q Okay. And this is something we want an explanation for.
15 Can you explain how the iPads are working and when you
16 introduced them?

17 A We started training in June.

18 Q Of this year?

19 A Of this year.

20 Q Okay. And what are they for?

21 A The iPad replaced the assignments in paper.

22 Q And do only housekeepers use the iPads?

23 MR. DRITSAS: Objection. Lack of foundation. Well, are
24 you talking in the housekeeping department?

25 MS. DAVILA: Yeah.

1 MR. DRITSAS: Okay.

2 MS. DAVILA: Well --

3 MR. DRITSAS: Go ahead.

4 JUDGE THOMPSON: Still object or no?

5 MR. DRITSAS: No.

6 JUDGE THOMPSON: Okay.

7 MR. DRITSAS: With that clarification.

8 Q BY MS. DAVILA: In the housekeeping department only the
9 housekeepers use the iPads?

10 A No.

11 Q The housemen use iPads?

12 A Yes.

13 Q Do the shampoo porters use iPads?

14 A Yes.

15 Q Are there any employees in the housekeeping department who
16 don't use iPads?

17 A Public areas.

18 Q And what are public area employees?

19 A The department -- the position is called PAD. They
20 actually clean the lobby, public space.

21 MS. DAVILA: One minute, please.

22 (Counsel confer)

23 Q BY MS. DAVILA: Are they also called porters?

24 A I'm not aware of that.

25 Q Do you have a position named porters?

1 A No.

2 Q Okay. So you said you started training with the iPads in
3 June of this year?

4 A Yeah. We started training them in June.

5 Q Okay.

6 A Exactly on what day we -- on life. It's hard to say.

7 Q And right now do you exclusively operate using iPads?

8 A Yes.

9 Q You don't give written assignment sheets anymore?

10 A No.

11 Q Have you had technical difficulties with these iPads since
12 they were introduced this year?

13 A No.

14 Q There's never been a time when they're down? They're not
15 working?

16 A They -- I understand one day they had internet issues, and
17 we had to give them a paper that day. I was actually off.

18 Q Was that day -- do you remember when that day was?

19 MR. DRITSAS: Objection, Your Honor.

20 THE WITNESS: No.

21 MR. DRITSAS: Relevance.

22 JUDGE THOMPSON: I was headed there, counsel. Why is this
23 relevant, counsel?

24 MS. DAVILA: Because a discriminatee had an issue the day
25 her iPad stopped working. She was sent home.

1 MR. DRITSAS: I don't see that part of the case, Your
2 Honor. Maybe the -- maybe if we get to that point, maybe then
3 we can probe back into this if it seems to be relevant, but
4 right now it's --

5 MS. DAVILA: I need to do a little introduction.

6 MR. DRITSAS: Excuse me, counsel, please.

7 MS. DAVILA: Sorry.

8 JUDGE THOMPSON: Wait a minute.

9 MR. DRITSAS: Right now I can't see it tied to anything in
10 the complaint.

11 JUDGE THOMPSON: I'd have to say I agree with Mr. Dritisas;
12 but, counsel, if you can kind of shed some light as to where
13 you're headed because I need to determine if it's relevant so
14 that I can rule on the objection.

15 MS. DAVILA: The discriminatee went home on a day that she
16 had a confrontation with her supervisor because her iPad wasn't
17 working.

18 JUDGE THOMPSON: Is that --

19 MS. DAVILA: The next day she went to the hospital from
20 work; and after that period when she came back, she was fired.

21 JUDGE THOMPSON: -- is that part of this case?

22 MS. DAVILA: Yes, Your Honor.

23 JUDGE THOMPSON: What -- where?

24 MS. DAVILA: The discriminatee. It's --

25 JUDGE THOMPSON: Or just -- in the complaint, where are

1 you alleging that?

2 MS. DAVILA: Where she was discharged disparate -- for
3 disparate treatment.

4 JUDGE THOMPSON: Is that Miss --

5 MS. DAVILA: Guzman.

6 JUDGE THOMPSON: Okay. Proceed. Objection overruled.
7 Proceed.

8 Q BY MS. DAVILA: That day that you were off and they were
9 having internet issues, do you remember when that day was?

10 A No, I don't.

11 Q Do you know what month it was?

12 A No.

13 Q Was it this year?

14 A This year.

15 Q And it would have had to have been after June, right,
16 because that's when the iPads were introduced?

17 A Can't tell you when.

18 Q So you could have had internet issues with the iPads
19 before you started training them in June?

20 A No.

21 Q So it had to have been sometime after June when you
22 started training with them, correct?

23 A I can't tell you exactly what month.

24 Q But the internet issues involved the iPads?

25 A One time.

- 1 Q Okay. Who assigns housekeepers to rooms that they're
2 going to clean every day?
- 3 A Peme. She's a status clerk.
- 4 Q What's her last name?
- 5 A Wilson.
- 6 Q And is she the only status clerk that assigns rooms?
- 7 A No.
- 8 Q Who else assigns rooms?
- 9 A Starr.
- 10 Q Do you know her last name?
- 11 A Starr, Starr, gosh. Geez, my mind went blank with her
12 last name. I don't remember her last name right now.
- 13 Q What's her job title?
- 14 A We have -- she's a status clerk.
- 15 Q Who else assigns rooms?
- 16 A Emily Trujillo.
- 17 JUDGE THOMPSON: How do you spell that?
- 18 THE WITNESS: Trujillo. T-R-U-J-I double L-0.
- 19 JUDGE THOMPSON: Got it.
- 20 THE WITNESS: Have to think for a little bit.
- 21 Q BY MS. DAVILA: Who else?
- 22 A Those are the three persons involved on opening at 4 a.m.
- 23 Q Does Christina Keeran ever assign rooms?
- 24 A No.
- 25 Q Okay. And what position does Christina Keeran have?

1 A She's a status clerk.

2 Q Is she a status clerk lead?

3 A Yes.

4 Q So the status clerk lead doesn't assign rooms, but the
5 status clerks do, correct?

6 A Only the opening person.

7 Q The opening status clerk?

8 A Yes.

9 Q What time does Christina start her shift?

10 A 7 a.m.

11 Q What time does she end her shift?

12 A 3:30.

13 Q When you started working at the Trump Hotel, was Christina
14 Keeran already a status clerk lead?

15 A Yes.

16 Q How far in advance are room assignments made to specific
17 housekeepers?

18 MR. DRITSAS: Objection. Vague. Do you mean daily or a
19 station?

20 Q BY MS. DAVILA: For daily assignments of rooms how -- for
21 the housekeepers?

22 A It takes about three hours to split a tower. However,
23 there is rooms assigned basically all morning.

24 Q So when the opener comes in, they already have the room
25 assignments per housekeeper?

1 A Can you repeat that?

2 Q So when the morning opener comes in, there's already been
3 the assignments made for each housekeeper that day?

4 A No. She comes and make them.

5 Q Okay. That morning?

6 A Yes.

7 Q And you come in at 7, correct?

8 A Most of the times, yes.

9 Q And housekeepers are given points for cleaning rooms,
10 correct?

11 A No.

12 MR. DRITSAS: Objection. Well, you can answer the
13 question. Sorry.

14 Q BY MS. DAVILA: There's a certain numbers of rooms that a
15 housekeeper has to clean, correct?

16 A It's called credits, not points.

17 Q Sorry. Can you describe the credit system, please.

18 A A studio it's valued one credit. A one-bedroom is valued
19 two credits.

20 Q And is there a certain number of credits an employee has
21 to earn a day?

22 A Yes. We have a standard of 13 credits.

23 Q And how long is that shift for those 13 hour credits?

24 A Eight hours.

25 MR. DRITSAS: I'm sorry. Did you say for 13 hour credits?

1 MS. DAVILA: Thirteen credits for eight hours.

2 MR. DRITSAS: Okay.

3 MS. DAVILA: Is that what she said?

4 MR. DRITSAS: I just didn't -- I didn't understand your
5 question, but go ahead.

6 Q BY MS. DAVILA: And what are Hilton suites?

7 A The Hilton suites are exactly the same room. Studios, one
8 bedrooms.

9 Q And they're cleaned for the same amount of credits?

10 A No, they don't.

11 Q How many credits are they valued?

12 A They do eight credits.

13 Q Eight credits --

14 A In eight hours.

15 Q Is there a reason that it's less credits for the same
16 amount of hours?

17 A Yes.

18 Q And what is that reason?

19 A The reason is that every kitchen in Hiltons is stocked.
20 It has dishes, pots, pans, you know, everything for a kitchen.

21 Q Uh-huh. I'm sorry. Go on.

22 A And the Hilton doesn't get serviced every day. It's a
23 timeshare so we could have a guest who did not get service in
24 four or five days. And those guests are cooking every day so
25 it takes longer to clean the room.

1 Q And what do inspectors do? Housekeeping inspectors.

2 MR. DRITSAS: Objection. Relevance. No charging
3 allegation in the complaint regarding inspectors.

4 MS. DAVILA: I'm trying to understand the different areas.

5 MR. DRITSAS: Well, the case doesn't deal with to try to
6 understand the whole hotel operation. We have specific
7 allegations.

8 MS. DAVILA: I'm just laying foundation.

9 MR. DRITSAS: I know, counsel.

10 JUDGE THOMPSON: Go ahead. Go ahead, counsel.

11 MS. DAVILA: I'm not going to go --

12 MR. DRITSAS: I mean I --

13 JUDGE THOMPSON: I'm going to let you finish and then I'll
14 rule. Go ahead.

15 MR. DRITSAS: Okay. I understand the argument we've heard
16 repeatedly of context, but context has to be within a
17 particular focus. And to go through things that are not
18 involved in the charging parts of the complaint I think is a
19 waste of time. That's my position.

20 MS. DAVILA: It's relevant to the hierarchy of the
21 department that's been at issue this whole hearing.

22 JUDGE THOMPSON: Well, the issue really is who is or isn't
23 a supervisor, and I guess I'll just have to sustain -- I
24 sustain the Respondent's objection. I don't necessarily know
25 that it's relevant that I understand what the inspectors do. I

1 mean I know I've had testimony on it, but it isn't necessarily
2 relevant to what's at issue here. Continue, Ms. Davila.

3 MS. DAVILA: Your Honor, just for the record, the
4 hierarchy goes to of the hierarchy of the department and who is
5 a supervisor for 300 employees and how much management there is
6 supervising a certain number of employees which is a criteria
7 to supervisor status.

8 JUDGE THOMPSON: What's at issue is whether Ms. Magana,
9 Ms. Keeran and other of the floor managers are or are not
10 supervisors. There isn't an allegation, which is what Mr.
11 Dritsas is arguing, that an inspector -- hold on. Are you
12 trying to allege that -- strike that. There isn't an
13 allegation that a hotel or housekeeping inspector is a
14 supervisor. I don't believe that there is anyone that is
15 alleged in this complaint that has that particular status. So
16 I don't know that it's relevant whether this witness testifies
17 what a housekeeper inspector is and their relationship or
18 hierarchy to anyone or anything else.

19 MS. DAVILA: Your Honor, with all due respect, she is the
20 housekeeping head and if --

21 JUDGE THOMPSON: I know. It's just not relevant, counsel,
22 so I sustain the objection --

23 MS. DAVILA: I would just like to state for the record
24 that --

25 JUDGE THOMPSON: -- and I'm going to ask you to move on.

1 I don't want to keep arguing over it. I made the ruling so
2 please continue.

3 Q BY MS. DAVILA: What are housekeepers to do if they have
4 to clean a room and there's a guest inside? What's the policy?

5 A Ask permission if the guest is ready for service.

6 Q And if the guest denies service?

7 A If they refuse service?

8 Q Yes.

9 A They refuse service and they don't get to clean the room.

10 Q Okay. And on the weekends, do housekeepers go in at the
11 same time to clean rooms as they do during the weekdays?

12 A You have to repeat that again.

13 Q So what time do housekeepers start cleaning rooms during
14 the weekdays?

15 A Weekdays we have groups at 8, 8:30.

16 Q And what's the earliest a room can -- would be cleaned on
17 a weekend?

18 A It's hard to say.

19 Q What time is the earliest shift on the weekends for
20 housekeepers?

21 A 8:00. Small group at 8 on the weekends.

22 Q So a room could get service at 8:00?

23 A If they call for service, yes.

24 Q Can employees work together? Are housekeeping employees
25 allowed to clean rooms together?

1 A At sometimes, yes, sometimes. Not all the time.

2 Q Can you give me an example of a time they would be allowed
3 to.

4 A For example, Saturdays. It's usually hard to get in the
5 rooms early. Guests are sleeping late. If they can't get,
6 they can check with a co-worker on the floor and see if they
7 can either share work together for a little bit while something
8 comes open. But not --

9 Q Do they -- sorry. Go ahead.

10 A -- but not every day, not all day.

11 Q And do they need to ask somebody for permission --

12 A Yes.

13 Q -- to work with a co-worker?

14 A They do.

15 Q Who would they ask?

16 A The managers.

17 Q And when you say managers, you mean floor managers?

18 A Yes.

19 Q Okay. You have you own office, correct?

20 A I do.

21 Q And it's located in the housekeeping department offices?

22 A Yes.

23 Q I'm going to ask you to look at what's marked as

24 Respondent's --

25 A On what?

1 MR. DRITSAS: 18.

2 JUDGE THOMPSON: She's going to tell you.

3 THE WITNESS: Okay.

4 MR. DRITSAS: It -- is 18.

5 MS. DAVILA: 18.

6 MS. OVIEDO: That's housekeeping images, though, I
7 thought.

8 JUDGE THOMPSON: This group of --

9 THE WITNESS: This group is 18?

10 JUDGE THOMPSON: -- that is Respondent. This group is
11 General Counsel.

12 THE WITNESS: Okay.

13 JUDGE THOMPSON: So when the attorneys reference
14 Respondent's exhibits, you're talking in here.

15 THE WITNESS: Okay.

16 JUDGE THOMPSON: When they reference the General Counsel's
17 exhibits, they're these. And within that, I think this is 1 to
18 10 and this is 11 through whatever. So it would be in here.

19 18 you said, counsel?

20 MS. DAVILA: Yes, Judge.

21 JUDGE THOMPSON: Okay. Pull this out and hope it's 18.
22 Yes. Let the record reflect I've handed the witness what's
23 been marked as Respondent 18.

24 Q BY MS. DAVILA: Ms. Magana --

25 MS. DAVILA: May I approach the witness?

1 JUDGE THOMPSON: Please.

2 MS. DAVILA: Sorry.

3 Q BY MS. DAVILA: Ms. Magana, is this a floor plan of the
4 housekeeping department?

5 A Yes.

6 Q Okay. Can you show us on this paper where your office is.

7 A It's right here.

8 MR. DRITSAS: You have to describe it.

9 THE WITNESS: The end of the main office, left side.

10 Q BY MS. DAVILA: It's on the top left-hand corner of the
11 paper. Is it where it says the name "Alejandra"?

12 A My name is there.

13 Q Okay. And in your office, do you have three chairs?

14 A It's two chairs and a table.

15 Q Okay. And then that other chair depicted here is yours?

16 A Yes.

17 Q And your door faces the -- I'm sorry your desk -- your
18 chair faces the door or faces the direction of the door?

19 A The chair faces the chairs and the table I have in front
20 of me.

21 Q Okay. But from your chair, you can see the entrance of
22 your -- of the doorway?

23 A When I'm sitting in the chair, I cannot see the entrance.

24 Q Of the doorway?

25 A No.

1 Q Okay.

2 MR. DRITSAS: Can we just have her identify the table?

3 MS. DAVILA: Yes.

4 Q BY MS. DAVILA: The table that you said --

5 A Is the one in the middle.

6 Q In the middle of this here so where your name is,
7 Alejandra, that's your desk?

8 A Yes, this is my desk, table and chairs.

9 Q The table and then there's a table between the two chairs,
10 correct?

11 A Yes.

12 Q Ms. Magana, just to clarify, you're facing the wall, but
13 it's in the direction of the doorway, correct?

14 MR. DRITSAS: Objection. I don't understand the question.

15 THE WITNESS: No, not necessarily.

16 JUDGE THOMPSON: Wait, wait, wait. Hold on. Remember --

17 MR. DRITSAS: I just don't understand the question. It's
18 vague.

19 JUDGE THOMPSON: Hold on just a second. Ms. Magana,
20 remember I said when there's an objection --

21 THE WITNESS: Yes.

22 JUDGE THOMPSON: -- to hold your response.

23 Okay. Mr. Dritisas, I'm sorry, could --

24 MR. DRITSAS: I'm --

25 JUDGE THOMPSON: -- you repeat your objection?

1 MR. DRITSAS: -- yeah, I'm sorry. I just didn't
2 understand the question. Maybe you can rephrase it.

3 Q BY MS. DAVILA: Your door -- I mean, I'm sorry, your chair
4 is facing the wall; and in that wall, there's the doorway,
5 correct?

6 A No.

7 Q No.

8 A No.

9 Q Can you describe what your chair is facing when you're
10 sitting at your desk.

11 A My face is facing the wall where my chairs are and that
12 wall is facing another wall where a fax machine is.

13 Q The wall -- okay. The fax machine is behind you?

14 A No. The fax machine is in front in this area.

15 Q Okay. I need you to describe where the door is in your
16 office. How do you --

17 A The --

18 Q -- how do you enter your office?

19 A -- this is the door. This is the main door.

20 Q And that's --

21 A So I'm not facing the door.

22 Q Oh, I'm sorry. I meant -- so your -- does your office
23 have a door that you can close.

24 MR. DRITSAS: You should point out what she pointed to.
25 So when you say this is the door --

1 THE WITNESS: This is a door.

2 MR. DRITSAS: -- you're pointing to what's marked --

3 MS. DAVILA: As --

4 MR. DRITSAS: -- your witness.

5 THE WITNESS: This is the entry door of the main
6 housekeeping office.

7 MS. DAVILA: Okay. So there's a entry to the main
8 housekeeping office and the witness is pointing to the middle
9 in the bottom of the page and her finger is by the word
10 "Vania."

11 JUDGE THOMPSON: Okay. But I think you need to rephrase
12 your question, counsel, because I think the witness was
13 confused --

14 MS. DAVILA: Yeah.

15 JUDGE THOMPSON: -- by what you were asking.

16 MS. DAVILA: Yes.

17 Q BY MS. DAVILA: So your office, only your office, not the
18 housekeeping office in general, your office, is this square on
19 the top left-hand corner --

20 A Right.

21 Q -- of the picture, right?

22 A Yes.

23 Q Does this office have a door that opens and closes?

24 A Yes.

25 Q Okay. And that door that opens and closes, you're facing

1 in that direction when you're sitting at your door -- or at
2 your chair, correct?

3 A Yes.

4 Q Okay. And about how many people have offices in that
5 housekeeping office area that's depicted there?

6 A There's only two offices; my office, Kelvin shares an
7 office with Morgan.

8 Q And there's a counter, correct, in that office space?

9 A Yes.

10 Q And who uses that counter?

11 A We put the sign-in sheets on there. Employees go in and
12 sign up every morning in there, for breaks.

13 Q So employees sign in and out for breaks? That's not
14 electronic?

15 A They still sign breaks. They still do it manually.

16 Q For breaks. But when they come into work, they punch in
17 or something --

18 A They --

19 Q -- electronic?

20 A -- they -- yes.

21 Q And where's that punch-in clock located?

22 A It's -- there is three in the hallway in front of
23 housekeeping; two clocks by the employee uniform area and then
24 one in between my door to the main office of housekeeping and
25 the main door of human resources, right in front.

1 Q And for them to sign in and out for breaks, do they have
2 to go to that counter?

3 A Yes.

4 Q And does anyone do work on that counter? Do the floor
5 managers have computers there?

6 MR. DRITSAS: Can you identify --

7 THE WITNESS: Not on that counter.

8 MR. DRITSAS: -- I'm sorry. Can you identify the counter.
9 I don't think we've got that in the record.

10 Q BY MS. DAVILA: Can you point where the --

11 A You're talking about this counter, right?

12 Q Yes.

13 A This one.

14 MS. DAVILA: There's a counter -- the witness is pointing
15 to the bottom right-hand corner of the exhibit, Respondent's
16 Exhibit 18. She's pointing to a long rectangular box adjacent
17 to the status box.

18 MR. DRITSAS: Okay. Just to be clear, it's the --

19 THE WITNESS: It's -- this is the counter.

20 MR. DRITSAS: -- it's the rectangle that's in front of the
21 Vania station.

22 MS. DAVILA: Correct.

23 MR. DRITSAS: Okay.

24 Q BY MS. DAVILA: And can you tell us where it says "manager
25 floor," is that a desk area as well?

1 A Yes, it's a long counter where the floor managers work.

2 Q Okay. And who works out of -- so the witness identified
3 what's marked as "manager floor" on Respondent's Exhibit 18 as
4 being the area where the floor managers work out of, correct?

5 Ma'am?

6 A I'm sorry?

7 Q That's where the floor managers work out of?

8 A Yes.

9 Q Okay. And who works out of this box on Respondent's
10 Exhibit 18 where it says "status"?

11 MR. DRITSAS: Okay. Can I just object to the form of the
12 question. Work out of is unclear. Maybe you can just --

13 Q BY MS. DAVILA: Does work, have a station there, have a
14 computer?

15 A It's not necessarily a station.

16 Q Okay.

17 A They're in and out of the office.

18 Q Okay. But they work -- they do work there?

19 A They do work -- they do, yes. They work from there.

20 Q And we're talking about floor managers or status?

21 A Floor managers.

22 Q Okay. So now I'm talking about the status box where it
23 says "status."

24 A Okay. Status work from there.

25 Q Okay. Okay. And about how many chairs are here?

- 1 A I have four stations in that area.
- 2 Q Okay. And who's in some of those stations?
- 3 A Status.
- 4 Q Status clerks?
- 5 A Status clerks.
- 6 Q Okay. And where it says "Christina" here and it's a boot-
7 like shape in the area where the status box is, who sits there?
- 8 A That desk is used for Christina and Cherrie, the PM
9 manager. That's her working area along with a overnight
10 supervisor.
- 11 Q And can you say Christina's last name.
- 12 A Christina Keeran.
- 13 Q And the other lady was Cherrie --
- 14 A Cherrie Gallagher and Walter Rubi and Pat Royal. The four
15 of them work from that desk.
- 16 Q Okay. And this -- the shape that says Vania is also a
17 boot-leg shape. What's Vania's position?
- 18 A Vania is an administrative assistant.
- 19 Q Okay. And what's her last name?
- 20 A Mariscal.
- 21 Q Okay. And what are some of her duties?
- 22 A She is on -- her duties are payroll and tracking the point
23 system, tracking the attendance I should say.
- 24 Q And what does she do for the payroll?
- 25 A She edits daily to make sure that everybody clock in and

1 out correctly.

2 Q And what does she do for the tracking attendance?

3 A She records the absences, tardies, from employees.

4 Q Okay. And when an employee wants to ask -- request a
5 vacation, who do they call?

6 A They don't call anybody. They fill out a form.

7 Q And where are the forms located?

8 A They are located by the counter.

9 Q Can you just say verbally what counter you're talking
10 about.

11 A By the counter closest to status in front of -- or to the
12 side of Vania's area on the same counter. There is like a --
13 it's like a -- oh, what is it called.

14 Q So it's the counter where you previously --

15 MR. DRITSAS: I think --

16 MS. DAVILA: Sorry.

17 MR. DRITSAS: -- I think she's trying to finish her
18 answer.

19 THE WITNESS: Yeah. We have different forms for the
20 employees to use.

21 Q BY MS. DAVILA: Is that the counter where they sign in and
22 out for the breaks are?

23 A Yeah. It's more like -- I have, like, a file cabinet here
24 all the way across.

25 Q Uh-huh.

1 A And it's over the file cabinet.

2 MS. DAVILA: Okay. The witness pointed --

3 THE WITNESS: They --

4 MS. DAVILA: -- to an area by the rectangular box in
5 status -- next to the status quadrant.

6 MR. DRITSAS: Well, I think she pointed that it was --

7 THE WITNESS: It's right here.

8 MR. DRITSAS: -- something was connected here and came
9 straight out.

10 THE WITNESS: Yes. A file cabinet here. The counter,
11 this counter, is always there for us to put the sign-in sheets.

12 Q BY MS. DAVILA: Okay. So it's on -- the vacation requests
13 are on top of the file cabinet?

14 A Yes.

15 Q Which is abutted up against the sign-in sheet table or the
16 table where the sign-in sheets are?

17 A Close to it, yes.

18 Q Okay. And where do employees turn in that request?

19 A There's a box on top of Vania's desk.

20 Q Okay. And who reviews what's in that box?

21 A Vania just keep it in the box. She pulls them out and
22 separates them because we could have forms for vacation and
23 forms -- early outs from employees. So she keeps early outs
24 and she gives the vacations to Christina Keeran.

25 JUDGE THOMPSON: Ms. Magana, Ms. Davila asked you who

1 reviews those requests.

2 THE WITNESS: I review the requests.

3 Q BY MS. DAVILA: Okay. When she gives those requests to
4 Christina Keeran, what does Christina Keeran do with them?

5 A She puts them in a spreadsheet where I have all the
6 employees requesting time off and then hands them to me.

7 Q Does she hand you the written copies?

8 A Yes.

9 Q Okay. And when you authorize or deny a vacation request,
10 how do you let the employee know?

11 A We have a folder where we put them by alphabetical order
12 and the employees take it from there.

13 Q And when employees call out, they call Christina Keeran,
14 correct?

15 A No.

16 Q Who do they call?

17 A Anybody in status.

18 Q So it's possible --

19 A Yes.

20 Q -- that they call Christina?

21 A Not necessarily.

22 Q And Christina notifies you when an employee calls out for
23 work, correct?

24 A No.

25 Q She's never notified you of an employee calling out for

1 work?

2 A I get an email from status.

3 Q Do you ever get an email from Christina?

4 A No.

5 Q It's not part of Christina's job to tell you when
6 employees call out?

7 A It's not her job, no.

8 Q Does she ever do that job?

9 MR. DRITSAS: Objection. What job?

10 JUDGE THOMPSON: Sustained. Can you clarify, counsel.

11 Q BY MS. DAVILA: Does Christina ever email you that an
12 employee will be not coming into work?

13 A No.

14 Q Isn't Christina in the status department?

15 A Yes.

16 Q So what duties does she share with the status clerks?

17 A She covers for breaks, lunches, as needed.

18 Q And when she covers, she doesn't send e-mails to you about
19 an employee not coming into work?

20 A Ninety-nine percent of the times when an employee call
21 off, they call the direct number in housekeeping. And it's
22 usually in the overnight shift or swing shift.

23 JUDGE THOMPSON: Counsel, would you repeat the question,
24 please?

25 MS. DAVILA: I forgot my question. Sorry.

1 THE COURT REPORTER: "And when she covers, she doesn't send
2 e-mails to you?"

3 Q BY MS. DAVILA: And when she covers for the status clerk,
4 she doesn't send e-mails to you?

5 A No.

6 Q What would she do with that information if she's covering?

7 A If she gets a call, she will send it.

8 Q So she does sends you e-mails if she's covering for a
9 status clerk?

10 A I haven't had any situation when she said to send me an e-
11 mail saying somebody is calling off.

12 Q So when you said earlier that status e-mails you, what e-
13 mail address do you see the receipt from? Does status have --
14 do status clerks have individual --

15 A They all have a group. It's a group e-mail.

16 Q Okay. Does Christina Keeran have her own e-mail address?

17 A Yes, she does.

18 Q How do you know that?

19 A Because I send her e-mails sometimes.

20 Q Is Christina part of the status group e-mail?

21 A Yes.

22 Q So sometimes she sends you e-mails from the status group
23 e-mail account, correct?

24 A It could happen.

25 Q The Hotel has a punctuality and attendance policy,

1 correct?

2 A Correct.

3 Q And it's a policy that's based on a point system from one
4 to ten, correct?

5 A From 4 to 10 I believe.

6 Q 4 to 10. And is this policy followed by all employees of
7 the Hotel?

8 A Yes.

9 Q And it's a policy found in the employees' hand -- Hotel
10 employees' handbook, correct?

11 A Yes.

12 Q And in this policy, employees are charged points for
13 various attendance violations, correct?

14 A That's correct.

15 Q And these include reporting to work late, correct?

16 A Yes.

17 Q Or failing to clock in or out, correct?

18 A Yes.

19 Q And they can also get points for being absent from work,
20 correct?

21 A Yes.

22 Q And there are special rules for attendance violations
23 during peak periods, correct?

24 A Yes.

25 Q And during peak periods, points charged can be doubled?

1 A Yes.

2 Q And an associate who has accumulated four points is
3 subject to a verbal coaching, correct?

4 A Yes.

5 Q And at five-and-a-half points, they get their first
6 written warning, correct?

7 A I will have to see it. I don't have it in my head right
8 now.

9 Q Okay. If you'd look up there at GC Exhibit 11.

10 JUDGE THOMPSON: Let the record reflect I've handed what's
11 been marked as GC-11.

12 Q BY MS. DAVILA: Could you go to page 36?

13 A It's right here.

14 Q I'll repeat my question. At five-and-a-half points,
15 employees get their first written warning, correct?

16 A Correct.

17 Q And at seven points, they get a second written warning,
18 correct?

19 A Yes, that's correct.

20 Q And at ten points, human resources is notified and the
21 employee's placed on suspension until investigation, correct?

22 A Yes.

23 Q Okay. And point totals are reduced by one point for each
24 30-day period where an employee doesn't get a point, correct?

25 A Repeat that question.

1 Q Point totals are reduced by one point for each 30-day
2 period where an employee doesn't receive any points, correct?

3 A Yeah. Yes.

4 Q And certain absences don't count for point purposes,
5 correct?

6 A Yeah. There's some.

7 Q Like military service?

8 A FMLA.

9 Q FMLA?

10 A Yes.

11 Q Okay. Does a doctor's note excuse an absence?

12 A No.

13 Q Okay. So where it says here on page 36, the third
14 paragraph from the top -- or I'm sorry -- the fourth, where it
15 says, "The Company reserves the right to require a doctor's
16 note containing specific" -- "specifics regarding the reasons
17 for an absence and the dates of treatment to confirm illness or
18 injury in cases in which the pattern of" -- "or practice of
19 absence leads to a suspicion of abuse," so have you ever
20 requested a doctor's note from an employee?

21 A No.

22 Q Do employees give you doctors' notes --

23 A All the time.

24 Q -- when they're absent?

25 A They do.

1 Q Do you use them to excuse absences?

2 A No.

3 Q You've never removed points for a doctor's note?

4 A Not necessarily.

5 Q Could you explain?

6 A I mean can get a doctor's note everywhere. If the note is
7 doctor a hospital where they were hospitalized, I will be very
8 flexible and adjust points.

9 Q So you've never reduced an employee's points for just
10 having a doctor's note?

11 A Not all the time. It could happen.

12 Q Have you ever done it though?

13 A I have.

14 Q And you also, as director, have some discretion to reduce
15 employees' points, correct?

16 A Yes.

17 Q Can you show me where in this policy it says that
18 department heads are given discretion to reduce points?

19 A It's not in there.

20 Q And how do you know you have the discretion?

21 A Because I have done it.

22 Q Do you do it frequently?

23 MR. DRITSAS: Objection; vague as to the word frequently.

24 Q BY MS. DAVILA: Do you reduce point -- oh, I'm sorry.

25 JUDGE THOMPSON: Sustained. But, counsel, just rephrase

1 your question, please.

2 Q BY MS. DAVILA: Do you reduce employees' points --
3 attendance points frequently?

4 A No.

5 Q How often would you say that you reduce employees' points?

6 A I could not tell you.

7 Q Have you reduced employees' points at any time this last
8 week?

9 A No.

10 Q This last month?

11 A Could be. It could happen.

12 Q Okay.

13 MS. DAVILA: At this point I'd like to show the witness
14 what's been marked as GC Exhibit 34.

15 JUDGE THOMPSON: You don't have this one yet, Ms. Magana.
16 34 you said, counsel?

17 MS. DAVILA: Yes, Your Honor.

18 JUDGE THOMPSON: Okay.

19 MS. DAVILA: I'm going to show the witness what's been
20 marked as GC Exhibit 34. It's not marked --

21 Q BY MS. DAVILA: Can you confirm your packet says 1 through
22 113, please?

23 A Yes.

24 MS. DAVILA: One minute.

25 MR. DRITSAS: You said 1 through 113, right?

1 JUDGE THOMPSON: That's what she said.

2 MR. DRITSAS: Okay. Thank you.

3 MS. DAVILA: I'd like to note for the record that General
4 Counsel has paginated GC Exhibit 34 page 1 through 113 for
5 identification purposes.

6 JUDGE THOMPSON: So noted, counsel.

7 Q BY MS. DAVILA: Okay. Ms. Magana, can you tell us in
8 general what an attendance calendar is?

9 A It's a tracking system that we have for attendance.

10 Q And who makes entries in this tracking system?

11 A Vania Mariscal five days a week.

12 Q Does anybody else make entries?

13 A Christina Keeran two days a week. I also do that.

14 Q Do you review the entries that they make?

15 A Yes.

16 Q Do you have to review every single entry that's made in --
17 in an employee's attendance calendar?

18 A I don't review every single one.

19 Q Does Kelvin Kwon review the attendance calendars as well?

20 A No.

21 Q So Vania or Christina can could make an entry that goes
22 unreviewed?

23 A No.

24 Q Who would review it if not you?

25 A I'm the only one that reviews the points.

- 1 Q Okay. But I'm talking about the entries in the calendar.
- 2 A The entries? Yeah, I'm the only one.
- 3 Q And each entry has to be reviewed by you?
- 4 A Yes.
- 5 Q And you review every entry that's made in the attendance
6 calendars?
- 7 A Not every entry.
- 8 Q And does every entry have to be reviewed by somebody?
- 9 A At some point.
- 10 Q And if not you, who?
- 11 A Only myself.
- 12 Q Only you?
- 13 A Yeah.
- 14 Q Okay. So you're saying there's entries that you haven't
15 reviewed?
- 16 A Yes.
- 17 Q But isn't it your job to review them?
- 18 A I'm sorry.
- 19 Q Isn't it your job to review them?
- 20 A My job is to supervise them, not to review every entry.
- 21 Q Okay. So Vania and Christina --
- 22 A They are responsible for doing that.
- 23 Q Okay. I'd like to turn your attention to the third page
24 of GC Exhibit 34. Actually, the second page. Whose employee
25 calendar is this?

1 A Are you look at Michael Diaz?

2 Q I'm looking at page 2.

3 A The second page?

4 Q Yes.

5 A Page 2?

6 Q Yep.

7 A Okay. That's -- his name is Michael Diaz.

8 Q Okay. Can you look at the third page, which says March

9 27th?

10 A Yes.

11 Q Can you read that entry there?

12 A "Spoke to Alejandra. Will leave him with total of 4.5."

13 Q And can you read the last corner of -- like the full line?

14 A "Minus 12."

15 Q And can you explain to us what this entry would mean?

16 A That was a mistake with the schedule. We did not inform

17 him that he was working. Therefore, he did not --

18 Q So you reduced --

19 A -- show.

20 Q -- him 12 points?

21 JUDGE THOMPSON: Wait, wait, wait.

22 MS. DAVILA: Oh, sorry.

23 JUDGE THOMPSON: I'm sorry. She was completing her answer

24 before you --

25 MS. DAVILA: I'm sorry. Go ahead.

1 JUDGE THOMPSON: -- started.

2 THE WITNESS: I had to adjust his points because it was our
3 error, not his mistake.

4 Q BY MS. DAVILA: Okay. So you adjusted his points --

5 A Yes.

6 Q -- by 12? Okay. If you could turn to page 4. Whose
7 calendar is this? What name is under where it says associate
8 name?

9 A Her name Ella Gray.

10 Q Can you go to the entry that says July 31st on page 6?
11 Could you again read the entry?

12 A "Spoke to Alejandra and she is going to leave her at eight
13 points. Suspension minus 12."

14 Q Okay. Can you explain to us what that entry would mean?

15 A I can't explain you. This has been a long time.

16 Q Okay. And these kind of entries are the ones that Vania
17 and Christina are making, correct?

18 A Yes.

19 Q And these are the entries that you review?

20 A And they will have to put my name in there.

21 Q Okay. They have to put your name if you authorize the --

22 A Yes.

23 Q -- point removal?

24 A Yes.

25 JUDGE THOMPSON: Wait a minute. Ms. Magana, you have to

1 wait until she finishes the --

2 THE WITNESS: Oh.

3 JUDGE THOMPSON: -- question.

4 THE WITNESS: Sorry.

5 JUDGE THOMPSON: Remember I said you may know where they're
6 going? Okay.

7 THE WITNESS: I'm just so excited --

8 JUDGE THOMPSON: That's okay.

9 THE WITNESS: -- to answer.

10 JUDGE THOMPSON: I know. That's why I wanted to instruct
11 you.

12 THE WITNESS: Okay. I apologize.

13 MS. DAVILA: Okay.

14 JUDGE THOMPSON: Okay.

15 Q BY MS. DAVILA: If we go to page 8, can you identify the
16 associate's name?

17 A Maria Mendoza.

18 Q Okay. If we go to page 10, please, can you read the
19 June 24th entry there?

20 A "Called out June 24 at 4:16 a.m. for her shift on June 24
21 at 9 a.m. Continue total seven points, equals seven" --

22 Q And --

23 A -- "and zero."

24 Q And then the line below that?

25 A "Remove one point" -- I'm sorry. "Alejandra adjusted the

1 points on 7/12/14. Total seven points, equals" --

2 Q And what does that --

3 A -- "seven."

4 Q -- mean?

5 A That means this could have been FMLA. And we do not keep
6 points for FMLA.

7 Q Okay. And if you go to page 9, can you read that entry on
8 March 22nd?

9 A "FMLA call out March 22nd at 6:47 a.m. for her shift at
10 8:30 a.m., peak period. Total of four points. Invalid FMLA
11 call out."

12 Q So sometimes it's noted when a point adjustment is made
13 for FMLA, correct?

14 A Correct.

15 Q And the attendance calendar also notes who spoke to the
16 associate about their points, correct?

17 A Correct.

18 Q Can you read the entry on March 21st, police?

19 A "Christina Keeran spoke to her about her FMLA."

20 Q Okay.

21 MS. DAVILA: I would like to move this into evidence, Your
22 Honor. It's a packet of attendance calendars provided pursuant
23 to the subpoena. If Respondent will stipulate to the
24 authenticity.

25 JUDGE THOMPSON: Counsel?

1 MR. DRITSAS: Well, here -- here's my position on this:
2 Again, these are clearly records that were produced by the
3 Company. So I'm not going to say that -- I'm not going to say
4 that they're not Trump records. On the other hand, with the
5 exception of the specific incidents noted I -- I would object
6 to any probative value for the other 100 pages plus that
7 haven't been gone into. So if the General Counsel's position
8 is, "We're just going to put it in without any other foundation
9 or background," I think that's -- I'm not agreeing to the
10 admission on that basis. But I -- as I said before, I'm not
11 going to deny that these are Trump records.

12 JUDGE THOMPSON: Okay. Ms. Davila, what is the purpose of
13 all of these records?

14 MS. DAVILA: All of these attendance calendars are
15 instances or examples of times that Alejandra Magana has
16 adjusted points and that it's been noted on attendance records.
17 Our discriminatee was -- or I'm sorry -- our discharged party
18 was discharged for her lack of point adjustment.

19 MR. DRITSAS: Well, Your Honor, as you'll see, and you've
20 already seen -- you had the testimony of Gustavo Acosta --
21 Ms. Guzman was the beneficiary of many point reductions. So I
22 have no problem getting into those point reductions. My
23 problem is just stating generically that you've not 100 plus
24 pages where points have been reduced without going into the
25 context doesn't say anything for us. And I think it's

1 irrelevant without foundation there.

2 Now, if we want to go into a hundred different instances, I
3 think that would be overkill, but then maybe it would be
4 relevant at that point. But just putting something in and
5 saying, "Here's a point reduction," doesn't really do anything
6 in my view to show any relevance to the case.

7 MS. DAVILA: Your Honor, she said it was her job to review
8 these documents and that she alone was the one to review them.

9 MR. DRITSAS: That's not --

10 MS. DAVILA: In addition, they're comparator evidence,
11 they're evidence of disparage treatment. And we can go
12 individually one by one but if they would stipulate to the
13 authenticity of them --

14 JUDGE THOMPSON: How about this, counsel: Can we put in
15 the particular attendance calendars that you referenced or you
16 asked Ms. Magana about?

17 MS. DAVILA: Well, I can go into -- I would go into the
18 rest if I knew that that was going to be --

19 JUDGE THOMPSON: I mean I don't --

20 MS. DAVILA: -- I --

21 JUDGE THOMPSON: Okay. I understand what you're saying.
22 But what counsel was saying is --

23 MR. DRITSAS: What I'm saying is --

24 MS. DAVILA: Your Honor --

25 MR. DRITSAS: -- there is a story, Your Honor, for every

1 example. And if we want to go through 100 examples, you know,
2 that's the General Counsel's case and --

3 MS. DAVILA: Your Honor --

4 MR. DRITSAS: -- we'll go through it.

5 MS. DAVILA: -- you can give it --

6 MR. DRITSAS: Excuse me, counsel --

7 JUDGE THOMPSON: Wait, wait.

8 MR. DRITSAS: -- please.

9 JUDGE THOMPSON: Go ahead.

10 MR. DRITSAS: -- if that's the General Counsel's case,
11 we'll do that. But my objection is just the record on its own,
12 without going into it, is -- doesn't prove anything and I think
13 it's -- it's irrelevant.

14 MS. DAVILA: Your Honor, once it's in the record, you can
15 give it the weight that you choose --

16 JUDGE THOMPSON: I can?

17 MS. DAVILA: -- regarding her testimony. I think there's
18 no other way for the General Counsel to prove their burden of
19 disparaged treatment if we can't show numbers. All the
20 documents that we've going through, we can go one by one.

21 MR. DRITSAS: With all respect, this treatment case is not
22 just -- some sort of point reduction or not, it's someone has
23 similar circumstances and that would mean how long have they
24 been employed, have they had points reduced before, what's the
25 nature of the excuse?

1 MS. DAVILA: And if the General Counsel makes that case
2 throughout the rest of our case in chief, they can argue to the
3 weight that it should be given.

4 JUDGE THOMPSON: Counsel, I understand, Mr. -- strike that.
5 Mr. Dritsas, I -- I understand exactly what you're saying. But
6 here's the balance I'm going to strike: I'm going to let the
7 documents in because you essentially attested that all of these
8 documents are Trump documents. And for purposes of admission
9 only and the fact that they could be consider business records,
10 I'm going to admit the documents. However, I will accord the
11 stack of documents that have not been addressed in addition to
12 anything else that counsel gleans from these documents the
13 appropriate weight as she goes -- I don't know if she intends
14 to refer back to these at some later point, but I think you're
15 argument with regard to relevance, while perhaps well taken, I
16 guess I'll have to make the final judgment as I review the
17 evidence.

18 For purposes of admission however, I'm going to overrule
19 the objection and admit the documents. And I'll say, to you,
20 Mr. Dritsas, that I will accord these documents the appropriate
21 weight once counsel finishes her testimony.

22 MR. DRITSAS: Okay, Your Honor.

23 JUDGE THOMPSON: So I will receive GC-34 into evidence.

24 **(General Counsel Exhibit Number 34 Received into Evidence)**

25 JUDGE THOMPSON: Continue, Ms. Davila.

1 MS. DAVILA: Thank you, Your Honor.

2 Q BY MS. DAVILA: It's from these attendance calendars that
3 discipline is issued, correct?

4 A Yes.

5 MR. DRITSAS: Objection; overbroad.

6 JUDGE THOMPSON: Well --

7 MS. DAVILA: That -- I can explain.

8 JUDGE THOMPSON: I'm going to overrule the objection and
9 the witness has answered. Continue.

10 MS. DAVILA: I'll rephrase. I'm sorry.

11 JUDGE THOMPSON: Just --

12 Q BY MS. DAVILA: It's this -- it's from these attendance
13 calendars that attendance discipline is issued, correct?

14 A Yes.

15 Q And who is the person who flags the fact that there's been
16 a point level reached that requires discipline?

17 A The person tracking them. In this case, it could be Vania
18 or Christina.

19 Q And what do Vania and Christina -- who do they go to first
20 when they -- they see that an associate or an employee has
21 reached a level that requires discipline?

22 A They -- her job is to track it. Once they reach to a
23 level of first like verbal coaching, they draft the document
24 and they give it to -- to -- to me, to Kelvin, any manager
25 available that day.

1 Q And what do you or Kelvin or any manager do with it, with
2 that draft discipline?

3 A We look at it and we -- if everything is correct, we issue
4 it.

5 Q And can you describe what you do when you issue it or what
6 it means to issue it?

7 A Sit down with the associate, explain the document.

8 Q And do you issue every draft document that you receive
9 from Vania or Christina?

10 A No.

11 Q Can you give me an example of an instance where you
12 wouldn't issue it?

13 A I could be off, on vacations (sic).

14 Q Is there another example? Do you ever decide not to --

15 A Many examples I can --

16 JUDGE THOMPSON: Well, well, wait. You have to let her
17 answer.

18 MS. DAVILA: Sorry. That's true.

19 THE WITNESS: I can give you many examples.

20 MS. DAVILA: Okay.

21 JUDGE THOMPSON: She just asked for another one.

22 THE WITNESS: Another one. I could be in a meeting by the
23 time the employee's leaving, going home.

24 Q BY MS. DAVILA: Aside from you being unavailable
25 physically or otherwise, is there an example of an -- an

1 instance where you wouldn't issue a draft discipline given to
2 you by Vania or Christina?

3 A There has been a few.

4 Q Can you give me --

5 A What I --

6 Q -- an example?

7 A What I had to say, "Kelvin or Morgan, you" -- "I need your
8 help to issue this documentation to an associate."

9 Q Do you have an example, aside from not you personally
10 issuing it or you being unavailable, an instance where you
11 wouldn't issue a draft discipline?

12 A You want me to talk about a specific person?

13 Q If that -- if you can give me an example that way, yeah.
14 Sure.

15 A Okay. I can give you the example of Martha Guzman.

16 Q Perfect. I'm sorry. Go ahead.

17 A I -- I had to say, "Kelvin, you take over. I cannot
18 continue giving her free passes. And I do not want to keep
19 hearing stories." So he took over.

20 Q So you gave -- in this example --

21 A Yes.

22 Q -- you gave the draft discipline to Kelvin and you did not
23 issue it personally?

24 A No, I did not.

25 Q Did you sign the discipline?

1 A I signed one second page in one of them I believe.
2 Somehow Kelvin missed it and I remember her coming back to me
3 to tell me it wasn't fair that she got a suspension. I noticed
4 that he missed the signature and I signed it and I talked to
5 her again.

6 Q Okay. Just so we're clear, this example that you're
7 talking about is a real life example that actually --

8 A Yes.

9 Q -- happened, right?

10 A Very real.

11 Q And was it this year or last year?

12 A This year.

13 Q This year. And was -- do you remember what month?

14 A It had to be around April, I want to say.

15 Q And do you know what ended up happening with that
16 discipline?

17 A She got suspended one day.

18 Q Did she continue working after that?

19 A Yes.

20 Q And you're aware that Martha Guzman was transported to the
21 hospital from the Hotel in July, correct?

22 A I saw an e-mail about it. I was on vacations (sic).

23 Q Who did the -- who was the e-mail from?

24 A We, the managers, pass on information about a day, and
25 that's where I saw it, end shift comments.

1 Q Do you remember talking to Martha in July of this year?

2 A No. I remember talking to her and Gustavo. That's the
3 only time I think I talked to her in -- in July.

4 Q And that was regarding her termination --

5 A Yes.

6 Q -- correct?

7 A Yes.

8 Q And that was in late July, correct?

9 A I'm not sure on the date.

10 Q Okay. So Martha didn't talk to you when she allegedly
11 called off on July 7th, correct?

12 A No.

13 Q Do you know who she did talk to?

14 A I'm not sure.

15 Q Do you know that she's reportedly -- she reportedly called
16 in on July 7th for her shift?

17 A I understand she did.

18 Q Do you know that that discipline was a phone call which is
19 the absence that led to her termination?

20 A Yes.

21 Q Who told you that?

22 A I saw it when I got back from vacations (sic).

23 Q Okay. When Martha came back from -- to work after she had
24 gone to the hospital, she met with you, correct?

25 A No.

1 Q She didn't meet with you and give you a doctor's note?

2 A No.

3 Q You've never seen a doctor's note regarding the ambulance
4 visit that she had?

5 A I saw the note. I don't remember who gave it to me.

6 Q Okay. Can you look at Respondent Exhibit 10, please?

7 A 7. This is 8.

8 JUDGE THOMPSON: There it is.

9 THE WITNESS: 10.

10 JUDGE THOMPSON: Let the record reflect that the witness
11 has what's been marked as respondent Exhibit 10.

12 Q BY MS. DAVILA: Do you recognize --

13 MR. DRITSAS: Could you wait a second, please?

14 MS. DAVILA: I'm sorry.

15 MR. DRITSAS: Okay. I'm ready.

16 JUDGE THOMPSON: Go ahead, counsel.

17 Q BY MS. DAVILA: Do you recognize what's on this paper?

18 A It's a doctor's note.

19 MR. DRITSAS: Okay. That -- that's --

20 Q BY MS. DAVILA: Regarding what employee?

21 A Regarding Martha Guzman.

22 Q And is your testimony that she -- you don't remember her
23 giving it to you when --

24 A No.

25 Q -- she got back to work from the hospital?

1 A That's correct.

2 Q Okay. When employees give you doctors' notes, you said
3 that you don't automatically accept them because anyone could
4 get a doctor's note anywhere, correct?

5 A That's correct.

6 Q So what do you do to verify a doctor's note?

7 A I don't do any verification.

8 Q So you just check to see if there was hospitalization
9 involved, correct?

10 A That's correct.

11 Q And how would you know if there's hospital --
12 hospitalization involved?

13 A It could be a release from the hospital. This is a
14 release from the hospital.

15 Q Could you note what page you're talking about when you
16 say, "This is a release from the hospital?" Is it the front
17 page, page 1 of Respondent's 10 or the whole thing?

18 A It's the whole thing.

19 Q So you would say that this is a hospitalization release,
20 correct?

21 A Uh-huh.

22 JUDGE THOMPSON: "Yes?"

23 THE WITNESS: Yes.

24 Q BY MS. DAVILA: Were you involved in the decision to
25 terminate Martha Guzman?

- 1 A Yes, I was.
- 2 Q Did you conduct any investigation yourself?
- 3 A Not much to investigate at this point.
- 4 Q Is that a yes or a no?
- 5 A Yes.
- 6 Q "Yes," you conducted an investigation?
- 7 A And it was a simple investigation. Yes, I did.
- 8 Q Can you tell us what your investigation involved?
- 9 A From the release date, she was supposed to return on the
10 5th. She was off on the 5th and the 6th. She called off on
11 the 7th.
- 12 Q How do you know she called off on the 7th?
- 13 A There is an e-mail -- an e-mail from status saying she
14 called out.
- 15 Q Do you know who sent that e-mail?
- 16 A No.
- 17 Q And was that e-mail sent just to you?
- 18 A No.
- 19 Q Who else was it sent to?
- 20 A Every manager gets those e-mails.
- 21 Q Okay. So you saw that -- aura corresponding to you, she
22 was supposed to come back on the 5th. She was off on -- on the
23 6th and the 7th?
- 24 A She was off on that day, on the 5th.
- 25 Q On the 5th. Okay.

1 A Yeah. Even though the doctor says return on the 5th, she
2 was actually off in our schedule.

3 Q Okay. And she was off on the 5th and the 6th. And you
4 said you got an e-mail that she called off on the 7th?

5 A Yes.

6 Q Do you remember if the 7th was a peak period?

7 A I don't remember.

8 Q Okay. Aside from comparing, you know, her scheduled days
9 and this note, did you do anything else to investigate?

10 A No.

11 Q Did you speak to any other managers about this decision to
12 terminate her?

13 A Yes.

14 Q Who did you speak to?

15 A I spoke with Kelvin.

16 Q And was that conversation just the example that you gave
17 earlier?

18 A Not necessarily. That conversation was more like,
19 "Martha has another suspension. I'll get back to you when it's
20 ready to be issued." And that's what I remember.

21 Q Do you give all employees that reach ten points a
22 suspension?

23 A Yes.

24 Q There are situations, however, where you will reduce their
25 points so they're not issued a suspension, correct?

1 A There's a story in every person. Yes.

2 Q So there are situations where you've reduced --

3 A It could happen.

4 Q Okay. Aside from Kelvin, did you speak to anybody else?

5 A I went to human resources.

6 Q Who in human resources did you go to?

7 A To Gustavo.

8 Q And what's his position?

9 A He's the Assistant Director of HR.

10 Q And at this point had Gustavo made his own investigation?

11 A The case goes to human resources and they do their own --
12 whatever they do. I don't know exactly what they do.

13 Q But, in this instance, when you approached Gustavo about
14 Martha Guzman, had he --

15 A She --

16 Q -- already started investigating or --

17 A She did -- he did investigations because I remember him
18 coming to the office, talking to people.

19 Q Did his investigation start before yours?

20 A No. Mine was first.

21 Q So would you say that you alerted Gustavo to the
22 situation?

23 A I went to Gustavo, I talk about it --

24 Q And when you talk -- I'm sorry. Go ahead.

25 A -- he said, "Draft the document, bring it to me and I'll

1 study the case."

2 Q So at that point he hadn't started --

3 A Yes.

4 Q -- investigating?

5 JUDGE THOMPSON: Ms. Magana, just so that I'm clear, in
6 that instance that you're testifying about, this is the
7 suspension or the termination?

8 THE WITNESS: She -- this is referring to an SPI,
9 suspension pending investigation.

10 JUDGE THOMPSON: Gotcha. Thank you.

11 THE WITNESS: Sorry.

12 Q BY MS. DAVILA: And Guzman, in this instance, was
13 suspended in July prior to her termination in July, correct?

14 A That's correct.

15 Q Okay. And she was terminated for accumulating more than
16 ten points, correct?

17 A I'm not sure.

18 Q What's the reason for her termination?

19 A She reached the max again.

20 Q The max what?

21 A That's the third time she was up to suspension.

22 Q And when you say the max, what do you mean?

23 A The max points for SPI.

24 Q Okay. So she was suspended -- or I'm sorry. She was
25 terminated for getting the max attendance points?

1 A For reaching the -- whatever is the ten points, yes.

2 Reaching ten points.

3 Q She was terminated for reaching ten points?

4 A Yes.

5 Q Okay. And that was the only reason she was fired,
6 correct?

7 A I don't see any other one. Yes.

8 Q That's a "yes?"

9 A Yes.

10 Q I'm going to ask you to look at Respondent's Exhibit 6.

11 A 6.

12 JUDGE THOMPSON: Is it this one, counsel?

13 MS. DAVILA: It's Martha Guzman's attendance, Your Honor.

14 MR. DRITSAS: It's the one with the box checked SPI in the
15 bottom left.

16 THE WITNESS: It's -- yes, that's the one.

17 JUDGE THOMPSON: Okay. 6. Okay. Got it.

18 MS. DAVILA: Sorry. I don't have it myself.

19 Respondent -- it's Respondent's 6, right, or GC-6?

20 THE WITNESS: It's --

21 MR. DRITSAS: Respondent's.

22 THE WITNESS: -- 6.

23 JUDGE THOMPSON: It's Respondent's 6.

24 MS. DAVILA: Sorry, Your Honor. I'm sorry, Your Honor. I
25 found it. Sorry. Okay. Isn't it also GC Exhibit 14, just for

1 my clarification purposes? GC-14.

2 MS. OVIEDO: 14 is Guzman's attendance calendar.

3 MS. DAVILA: Yeah. Okay. I'm sorry.

4 Q BY MS. DAVILA: I'll have you look at this instead, GC-14.

5 JUDGE THOMPSON: Okay. Counsel, hold on. You want the
6 witness and the rest of us to go to GC 14 and not Respondent's
7 6?

8 MS. DAVILA: Yes, Your Honor.

9 JUDGE THOMPSON: Okay.

10 MS. DAVILA: They both contain the same documents.

11 JUDGE THOMPSON: Okay. My GC 14 is one-page long.

12 MS. DAVILA: It's --

13 THE WITNESS: I have two that I think is the same.

14 MS. DAVILA: Yeah, it's the same.

15 JUDGE THOMPSON: Okay.

16 MS. DAVILA: It's just back and forth.

17 JUDGE THOMPSON: Okay. All right.

18 MS. DAVILA: Okay.

19 Q BY MS. DAVILA: And this is Martha Guzman's attendance
20 calendar, correct?

21 MR. DRITSAS: Well, I'm -- Your Honor, just for the record,
22 GC-14 is not the same. She did do it if she wants, of course.
23 But GC-14 is not the same as Respondent's 6. GC-14 is an
24 attendance calendar and it has one page for entries in 2015.
25 Respondent 6 has more -- more pages --

1 MS. DAVILA: Yeah, it has an --

2 MR. DRITSAS: -- more information.

3 MS. DAVILA: -- attendance -- I'm mean it has a discipline.

4 But, yes, I'm only referring to the attendance calendar --

5 JUDGE THOMPSON: Okay.

6 MS. DAVILA: -- for my questions, which is GC-14.

7 JUDGE THOMPSON: Proceed, counsel.

8 MS. DAVILA: Okay.

9 Q BY MS. DAVILA: This is Martha Guzman's attendance
10 calendar, correct, Ms. Magana?

11 A Yes.

12 Q And where it says 2015, that means it's this year's
13 attendance calendar, correct?

14 A That's correct.

15 Q Okay. Can you turn to the back of the page, please?

16 Where it says on the date 2014, does the mean that she came
17 into 2015 with that number of points?

18 A Yes.

19 Q Okay. And Alejandra Magana -- I'm sorry. Alejandra. I'm
20 sorry. Martha Guzman reached 11 points on February 5th,
21 correct?

22 A Yes.

23 Q And she wasn't fired in February, correct?

24 A She wasn't.

25 Q But she was issued a suspension pending investigation,

1 correct?

2 A I'm not sure if this happened. I will have to see the
3 paper, the document.

4 Q But the acronym SPI, what does that stand for?

5 A A suspension pending investigation to happen.

6 Q Okay. So -- and when that acronym is included in the
7 attendance calendar, what does the mean?

8 A That she's up to SPI.

9 Q But it doesn't mean necessarily that --

10 A It doesn't mean that --

11 Q -- she was --

12 A -- it is -- is --

13 JUDGE THOMPSON: Wait, wait, wait.

14 MS. DAVILA: Oh.

15 JUDGE THOMPSON: Everybody can't talk at the same time.
16 Counsel, go ahead and ask your question.

17 Q BY MS. DAVILA: It means that she's eligible for an SPI
18 but it doesn't necessarily mean that she was given one,
19 correct?

20 A That's correct.

21 Q Okay. And can you read to us the entry for February 24th?

22 A "Called out February 24th at 6:36 a.m. for her shift of
23 February 24 at 8:30 a.m., peak period less than four hours,
24 total 12." She got four points.

25 Q And what does the line at the bottom say?

1 A "Will speak to Alejandra about this issue."

2 Q Do you remember talking to Martha Guzman about this entry?

3 A I -- I can't tell you if I talked to her that day.

4 Q Okay. But, according to this document, she had 12 points
5 on February 24th, correct?

6 A She did.

7 Q Okay. Does it say here that she was fired after reaching
8 these 12 points?

9 A No.

10 Q Okay. Do you remember issuing her an SPI after February
11 24th?

12 A No.

13 Q Okay. And can you read for us the entry on March 11th?

14 A "Called out sick at 3:30 a.m. March 11, 2015 for her shift
15 scheduled March 11, 2015 at 8:30 a.m., peak period. Total
16 points 14." She got two points.

17 Q And do you remember her being fired after March 11th for
18 reaching more than ten points?

19 A No, she didn't.

20 Q So by March, she's reached over ten points three times,
21 correct, and she hasn't been fired yet, correct?

22 A Correct.

23 Q Okay. And on March 19th the entry says that she brought
24 in a doctor's note and seven points were removed from her --
25 from her total, correct?

1 A That's correct.

2 Q Okay. And when it says she brought in a doctor's note,
3 did she bring that doctor's note to you?

4 A I don't remember.

5 Q Okay. Who would she have brought that doctor's note to?

6 A To any manager.

7 Q Okay. Is there any time between March and July 7th on
8 this document that says that Alejandra -- I mean -- I'm sorry
9 -- Martha had reached more than ten points?

10 A Repeat that question again.

11 Q Between March 19th and July 7th, is there any entry where
12 it says that she reached more than ten points?

13 A More than ten points?

14 MR. DRITSAS: I'm sorry. Just -- are you saying ten
15 points --

16 THE WITNESS: I'm a little confused.

17 MR. DRITSAS: -- or more than ten points?

18 MS. DAVILA: More than ten points.

19 MR. DRITSAS: Okay.

20 THE WITNESS: No.

21 Q BY MS. DAVILA: Okay. And I'll be more specific. On --
22 after March 19th, you never reduced her points again, according
23 to this document, correct?

24 A That's correct.

25 Q And if you had reduced her points, it would be documented

1 on this document, correct?

2 A Yes.

3 Q Okay.

4 MS. DAVILA: No further questions, Your Honor.

5 JUDGE THOMPSON: Okay. Mr. Dritsas, cross?

6 MR. DRITSAS: Yes, Your Honor.

7 **CROSS-EXAMINATION**

8 Q BY MR. DRITSAS: Let's see. Can you pull from your stack
9 there, Ms. Magana, Respondent's 6, 5, 2 and 1?

10 JUDGE THOMPSON: I don't know where 1 is, counsel. 6. All
11 I have up here begins with 2.

12 MR. DRITSAS: Okay.

13 JUDGE THOMPSON: Hold on. So you said --

14 MR. DRITSAS: 1, here --

15 JUDGE THOMPSON: Repeat again.

16 MR. DRITSAS: Jackie's got 1 for you.

17 JUDGE THOMPSON: Oh. Thank you. 1, 2 --

18 MR. DRITSAS: 1, 2, 5 and 6.

19 JUDGE THOMPSON: Okay.

20 THE WITNESS: I have 5. Oh, they're the same.

21 JUDGE THOMPSON: No. Here.

22 THE WITNESS: Oh.

23 JUDGE THOMPSON: No, no, no. 2.

24 THE WITNESS: Oh. Sorry about that.

25 JUDGE THOMPSON: This is 5.

1 THE WITNESS: 5 and 6.

2 JUDGE THOMPSON: Okay. Let the record reflect the witness
3 has been handed Respondent's Exhibits 1, 2, 5, 6.

4 MR. DRITSAS: Thank you, Your Honor.

5 Q BY MR. DRITSAS: So let's start with Exhibit 1. Can you
6 identify this? Take a look at Respondent's -- Respondent's 1.

7 A Suspension for Martha Guzman.

8 Q Okay. And is it the practice to have an attachment that
9 covers the year to date with the discipline that's issued?

10 A Yes, the calendar is always attached.

11 Q Okay. So let's see. And then the -- there's a carry
12 over. So you list the -- from -- this one says 2013. That --
13 that would have been the carry-over points?

14 A Yes.

15 JUDGE THOMPSON: Okay. Counsel, where are you looking?
16 I'm sorry.

17 MR. DRITSAS: I'm sorry. That's -- that's a good point,
18 Your Honor. I'm looking at the third -- the fourth -- the
19 fourth page.

20 JUDGE THOMPSON: Okay.

21 MR. DRITSAS: Where it says, "Date, 2013."

22 Q BY MR. DRITSAS: That would have been the carry over from
23 the end of December of the prior year; is that right?

24 A Yes.

25 Q Okay.

1 A That's correct.

2 Q Thank you. Now, there are -- on this calendar, we see
3 points taken off on February 23 and we see four points taken
4 off on April 3. Can you tell us what -- well, on April 3 it
5 says, "Spoke to Alejandra. She brought a hospital notice and
6 dropped the points." Can you tell us why you dropped the
7 points on those two occasions?

8 A She brought a hospital doctor's note -- a hospital note.
9 I was new in the department and thought that the best way to
10 develop that rapport with my employees was to be more
11 understanding, and I took points away from her.

12 Q Okay. If you turn the page, you'll see there are points
13 taken away on October 6, 2014 and points taken away on December
14 12, 2014. One point, five points in October and three points
15 in December. Were you responsible for making that decision?

16 A Yes.

17 Q And can you tell us why you took points away?

18 A I was just working with her so she can improve her
19 attendance and talked to her about improving and took the
20 points away from her.

21 Q Okay. How many occasions do you believe -- or can you
22 recall in 2014 that you would have had conversations with
23 Ms. Guzman about her attendance issues? What's your best
24 estimate?

25 A I'm not sure how many times, but every time I took points

1 away, I had a conversation with her about improving.

2 Q Okay. And you -- you took points away in 2015 also,
3 correct?

4 A I did.

5 Q Okay. Can you -- can you recall the specifics for each
6 time you took the points away?

7 A It's --

8 JUDGE THOMPSON: You're referring to in 2015?

9 MR. DRITSAS: 2014 and '15.

10 Q BY MR. DRITSAS: Can you recall the specifics of each
11 occasion?

12 A It's -- it's hard to remember exactly or line up all the
13 stories she gave me every time I took point away from her.

14 Q Okay.

15 A I can tell you the -- the stories.

16 Q Okay. So why don't you tell us then your best
17 recollection of the different reasons that Ms. Guzman gave you
18 that you considered in adjusting her points.

19 A I remember one time she -- she came -- she came in late.
20 She came in crying into my office. Her uncle was missing in --
21 in California. I remember her coming to work with a bump on
22 her like left cheek because the boyfriend hit her. I remember
23 her coming to my office crying because the daughter -- the
24 daughter left to California and left the child behind and she
25 didn't have a babysitter. I remember that time I gave her

1 extra time to go and take the child to California to the
2 daughter. I remember her -- God. There's so many stories she
3 gave me. She was having -- she was being evicted from her
4 place. She had another uncle dying.

5 Q Okay.

6 A She was having some health issues. She told me that she
7 was in so much pain that she -- the doctor recommended her to
8 remove her uterus but she was afraid to do that.

9 JUDGE THOMPSON: Counsel, is there another question?

10 MR. DRITSAS: Yes.

11 Q BY MR. DRITSAS: Could you remember any of the other
12 explanations she gave you you considered?

13 A I'm sorry. I just cannot line them up.

14 Q Okay. So if we look at Exhibit 1, which is the --
15 Respondent's 1, which is 2014, there are a variety of points
16 that she received. Some that were kept, some that were not.
17 Some that were removed.

18 MR. DRITSAS: What's our next in order, please?

19 THE COURT REPORTER: 26.

20 MR. DRITSAS: Okay. What was 25?

21 JUDGE THOMPSON: The diagram --

22 MR. DRITSAS: Thank you.

23 JUDGE THOMPSON: -- and the photos --

24 MR. DRITSAS: Thank you.

25 JUDGE THOMPSON: -- of the outside of the Hotel.

1 THE WITNESS: If I can remember something I was going to
2 say --

3 JUDGE THOMPSON: You have to wait for them to ask.

4 Q BY MR. DRITSAS: So when you came in the department -- you
5 said you started when?

6 A February --

7 Q I should identify this document. I'm showing you
8 Respondent's 26, which is a disciplinary record for Martha
9 Guzman, time of incident January 19, 2015.

10 When you came -- when you start in the department?

11 A February 3rd, 2014.

12 Q Okay. So when you started, Ms. Guzman already had had at
13 least some record of disciplinary history, correct? You have
14 to answer.

15 A She carry over two points from 2013. How I see this in
16 the document.

17 Q Yeah. And then she was issued a point on January 19, 2014
18 for -- for some infraction, attendance infraction, which you
19 have in front of you as Exhibit 26; is that right?

20 A Yes.

21 Q Okay. So when did you start to talk to Martha Guzman
22 about her attendance issues? How soon after you started?

23 A Not right away. I want to say she started coming to my
24 office around March, April.

25 Q Okay. Okay. I'm showing you Exhibit 27, Respondent 27,

1 which is a first written warning issued to Martha Guzman,
2 incident date February 14 -- February 15, 2014. So at this
3 point Ms. Guzman's points went to five; is that right?

4 A Yes.

5 Q Now, I notice that when I look at exhibit -- Respondent's
6 1, there's no entry for written warning on February 15 even
7 though we have a written warning here. Are there times that
8 you notice that Vania or Christina or someone does not always
9 write in the discipline that's issued?

10 A It -- it was not a common practice before I came. I found
11 some like inconsistencies on logging things in the -- in the
12 tracking calendar.

13 Q Okay. So you tried to tell them to -- to write these
14 disciplines down?

15 A I -- I talked to them about being more specific and write
16 down the -- what type of document they should be receiving.

17 Q Okay. Okay. So then Exhibit 4, Respondent's 4, I think
18 you have that in front of you, that's discipline -- that's the
19 second written warning issued?

20 A It's got to be here. Yes, I have it.

21 Q Okay. So that's to Martha Guzman, second written warning.
22 That's also not on the attendance log, but your understanding
23 is this -- this discipline you had with Exhibit 4 was actually
24 issued to Ms. Guzman?

25 A She did sign it.

1 Q Okay.

2 MR. DRITSAS: I would move admission, by the way, Your
3 Honor, of Employer's -- or Respondent's 26 and 27.

4 MS. DAVILA: No objection.

5 JUDGE THOMPSON: Okay. No objection, I'll receive
6 Respondent's Exhibits 26 and 27.

7 **(Respondent Exhibit Number 26 and 27 Received into Evidence)**

8 MR. DRITSAS: Thank you, Your Honor.

9 Q BY MR. DRITSAS: Now, if you'd turn to the -- continue
10 reading after you gave -- after you removed some points, you'll
11 see that Ms. Guzman was tardy, reported tardy on May 2, tardy
12 again on May 30 and then had a call out on July 12.

13 JUDGE THOMPSON: Okay. Counsel, what --

14 THE WITNESS: I don't see that.

15 JUDGE THOMPSON: -- document are you looking at?

16 MR. DRITSAS: Your Honor, I'm --

17 THE WITNESS: Oh, I found it. I'm sorry.

18 MR. DRITSAS: I'm back on Respondent's 1 --

19 JUDGE THOMPSON: Okay.

20 MR. DRITSAS: -- the --

21 THE WITNESS: I apologize.

22 JUDGE THOMPSON: She's are Respondent's --

23 THE WITNESS: 27.

24 JUDGE THOMPSON: -- 1.

25 THE WITNESS: Yeah.

1 MR. DRITSAS: The fourth page.

2 JUDGE THOMPSON: And that's Respondent 27.

3 THE WITNESS: He said 27?

4 JUDGE THOMPSON: No. He's on Respondent 1 now.

5 MR. DRITSAS: Yeah.

6 JUDGE THOMPSON: Now, what page are you on, counsel?

7 MR. DRITSAS: The fourth page, Your Honor.

8 JUDGE THOMPSON: Okay.

9 MR. DRITSAS: Thank you.

10 JUDGE THOMPSON: Okay. I'm sorry, counsel, you have to ask
11 your question again.

12 MR. DRITSAS: Yeah. Sure.

13 Q BY MR. DRITSAS: So there were disciplinary infractions
14 that noted on the attendance log at -- after you wrote off
15 points, she had -- infractions were noted on May 2 for tardy,
16 May 14 for tardy, May 30 for tardy, and then there was an
17 infraction on the -- July 12, a call out. Now, there's no --
18 even where it says suspension, there's no suspension in her
19 disciplinary file. Can you explain that? On July 12.

20 A I'm not sure why she did not get the suspension.

21 Q Okay. By July 12, had you started to have interactions
22 with Ms. Guzman concerning her attendance?

23 A Yes.

24 Q Okay. So I realize you can't pace together which
25 explanation which -- which day. Did you have any standard

1 response that would give to Ms. Guzman about what she needed to
2 do with her attendance?

3 A I talked to her a lot. Every time she was getting
4 discipline, every time she went to my office crying because she
5 had an issue, I -- I told her to -- that she needed to improve
6 her attendance, that I wasn't going to be able to help her and
7 that she was closing her doors regarding me helping her with
8 attendance.

9 Q Now, again, if you move down, you'll see that she had
10 points again for -- for violations on August 1, August 20 --

11 A Yes, yes.

12 Q -- September 2?

13 A Yeah.

14 Q Then her -- on October 2, she -- someone wrote SPI. I
15 guess -- I assume that's because it hit ten points. Do you
16 recall having any conversation with anyone about why an SPI was
17 not issued? Let me strike that. Were you involved in deciding
18 not to issue an SPI even though Ms. Guzman hit ten points?

19 A I took point away from her.

20 Q Okay. And when did you do that?

21 A I talked to her on October 6.

22 Q Okay. So you took points away and that took away --

23 A To nine.

24 Q -- the SPI; is that right?

25 A Yes.

1 Q And can you recall which of the various explanations she
2 gave that moved you to take point away?

3 A I don't remember.

4 Q Okay. Now, if we move down, you can see that in
5 November -- or strike that -- you can see that even after you
6 took points away, she was tardy later in the same month.
7 October -- November 2 she called out. And there's a note here,
8 "She said it was FMLA, but she does not have FMLA. I mentioned
9 this to Alejandra on November 2." Do you recall what that
10 references?

11 A I do remember talking to her about her saying FMLA. And
12 she didn't have FMLA. She told me she was confused. She
13 didn't know the meaning of FMLA. So I explained her what it
14 was.

15 Q Okay. And then there's some entry down here that she had
16 a death in the family. "Will speak to Alejandra about her
17 points." Do you remember what the -- what type of relative
18 there was a death with?

19 A In this situation, I do remember because she talked to
20 Kelvin about the uncle passing away.

21 Q Did you say uncle?

22 A Yeah. Yeah.

23 Q Okay. Okay. And did that lead you to remove any points?

24 A No.

25 Q Okay. Then we go down to December 12 -- on December 2 you

1 removed a point. And we want to move down, December 3, there's
2 a tardy. Then December 12 she had 11 points on December 3rd
3 and then you removed three points on December 12. Do you
4 remember what that was for?

5 A No, I don't remember.

6 Q Okay. That leads to the discipline though, which is the
7 front page of Respondent's 1. You took enough points away that
8 she wasn't eligible for an SPI but she was still eligible for
9 suspension; is that right?

10 A Yes, that's correct.

11 Q Okay. If you turn to the front page of Respondent's 1,
12 this was a suspension that was issued because she had reached
13 eight points?

14 A Yes.

15 Q Okay. Now, there's some writing on the second page. I
16 guess there's an associate comment box. Did you review that
17 after or around the time the discipline was issued?

18 A No, I didn't review that. The associate fill this out
19 when the discipline is given.

20 Q Okay. One of the things she says is that she was not
21 late. Can you turn to the last page in this exhibit? And the
22 print is small, I'll grant you that. But if you take a look at
23 the top, can you tell us whether Ms. Guzman's timecard for
24 December 3 shows that she was tardy?

25 A Was that December 12?

1 Q No. December 3.

2 A December 3rd. Yes. She clocked in at 8:58 a.m.

3 Q What's her start time?

4 A 8:30.

5 Q Okay.

6 MS. OVIEDO: Your Honor -- Your Honor, we can't seem to
7 find our Respondent 1. Would you mind if we ask the court
8 reporter to -- unless Respondent has an extra copy of --

9 MR. DRITSAS: I don't, but I'm -- don't --

10 JUDGE THOMPSON: The witness has it, counsel, unfortunately
11 has the Court Reporter's Respondent 1.

12 MS. OVIEDO: Okay. That's fine.

13 Go ahead.

14 MR. DRITSAS: Okay.

15 Q BY MR. DRITSAS: Okay. So let's go back, Ms. Magana, to
16 -- I think we're on Respondent 6. Respondent 6 -- well, sorry.
17 We've got a few things before that. So let's go to -- let's go
18 to Respondent's 2. At the top it says, "Date of incident,
19 April 1, 2015."

20 JUDGE THOMPSON: Let the record reflect the witness has
21 what's been marked as Respondent Exhibit 2.

22 Q BY MR. DRITSAS: Okay. So if I'm reading this correctly,
23 Ms. Guzman carried over eight points which resulted in her
24 suspension in December; is that right? If you take a look --
25 I'm looking at the -- the last page of Respondent's 2.

1 A Yes.

2 Q Okay. Then on February 5 she calls out during the peak
3 period, which kicks her to 11 points. And that would have
4 triggered an SPI. But -- but that wasn't issued. Instead we
5 see that you removed four points on February 6. Do you recall
6 why you did that. Or which of the explanations that she gave
7 you that you were considering?

8 A I'm sorry. I just can't line up the stories.

9 Q Okay. But you did -- you did tell her that you're
10 removing her points?

11 A I did.

12 Q Okay. And so now -- you testified at first you wanted to
13 get to know employee morale and that kind of stuff. But now
14 here we are about a year later.

15 A Uh-huh.

16 Q Had you started to formulate any opinions about Ms. Guzman
17 and the repeated attendance problems and explanations she was
18 giving you?

19 A Yes. Like you said, the beginning was me building rapport
20 with her. Then I move onto this place where I was trying to
21 help her to get better in her attendance. But I started just
22 like noticing that she wasn't going to change her behavior.
23 She was not willing to improve her attendance. And she in a
24 way was abusing of my good fate.

25 Q So when you took away the SPI, you took away the four

1 points. Do you remember saying anything to her? Was there
2 anything -- any message you were giving?

3 A Yes. Every time I was telling her, "That's it, Martha. I
4 just can't help you anymore." I said, "It's not fair for" --
5 "for other employees to see that you're like getting away with
6 this then because it's just too much."

7 Q Okay.

8 A "I don't see an effort on getting better."

9 Q Well, it looks like you continued to -- to give her relief
10 though. I see after February 6 there's discipline -- there
11 were points that she was awarded for tardiness on the 14th.
12 She called out during her peak time on the 24th. She called
13 out again sick on the 11th. And then, lo and behold, on March
14 19, you take away seven points, which bring her down to a
15 suspension, which is Respondent's 2. Why did you take away
16 seven points from Ms. Guzman?

17 A I'm not even sure why I took it out again from her.

18 Q And were you discussing this with any of your other
19 managers or was this just your decision?

20 A My decision of taking points away?

21 Q Right.

22 A No. I was making my own judgment in the effort of me
23 helping her.

24 Q Okay. So April 1, after -- a couple weeks after you took
25 away seven points, she was tardy. And that led to the

1 suspension that was issued, which is the front page of
2 exhibit -- Respondent's 2; is that right?

3 A Yes.

4 Q Now, you testified with Ms. Davila that you -- you had
5 Kelvin issue things. Can you identify the signature on the --
6 under the manager's signature on the first page of Exhibit 2?

7 A That will be Kelvin Kwon.

8 Q Okay. So tell me what, if anything, you said to Kelvin
9 relative to the issuance of this discipline.

10 A I think he knew at that point when I asked him to do -- do
11 it. I still mentioned to him, I said, "I cannot continue
12 dealing with her." I said, "I need your help to issue it to
13 her."

14 Q And why did you want him to issue it instead of you issue
15 it?

16 A I just felt sorry. I guess in a way I felt like -- I
17 don't know. I mean it's -- just to see her face like crying to
18 you and -- she broke my heart many times.

19 Q So by going to Kelvin, how was that going to solve that?

20 A I told her before I gave it to Kelvin that I couldn't help
21 her anymore.

22 Q Okay.

23 A And by me passing that to Kelvin is me not dealing with
24 her and sending her a message that it was set, that no more,
25 that Alejandra wasn't going to be there for her to help her

1 again reducing points.

2 Q Okay. So after this discipline was issued, did Ms. Guzman
3 come to you and talk with you about the discipline? The one
4 I'm talking about is the suspension which Mark responds to.

5 A Yes. In fact, this is the form I was mentioning earlier
6 that I noticed he missed the second page signature. When she
7 came to talk to me and just to say that it wasn't fair that she
8 got suspended by Kelvin, I noticed he -- he didn't sign it and
9 I signed it --

10 Q Okay.

11 A -- when I talked to her and I said, "Martha, I'm sorry. I
12 just can't."

13 Q Okay.

14 A She actually waited for me that day.

15 Q You can't what? What did you tell her?

16 A "I" -- "I just can't help you anymore. This is going to
17 stand."

18 Q Okay. If you take a look at Respondent's 3, it's the one
19 that has -- it's a suspension dated May 14 --

20 MR. DRITSAS: Oh, sorry, Your Honor. This is the wrong --
21 wrong one. Let me get the correct one.

22 JUDGE THOMPSON: You don't want Respondent 3?

23 MR. DRITSAS: I don't.

24 JUDGE THOMPSON: Okay.

25 MR. DRITSAS: Respondent's 5. Yeah, sorry. Respondent's

1 5.

2 JUDGE THOMPSON: And let the record reflect that the
3 witness has what's been marked as Respondent 5.

4 Q BY MR. DRITSAS: Okay. So if we -- we take a look at
5 the -- the last page, April 1, we've already identified at
6 eight points she received a suspension. Then May 16, there's
7 another attendance infraction for calling out on her shift
8 during a peak period. Two points, which is -- qualifies for a
9 suspension. Was that suspension issued, Ms. Magana?

10 A Yes.

11 Q And the front page is the actually copy of the suspension?

12 A Yes.

13 Q And whose signature is on the management's signature?

14 A Kelvin.

15 Q Okay. And did you say anything to Kelvin about you
16 wanting him to issue this discipline?

17 A Yes.

18 Q What did you say?

19 A I just told him, "I have another suspension and I'm going
20 to ask you to do it again for me."

21 Q Okay. Now, did Ms. Guzman come to you after this
22 suspension, which is marked as Respondent's 5, and try to talk
23 with you?

24 A She didn't come to see me after this one.

25 Q Okay.

1 MS. DAVILA: I'm sorry. Can we just clarify which one
2 we're talking about?

3 THE WITNESS: She didn't come to see me after the
4 suspension on May 16.

5 MS. DAVILA: Thank you.

6 Q BY MR. DRITSAS: Okay. So now let's move up to Respondent
7 6. But, first, let me show you -- I'll just have something
8 marked here. I'm showing you Respondent's 28. Can you
9 identify this document?

10 A It's an e-mail from -- from Vania saying Martha called off
11 at 4:14 a.m. for her shift 8:30 on July 7th, 2015.

12 Q Okay. So let's -- let's kind of go through this a little
13 bit. Underneath the name -- well, at the top right it says
14 Vania Mariscal. And then -- not to be confused, it says
15 11/16/15. I'll just represent this document was used in
16 response to some other position statements we had. But I want
17 to focus on what happens starting with Walter Rubi. So who was
18 Walter Rubi?

19 A He was -- he is the grave supervisor.

20 Q Okay.

21 A Housekeeping supervisor.

22 Q And there are a lot of entries here. Do you fall into one
23 of these entries in terms of the received to category?

24 A No. No see my -- my name in there.

25 Q Well, are there group entries that would come to you?

1 What is TLV HK manager?

2 A That's an e-mail group for the floor managers.

3 Q Okay. And so somehow did this e-mail from Mr. Rubi come
4 to your attention?

5 A Exactly.

6 Q And how did it come to your attention?

7 A I was forwarded that by Vania.

8 Q Okay. Now, on July -- excuse me -- on July 7 I believe
9 you said you were on vacation?

10 A I was.

11 Q Or you were away from the office?

12 A I was.

13 Q Okay. So when did you come back to the office?

14 A I came back on July 9.

15 Q Okay. And tell me how it was that when you returned, you
16 learned of Ms. Guzman's further attendance violation and
17 ultimately which led to an SPI. Take us through your knowledge
18 of that in this process.

19 A Before I came back, I saw on the pass on from the floor
20 managers that she went to the hospital and all that. When I
21 came back from vacations (sic), I came back on the 9th. She
22 wasn't working on the 9th. She requested time off. She worked
23 the 10th. I saw her but I did not talk to her. I was doing
24 investigation and see -- and that's when I -- I told Gustavo
25 that we needed to proceed for her -- for his investigation for

1 an SPI.

2 Q Okay. So before you did that, had you received the
3 medical note that we've marked as Respondent's, I believe it's,
4 10 that -- Sunrise Medical Center?

5 A Yes, I saw it before -- when I got back.

6 Q Okay. Do you recall how this came to your attention?

7 A I don't recall that.

8 Q Okay. Did you assess any points to Ms. Guzman for any of
9 the time that she was off of work July 2 through July 5?

10 A No.

11 Q Okay. Now, did you read the -- the doctor note before you
12 moved forward with the SPI?

13 A Yes.

14 Q Was there anything in the doctor note that indicated to
15 you that Ms. Guzman had any form of restrictions in terms of
16 her ability to return to work after July 5?

17 A No.

18 Q Were you provided with any other documentation that said
19 that Ms. Guzman was somehow medically incapable of working on
20 July 7th?

21 A No.

22 Q Did you consider the fact that Ms. Guzman worked on July 8
23 when you were evaluating how to proceed with her attendance
24 violation on July 7?

25 A Can you repeat that?

1 Q Sure. Did the fact that she worked on July 8 influence
2 your decision at all to move forward with the attendance
3 violation for July 7?

4 A No.

5 Q Okay. So why did you move forward then with the
6 attendance violation to -- for an SPI?

7 A That she call off on the 7th.

8 Q And she was at ten points?

9 A Yes.

10 Q Okay. So did you -- what did you tell Mr. Acosta when you
11 talked to him?

12 A The exact words I might not remember. The only thing I
13 remember is saying I'm sorry, I have an SPI for Martha.

14 Q Okay. And just process-wise, did you give -- did you or
15 someone from your department give Mr. Acosta this -- the form
16 here that said SPI on it, or do you know if that was given to
17 him, or is he just told he has to investigate an SPI?

18 A I'm not sure who gave him the document, I don't remember.
19 All I know is he was investigating the case.

20 Q Okay. Now, I think you said that you were with Mr. Acosta
21 and Ms. Guzman on the day that she was terminated; is that
22 right?

23 A Yes.

24 Q Did you learn before the day she was terminated that she
25 had said something to the effect that she was told she only had

1 seven points by Vania in July? Did you know that?

2 A Yeah, she -- she mentioned that to Gustavo.

3 Q Okay.

4 A Gustavo call her and she brought it up to him, and I know
5 he investigated if she had talked to Vania about having seven
6 points. And I remember Vania coming to me and she said, "Yes,
7 I did say that she has seven points, but that was back in May,
8 not last week, not two weeks ago."

9 Q Okay. Now, the second page of Exhibit Respondent 6, in
10 the handwritten part, says that she went to the hospital. When
11 you met with her and Gustavo, did anyone explain to her that
12 the time that she was at the hospital was not counted towards
13 her points?

14 JUDGE THOMPSON: Hold on, counsel, the witness is --

15 MR. DRITSAS: I'm sorry.

16 JUDGE THOMPSON: -- getting Respondent's 6.

17 MR. DRITSAS: On the second page of Respondent's 6.

18 JUDGE THOMPSON: Second page of Respondent's 6. Go ahead,
19 counsel.

20 MR. DRITSAS: Sure.

21 Q BY MR. DRITSAS: There's a note here that references "You
22 guys took me to the hospital." Was there anything said to
23 Ms. Guzman, in the meeting with you and Gustavo, that that
24 hospitalization absence was not counted towards her points?

25 A I remember Gustavo telling her.

1 Q Okay. So Gustavo did his investigation, and before he --
2 before you and he met with Ms. Guzman, did the two of you talk
3 about what the results of this investigation was?

4 A I just remember him saying to me "I'm going to call her.
5 I'll let you know."

6 Q Okay. And did he let you know?

7 A Yes.

8 Q And what did he tell you?

9 A He said we have an appointment to the final termination
10 with Martha. We met. I don't do talking on those
11 conversations.

12 Q Okay. Before you get to that, before you get to the
13 meeting, what I'm trying to find out is, did you and Gustavo
14 talk about "Okay, we're going to move forward with the
15 termination"?

16 A Yes.

17 Q That's what I'm getting at.

18 A Yes.

19 Q Okay. So who said what in that conversation?

20 A Gustavo said, "We are moving forward."

21 Q Did he explain to you why or what his reason was?

22 A He said, "I investigated and it seems that it is in
23 order."

24 Q Okay. So then you and Gustavo met with Ms. Guzman; is
25 that right?

1 A Yes.

2 Q Okay. And did she offer any explanation for why she
3 didn't report to work or why she called off on July 7th?

4 A She did not say anything to me.

5 Q Did she say, "I've got a doctor note here, that I was
6 really sick," or anything like that?

7 A No.

8 Q You had given this woman multiple breaks before, we've
9 just gone through it; several times in a year, over a year, you
10 wrote off a lot of points. Why didn't you write off points at
11 this time?

12 A Enough is enough. I gave her a year to improve, a year.

13 Q Okay. Did the fact that -- strike that. Were you aware
14 that -- were you aware that Ms. Guzman had worn a button at any
15 time during her employment?

16 A Yes.

17 Q And do you know when -- well, first, how often did you see
18 her? Besides when she came in your office, you know, to talk
19 about her attendance problems, did you see her on a regular
20 basis?

21 A She stopped coming to my office since the last time I
22 talked to her in April.

23 Q And when you disciplined her in April, you said you had
24 Kelvin do it, right?

25 A Yes.

1 Q But then you also said that she came to try to plead her
2 case to you?

3 A She did.

4 Q Okay. When she came to you in April 2015, was she wearing
5 a union button, a yellow union button?

6 A I can't tell you. I, unfortunately, didn't pay attention.

7 Q Okay. Did she -- did you recall -- you testified you saw
8 her with a union button. Do you recall when you first saw her
9 wear a union button?

10 A I have the last image of her when we were in the office
11 with Gustavo.

12 Q Okay.

13 A That's how I remember her, wearing the button.

14 Q Okay. Do you recall any times prior to that that you saw
15 her wearing a button?

16 A I don't recall.

17 Q Okay. Did Ms. Guzman ever talk with you about the union,
18 whether you thought she should be for the union or against the
19 union, anything related to that?

20 A No.

21 Q Okay. Did you ever hear from anyone that Ms. Guzman was
22 some kind of a union activist, that she was a union leader?

23 A No, never.

24 Q Okay.

25 A She's -- she was very quiet, missed a lot of Trump talks.

1 Very quiet.

2 Q Is that something that people -- or she was disciplined
3 for, missing Trump talks?

4 A Hard to prove.

5 Q Why is that?

6 A Because we base it on the clock when they punch in.

7 Q So someone can punch in and there may be too many people
8 in the room to tell whether they're there or not?

9 A She will be hard to miss, because she will never speak up
10 or say anything in Trump talks.

11 Q You mean easy to miss?

12 A Well, easy to miss, the other way around.

13 MR. DRITSAS: Your Honor, I can't remember, but just in
14 case, I'd like to move admission of Respondent's 28 if I
15 haven't done so.

16 JUDGE THOMPSON: You didn't move it. General counsel, any
17 objection?

18 MS. DAVILA: No objection, Your Honor.

19 JUDGE THOMPSON: Hearing no objection, I'll receive
20 Respondent's 28.

21 **(Respondent Exhibit Number 28 Received into Evidence)**

22 (Counsel confer)

23 Q BY MR. DRITSAS: I'm showing you a document, Ms. Guzman,
24 which -- I'm sorry, I don't mean to say that -- Ms. Magana, I'm
25 showing you a document entitled "Hourly Associate Performance

1 Appraisal for Martha Guzman". Does the hotel have a practice
2 of issuing, in the housekeeping department, of issuing
3 performance appraisals to hourly associates?

4 A Yes.

5 Q Okay. And what is your role in that process? First, do
6 you review them?

7 A Not everyone.

8 Q Okay. How are these documents prepared? How are the
9 performance appraisals prepared?

10 A What I do is divide the whole hotel, the whole
11 housekeeping department, into the managers I have, and they are
12 in charge of a certain amount of associates. They are in
13 charge of writing it and issuing it.

14 Q Okay. So this document, if you take a look at the 2nd to
15 last page, do you recognize that as Ms. Guzman's signature?

16 A Yes.

17 Q Okay. And underneath, it says "Reviewer, Andrew Ferraro".
18 Do you know who that is?

19 A Yes. He was a floor manager.

20 Q Okay. If you turn to the second page, what's the rating
21 given for attendance?

22 A Below.

23 Q Okay. And what's the review period for this document?

24 A One year.

25 Q And the review date?

1 A I had until February, beginning of March to issue
2 everybody in housekeeping.

3 Q You had 300 to do?

4 A Yes. The director of human resources gave me an extension
5 to complete them.

6 Q Okay. So are the associates given a copy of their
7 performance appraisal?

8 A Yes.

9 MR. DRITSAS: Move admission of Respondent's 29.

10 JUDGE THOMPSON: Ms. Magana, one question. What is the
11 period that this performance appraisal covers?

12 THE WITNESS: It's 2014.

13 JUDGE THOMPSON: So from January 2014 to --

14 THE WITNESS: January 2015.

15 JUDGE THOMPSON: -- 2015? Okay, thank you.

16 Ms. Davila, any objection?

17 MS. DAVILA: If I just may ask her a few questions, Your
18 Honor, voir dire?

19 JUDGE THOMPSON: Yes.

20 MS. DAVILA: Okay.

21 JUDGE THOMPSON: I can't say it either, so --

22 **VOIR DIRE EXAMINATION**

23 Q MS. DAVILA: Were you there when Martha Guzman signed
24 this?

25 A This what?

1 Q Page four of Respondent's 29.

2 A No, I wasn't present.

3 Q And how do you know that that's her signature?

4 A I trust that we are honest about getting a signature from
5 an associate.

6 Q But you don't have any personal knowledge that she signed
7 it?

8 A I'm not familiar with everybody's writing, no.

9 Q And you're the one that prepared this?

10 A No, the floor managers.

11 Q So we object to the fact that she didn't prepare it or see
12 it signed or recognize the signature or have personal knowledge
13 of the signature.

14 JUDGE THOMPSON: Ms. Magana, are you aware if this is a
15 document that is used in the normal course of Trump business?

16 THE WITNESS: Yes, it is. In fact, I remember talking to
17 Andrew, my manager, about making sure that he mark the
18 attendance concerns that I had with her, and that's why she's
19 below.

20 JUDGE THOMPSON: Hold on, counsel, because I think -- I'm
21 not certain, but I want to make certain --

22 MR. DRITSAS: Well, Your Honor, my position would be it's
23 clearly a business record. She's the head of the department,
24 she has responsibility for it, but -- I mean, I think it comes
25 on that basis. If not, we can fool around, I'll just ask

1 Ms. Guzman about it, but it's --

2 JUDGE THOMPSON: No, I'm just checking, because I believe
3 you're correct. Give me one second.

4 THE WITNESS: Signature looks --

5 JUDGE THOMPSON: Wait, wait, wait, you can't --

6 MR. DRITSAS: It's not a conversation.

7 JUDGE THOMPSON: Give me one second. Ms. Magana, going
8 back to page -- or the second to the last page, do you
9 recognize Ms. Guzman's signature on that document?

10 THE WITNESS: Yes, it's her signature.

11 JUDGE THOMPSON: Okay, counsel, I'm going to overrule the
12 objection, because according to the federal rules of evidence,
13 documents can be -- documents that are identified as business
14 records can come into evidence as well as if a witness
15 recognizes and identifies the signature on the document. So
16 I'm going to overrule the objection and receive Respondent 29.

17 **(Respondent Exhibit Number 29 Received into Evidence)**

18 MR. DRITSAS: Thank you, Your Honor.

19 MS. DAVILA: Your Honor, if I may, just for the record,
20 Respondent hasn't laid the foundation for the business record
21 exception, and also, there's a lack of foundation for how
22 Ms. Magana is familiar with Ms. Guzman's signature.

23 JUDGE THOMPSON: Well, to respond, I laid the foundation and I
24 asked her directly whether this was a business record and she
25 said yes, and that's sufficient under the Federal Rules of

1 Evidence to admit the document. So your statement is noted,
2 but I'm going to receive the document. Proceed, counsel.

3 MR. DRITSAS: Thank you, Your Honor.

4 JUDGE THOMPSON: Oh, wait a minute. Off the record,
5 please.

6 (Off the record at 5:31 p.m.)

7 JUDGE THOMPSON: We're back on the record. Mr. Dritisas.

8 MR. DRITSAS: Thank you, Your Honor.

9 **CROSS-EXAMINATION** (CONTINUED)

10 Q BY MR. DRITSAS: Ms. Magana, besides being unavailable --
11 you testified there were times you were unavailable so that the
12 discipline may not be issued and sometimes other people may
13 issue it. Are there times when discipline, as a matter of
14 procedure, is prepared but that you decided, based on whatever
15 your -- the explanations are and how you evaluate the
16 situation, not to issue the discipline and to write off points?
17 You've got to use words.

18 JUDGE THOMPSON: Give a verbal.

19 THE WITNESS: Yes. I was getting there.

20 Q BY MR. DRITSAS: You've got to use words here. Okay.

21 A Yes.

22 Q So there was some testimony about you reviewing entries.
23 I'd like to ask about that. This is an electronic calendar
24 that's kept?

25 A Yes.

1 Q Okay. So let's say I'm a pretty good employee and I'm
2 tardy one day and I got a point five. Is that coming to your
3 attention right away, or is it only when someone gets enough
4 points that it moves to discipline that it comes to your
5 attention?

6 A Only when it's discipline that needs to be issued.

7 Q Okay. And how do you have access to the attendance
8 calendar? I think you said Vania keeps it. Do you have online
9 access, or how does that work?

10 A It's not an online. It's an Excel spreadsheet. It's
11 actually a calendar that we get from human resources.

12 Q Okay. So do you rely on her to alert you as to when
13 discipline would be warranted underneath the point system?

14 A Yes.

15 Q Okay. I do want to get back a little bit, taking us off
16 Ms. Guzman for a second, we had a lot of testimony from
17 Christina Keeran that I don't want to duplicate or be
18 cumulative, but you testified about these 4 a.m. status clerks
19 that do something involving assigning rooms. I'd like to spend
20 a few minutes on that. So there's a schedule that you're
21 involved with preparing, right?

22 A Yes.

23 Q Okay. So let's say there's a schedule posted and you got
24 full-time people and you've got some on-calls. What does the
25 4 a.m. person do once the schedule is done? I'm missing the

1 connection between what happens when it's posted on Friday and
2 what the 4 a.m. people do, the 4 a.m. status clerks do, you
3 know, the next few days? So that's what interplay?

4 MS. DAVILA: Objection. I'm sorry. Never mind, I'm
5 sorry.

6 JUDGE THOMPSON: Okay.

7 Q BY MR. DRITSAS: Do you remember the question?

8 A I don't, I'm sorry.

9 Q Okay. We can pull some out, but you know what the
10 schedule looks like?

11 A Yes.

12 Q Okay. And it's posted?

13 A It's posted every Friday.

14 Q Okay. And that tells the associates the days they're
15 going to work; is that right?

16 A Yes.

17 Q And there are stations that are listed there?

18 A They're listed.

19 Q So what I'm asking you about is what does a 4 a.m. person
20 do once the schedule is done? So you've got a weekly schedule.
21 What's the daily task of that 4 a.m. person?

22 A The 4 a.m. gets the daily associates for the day, like
23 who's going to work on Sunday. That's the first day of the
24 week for us. She takes all those names, takes away the
25 call-offs, takes away all the people that are going to be

1 absent basically, and then she proceeds with allocating all the
2 associates that have sections, and then she proceeds to move
3 the on-calls where, like, there's holes.

4 Q Okay. So let's say I'm a full-time person, I've got a
5 regular section, and I'm there, I'm not off, I'm not on
6 vacation. The 4 a.m. person is going to say, "Okay, you go
7 here to your regular section," is that how that works?

8 A Sorry?

9 Q Okay, let me ask it another way. Do the housekeepers
10 have, at least the full-time ones, do they have regular
11 sections that they service?

12 A Most of the full-timers have a section, not all of them.

13 Q Okay. So let's break it down. If I'm a full-timer and I
14 have a section, what's the task of the 4 a.m. status clerk for
15 me when I come in?

16 A But you're on vacations.

17 Q No, no, I'm back, I'm working now.

18 A Oh, you're back?

19 Q Yeah. What are they going to tell me when I come in to
20 work if I've got a regular station?

21 A You go back to your section. Your section is always
22 listed --

23 Q Okay.

24 A -- every week.

25 Q So then I think you said there are some, I think you said,

1 filling in the holes.

2 A Yes.

3 Q What's involved in that? What's the process that the
4 4 a.m. status clerk goes through to do this filling in the
5 holes?

6 A We have everybody by hire date. The first on-call will
7 fill in the first person missing with us. Like if a full-timer
8 call off and she had section 25, the first on-call will fill in
9 that spot.

10 Q Okay, I get that. And is there any other work that's
11 being done by the 4 a.m. status clerk besides plugging in
12 on-call people by seniority order into vacation or call-off
13 shifts?

14 A No.

15 Q Okay, okay. If I understand the rules, you get more
16 points if you call in less than four hours' notice than if you
17 call in more than four hours' notice; is that right?

18 A Yes.

19 Q Okay. So is there some pattern that you've observed in
20 your time as a director when employees would typically call in?

21 A Yes.

22 Q And what is that?

23 A Before holidays, after holidays.

24 Q No, no, that's --

25 A Oh, I'm sorry.

1 Q That may be true, but that's not where I'm going.

2 A Oh.

3 Q Is there some pattern as to when an employee would notify
4 someone with the company they're not coming in to work that
5 day?

6 A I'm not getting your question, sorry.

7 Q Okay. It's a bad question, let me ask it again. If I'm
8 not coming in to work, who do I call? I'm scheduled for a
9 shift, my schedule starts at 8:00, who do I call if I'm going
10 to give notice?

11 A They call the main number for housekeeping.

12 Q Okay.

13 A And that number goes to status clerks.

14 Q Okay. So if someone -- if I call in at 3:30 in the
15 morning, is someone there at 3:30?

16 A The call will go to PBX. Once we close the status at
17 twelve midnight, PBX takes over.

18 Q Okay.

19 A When an associate call off in that times when PBX has the
20 phones, they transfer the call to the grave supervisor and he
21 sends an e-mail for everybody in status.

22 Q Got it. Okay, thank you.

23 MR. DRITSAS: Your Honor, I think I'm going to reserve the
24 rest of my examination of Ms. Magana until my case in chief.

25 JUDGE THOMPSON: Okay. So you're concluded for your

1 cross?

2 MR. DRITSAS: I'm concluded, yes, Your Honor.

3 JUDGE THOMPSON: Okay, perfect. Thank you.

4 Off the record, counsel, General Counsel, indicated that,
5 in the interest of time and based upon the breadth and depth of
6 her redirect, that she requested that we adjourn for the
7 evening and reconvene tomorrow. And due to some of my own
8 health concerns, I'm going to grant that request.

9 Ms. Magana, we're going to conclude for the day, but
10 please don't discuss your testimony with anyone. You'll be
11 returning tomorrow and we will, hopefully, conclude your
12 testimony. You may be recalled for the Respondent's case, but
13 as far as continuing your testimony, we're going to end today
14 and then resume at 9 a.m. tomorrow.

15 THE WITNESS: Okay.

16 JUDGE THOMPSON: So you will be excused from the stand. I
17 hope you have a great evening.

18 THE WITNESS: You, too.

19 JUDGE THOMPSON: Counsel, is there anything else that we
20 need to address before we adjourn for the day?

21 MS. DAVILA: No, Your Honor.

22 JUDGE THOMPSON: Okay. We will reconvene -- I see
23 Mr. Dritsas shook his head no, for the record.

24 MR. DRITSAS: No, nothing, Your Honor.

25 JUDGE THOMPSON: Okay, so we will reconvene tomorrow

1 morning at 9 a.m., we will reconvene tomorrow at 9 a.m..

2 Thanks. Off the record.

3 **(Whereupon, the hearing in the above-entitled matter was**

4 **recessed at 5:43 p.m. until Wednesday, December 2, 2015 at 9:00**

5 **a.m.)**

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

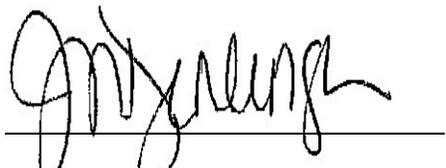
24

25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Tuesday, December 1, 2015, at 9:02 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.


A handwritten signature in black ink, appearing to read 'Jacqueline Denlinger', is written over a solid horizontal line.

JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: December 2, 2015

Pages: 1205 through 1365

Volume: 7

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Wednesday, December 2, 2015, at 9:07 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Alejandra Magana			1211		
Martha Guzman	1222	1241	1274		
Olivia Green	1291	1299	1300		
Daniel Slovak	1306	1315	1326		
Walter Rubi	1336	1341			
Vania Mariscal	1352	1356			

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-35	1229	1229
Respondent:		
R-30	1299	1299
R-31	1331	1331

1 P R O C E E D I N G S

2 JUDGE THOMPSON: We are back on the record continuing the
3 case of Trump Ruffin Commercial, LLC doing business as Trump
4 International Hotel Las Vegas and the Local Joint Executive
5 Board of Las Vegas, affiliated with Unite Here International
6 Union. Today is Wednesday, December 2nd, 2015. I'm Judge
7 Thompson with the National Labor Relations Board, San Francisco
8 Division of Judges, presiding. We are again located in Region
9 28's Las Vegas, Nevada office.

10 We are continuing where we left off on yesterday. Before
11 we return back to redirect of our last witness, Ms. Magana,
12 counsel indicated to me prior to going on the record that there
13 were just a few housekeeping matters they wanted to discuss on
14 the record. Mr. Dritsas, strike that. The parties' counsel
15 are here today. Judith Davila and Elise Oviedo, counsel for
16 the General Counsel, William Dritsas and Ronald Kramer, counsel
17 for Respondent. And also present and appearing today is our
18 interpreter, Renee De Gascon.

19 Now, off the record, counsel for Respondent indicated that
20 he had just a few housekeeping matters he'd like to address on
21 the record. Mr. Dritsas, please.

22 MR. DRITSAS: Thank you, Your Honor. The day's run
23 together. It was either Monday or Tuesday, I can't remember.
24 You granted a motion to amend the General Counsel's complaint.

25 JUDGE THOMPSON: Yes.

1 MR. DRITSAS: Amend the complaint in paragraphs 5H to
2 substitute an Anthony Wandick for Alejandra Magana. And we
3 would like to amend our answer to incorporate the denial set
4 forth in the initial answer as it applies to the new amended
5 complaint.

6 JUDGE THOMPSON: Got it.

7 MR. DRITSAS: Thank you.

8 JUDGE THOMPSON: So noted, counsel, got it. Any other
9 housekeeping matters?

10 MS. OVIEDO: No, Your Honor.

11 JUDGE THOMPSON: Hearing nothing, now we can turn --
12 return back to our redirect I believe of Ms. Alejandra Magana.
13 Ms. Magana, good morning.

14 MS. MAGANA: Good morning.

15 JUDGE THOMPSON: We met yesterday afternoon and you have
16 returned to the witness stand. Please remember that you are
17 still under oath and try to remember all of those instructions
18 I gave you on yesterday in terms of the question and answer and
19 if you don't understand a question, et cetera. I don't need to
20 re-swear you in because you remain under oath.

21 Counsel for Respondent cross-examined you on yesterday and
22 now we are back to redirect by Ms. Davila. Ms. Davila, your
23 witness.

24 MS. DAVILA: Thank you.

25 Whereupon,

1 ALEJANDRA MAGANA

2 having been previously sworn, was called as a witness herein
3 and was examined and testified as follows:

4 REDIRECT EXAMINATION

5 Q BY MS. DAVILA: Good morning, Ms. Magana.

6 A Good morning.

7 Q I'm going to ask you to pull GC Exhibit 14. Just so
8 you'll have it in front of us.

9 JUDGE THOMPSON: Let the record reflect the witness has
10 what's been identified as GC-14.

11 Q BY MS. DAVILA: Employees are responsible for tracking
12 their own points, correct?

13 A Yes.

14 Q And it is their job to know how many points they have at
15 any given time, correct?

16 A Yes.

17 Q And if they want to know how many points, they can -- who
18 can they ask?

19 A They can ask Tanya, Christina or myself.

20 Q And when you say Christina, can you just say her last
21 name?

22 A Christina Keeran.

23 Q Okay. But you testified that you're the only person who
24 can reduce the points, correct?

25 A Yes.

1 Q And when employees ask you to reduce points, they give you
2 reasons, correct?

3 A That's correct.

4 Q And do you have a standard response that you give
5 employees when they ask you to reduce points for them?

6 A No.

7 Q Does it depend on the situation?

8 A Yes.

9 Q And when they give you a reason to justify why they want
10 to take off points, do you do anything to look into that
11 reason?

12 A Depends the situation.

13 Q Can you give me an example of a situation where you would
14 look into somebody's reason for wanting points reduced?

15 A Let me think on one. An example could be somebody come to
16 my office and they said I do have a doctor's note, but I didn't
17 bring it today. Then I said, let me look into it then. When
18 you come back, bring the information.

19 Q Can you think of another example?

20 A No.

21 Q Okay. If an employee told you that their -- a family
22 member died, what would you do with that information?

23 A We -- I ask them to let me know when they're ready.

24 Usually they ask for some time off. And they have bereavement
25 benefit. Some of them qualified to take three days paid for

1 bereavement.

2 Q Do you do anything to verify that that family member
3 actually passed away?

4 A No.

5 Q Okay. And when Martha gave you her reason for being
6 absent, can you recall a time that you looked into her reasons?

7 A What time in specific?

8 Q Can you think of a time that you looked into one of her
9 reasons?

10 A No.

11 Q Okay. Do you have any reason to believe that Martha was
12 lying to you when she told you her family member had passed
13 away?

14 A No.

15 Q Do you have any reason to believe -- to not believe her
16 when she said that she had had some problems with her
17 boyfriend?

18 A No.

19 Q Do you have any reason to believe that she in fact doesn't
20 have health problems?

21 A She never brought any information about her --

22 Q Do you believe that she doesn't have health problems?

23 MR. DRITSAS: Objection. Vague as to time.

24 JUDGE THOMPSON: I'm going to allow the witness to answer
25 this question. If you recall it.

1 THE WITNESS: For example, the one time she said that she
2 was having issues with her uterus. She said my doctor is
3 asking me to remove it. She never said here is the
4 documentation. So I trust that she's having health issues
5 based on what she's telling me. But she never brought any
6 information or I never asked her to prove it.

7 Q BY MS. DAVILA: So you believed her when she told you she
8 had a problem with her uterus?

9 A I did.

10 Q Have you ever caught an employee in a lie about the reason
11 why they're not going to show up for work?

12 A I can't tell you.

13 Q You don't -- you can't remember a time?

14 A No.

15 Q And you testified that this year, you felt you had reached
16 your breaking point really that you felt that she was abusing
17 your good faith?

18 A Yes.

19 Q Okay. And can you give us a time period about when you
20 started to feel that way?

21 A I want to say April of this year.

22 Q And we'll just reference the calendar, GC-14. So you felt
23 that way after you reduced the points on March 19th?

24 A That's correct.

25 Q And you reduced seven points in March, correct?

1 A Yes.

2 Q And after -- so in April, Kelvin started to take over in
3 dealing with Ms. Guzman's attendance issues, correct?

4 A Yes.

5 Q Have any employees ever spoken to you about Martha's Union
6 activity?

7 A No.

8 Q Is there a reason anybody would tell you about Martha's
9 Union activity?

10 A No.

11 Q But housekeeping managers or supervisors have spoken to
12 you about other employees' Union activities, correct?

13 A Repeat that.

14 Q But housekeeping managers or supervisors have told you
15 about other employees' Union activity, correct?

16 A Yes.

17 Q And you testified yesterday that Anthony Wandick was a
18 supervisor in your department, correct?

19 A He's a floor manager.

20 Q Okay. I'm sorry. He's a floor manager in the housekeeping
21 department, correct?

22 A Yes.

23 Q And is there any reason that you would know if Martha was
24 known as a committee leader or not?

25 A No.

1 Q Is there any reason that Martha would talk to you about
2 her Union activities?

3 A No.

4 MR. DRITSAS: You guys both go so fast. Can -- I'd like
5 to request, Your Honor, if we could just tell a little slower
6 so I can get something out.

7 JUDGE THOMPSON: Certainly.

8 MR. DRITSAS: Thank you, Your Honor. I'll let this pass.
9 Thank you.

10 JUDGE THOMPSON: Continue.

11 Q BY MS. DAVILA: Have any of the Union committee letters --
12 leaders, I'm sorry, ever told you about their work with the
13 Union?

14 A No.

15 Q Have any of the Union committee leaders or employees ever
16 told you about what happens at their Union meetings?

17 A No.

18 Q Okay. Have any of the Union committee leader employees
19 ever told you about what activities they plan to participate
20 in?

21 A No.

22 Q And in June last year, in 2014, when the employees showed
23 up wearing the Union buttons for the first time, you were one
24 of the managers who sent some of them home, correct?

25 A No.

1 Q You didn't personally have any conversations with them
2 that day?

3 A No.

4 Q You did not send them home?

5 A No.

6 Q Who sent them home that day?

7 A Kelvin.

8 Q Kelvin spoke to each of them?

9 A I'm not sure how he did it.

10 Q But you never had any conversation?

11 A No.

12 Q And you never -- do you remember how many employees there
13 were?

14 A Not exactly.

15 Q Do you remember which --

16 A About six maybe.

17 Q Okay. Do you remember which employees they were?

18 A I remember some of them.

19 Q Can you name them please?

20 A Yes. Carmen, Ofelia Diaz, Cecilia Vargas, Rodolfo Aleman
21 -- I don't remember the other ones.

22 Q And these are committee leaders, correct? They're Union
23 committee leaders, correct?

24 A Yes, yes.

25 Q How do you know that they're Union committee leaders?

1 A They have a button.

2 Q And what button do the Union committee leaders wear?

3 A I believe it's red and white button.

4 Q Okay. And Martha wasn't one of those employees that was
5 sent home that day, correct?

6 A No.

7 Q Okay. And Martha didn't start wearing a Union button last
8 year, corrector?

9 A I don't think so.

10 Q Okay. And Martha started wearing a Union button this
11 year, correct?

12 A Could be.

13 Q Okay. I want to talk about the openers in the morning.
14 The 4 a.m. openers that we discussed yesterday. You said that
15 when the openers arrived, that they simply slotted in the
16 number, the need of rooms that needed to be cleaned with the
17 employees that were going to work that day, correct?

18 A Yes.

19 Q Okay. And you said that -- actually I don't know if you
20 said this, but you said that -- well, can you tell us what time
21 employees usually call in to say that they're not going to show
22 up to work?

23 A I can't tell you what times.

24 Q Okay. And is there a reason the openers get there at 4 in
25 the morning?

1 A Yes.

2 Q And what's that reason?

3 A They need enough time to spleet (sic) 1,283 rooms.

4 Q And do people ever call off after 4 a.m.?

5 A Yes.

6 Q And if that happens, what do they do about it?

7 A Who?

8 Q The openers?

9 A They just take them off from the assignments.

10 Q And who reassigns those rooms?

11 A Yes.

12 Q Who reassigns those rooms?

13 A Her. The opener.

14 Q Okay. And you're aware that the Union filed a charge on
15 behalf of the employees against the hotel, correct?

16 A Yes.

17 Q Okay. And you're aware that those charges were filed this
18 year, correct?

19 A I'm not sure when.

20 Q And do you know those charges are the reason that we're
21 here today, correct?

22 A Yes.

23 Q Okay. And you know that those charges are based on the
24 employees feeling that they are being treated differently
25 because of their Union activity, correct?

1 A Yes.

2 MS. DAVILA: No further questions, Your Honor.

3 JUDGE THOMPSON: Ms. Magana, thank you so very much for
4 your testimony. Again, please don't discuss it with anyone.
5 You are excused and have a great rest of your day.

6 THE WITNESS: Yes.

7 JUDGE THOMPSON: Thank you.

8 MR. DRITSAS: You're excused for today.

9 THE WITNESS: Thank you.

10 JUDGE THOMPSON: But you may be recalled again. But
11 you're excused for the day.

12 THE WITNESS: Any time.

13 MR. DRITSAS: Can I have one minute to walk her out?

14 JUDGE THOMPSON: Yes, off the record.

15 (Off the record at 9:22 a.m.)

16 JUDGE THOMPSON: We are back on the record continuing the
17 General Counsel's case in chief. Ms. Davila, would you like to
18 call your next witness?

19 MS. DAVILA: Yes, Your Honor, the General Counsel calls
20 Martha Guzman.

21 JUDGE THOMPSON: Good morning, Ms. Guzman. My name is
22 Judge Thompson. I am the Administrative Law Judge presiding
23 over this case. You have been called as a witness to testify
24 at this hearing. But before you testify, I need to swear you
25 in. Would you please raise your right hand.

1 Whereupon,

2

MARTHA GUZMAN

3 having been first duly sworn, was called as a witness herein
4 and was examined and testified, by and through an interpreter
5 as follows:

6 JUDGE THOMPSON: Great, thank you. Now, Ms. Guzman, I'm
7 going to give you some instructions that should help you in
8 providing your testimony today. First and foremost, to your
9 left is Ms. De Gascon. She is here to provide interpretation
10 from Spanish to English and English to Spanish. You may be
11 able to speak some English, but for purposes of this hearing,
12 we would appreciate it if you would speak in Spanish and have
13 Ms. De Gascon interpret for us in English. I should say if you
14 would speak solely in Spanish. And Ms. De Gascon will
15 interpret for us.

16 Second, if you would make sure to speak as loud as you
17 can, we would appreciate that. We are recording the
18 proceedings today and we want to make sure we get every word
19 you say. Okay.

20 Next, please if you would give us a verbal response. And
21 try to avoid uh-uh or uh-huh. Okay. Next, if you wouldn't
22 mind when you give your answer, would you pause for a moment to
23 allow Ms. De Gascon to translate for us. Okay.

24 Next, if either counsel at the table asks you a question
25 that you don't understand, I want you to tell them I don't

1 understand. That way they can repeat or rephrase the question
2 until you understand it.

3 THE WITNESS: Yes.

4 JUDGE THOMPSON: Okay. Next, if either of the attorneys
5 at the table object, they're going to say objection. Would you
6 please hold your response until I address their concerns. And
7 finally, could you allow the attorneys -- well, let me say it
8 this way. Could you allow one person to speak at a time. I
9 know that's a lot of information. And I'll remind you if you
10 forget. But just try to relax and do the best that you can.
11 Sound good? You have to say a verbal response. You have to
12 say it.

13 THE WITNESS: Yes.

14 JUDGE THOMPSON: Okay. Great. Ms. De Gascon, let me
15 swear you in. If you would raise your right hand.

16 (Interpreter, Sworn)

17 JUDGE THOMPSON: Great. And the translation you provided
18 to Ms. Guzman regarding the instructions I've given, were they
19 verbatim translation?

20 THE INTERPRETER: Yes.

21 JUDGE THOMPSON: Perfect. Thank you so much.

22 Ms. Davila, your witness.

23 MS. DAVILA: Thank you.

24 **DIRECT EXAMINATION**

25 Q BY MS. DAVILA: Good morning, Ms. Guzman. My name is

1 Judith Davila. I'm an attorney with the National Labor
2 Relations Board and this is my co-counsel Elise Oviedo.

3 JUDGE THOMPSON: Hold on just -- oh, go ahead, Ms. De
4 Gascon. Ms. Guzman, I'm sorry, can you state your name for the
5 record?

6 THE WITNESS: Martha Guzman.

7 JUDGE THOMPSON: How do you spell your last name?

8 THE WITNESS: J (sic) -U-Z-M-A-N.

9 JUDGE THOMPSON: Got it. Now Ms. Guzman, again, I want
10 you to speak as loud as you can. You have a very soft voice.
11 But we want to hear you. So pretend that you're instructing
12 children on where to go and they're not cooperating. With that
13 in mind, Ms. Davila, please continue.

14 MS. DAVILA: Just as a preliminary matter, Your Honor, may
15 I ask the witness if she has any health problems that could
16 prevent her testimony?

17 JUDGE THOMPSON: Certainly.

18 MS. DAVILA: Ms. Guzman, do you have any health problems
19 that could affect your testimony today?

20 THE WITNESS: Yes.

21 MS. DAVILA: And what are they?

22 THE WITNESS: High blood pressure. The beginnings of a
23 stroke and diabetes.

24 MS. DAVILA: Okay. If at any time, you want to stop the
25 questioning, just let us know please.

1 THE WITNESS: Yes.

2 JUDGE THOMPSON: Ms. Guzman, do you believe any of your
3 conditions will prevent you from testifying truthfully today?

4 THE WITNESS: I'm going to do my best. I'll be fine.

5 JUDGE THOMPSON: Thank you. Ms. Davila.

6 MS. DAVILA: Thank you.

7 Q BY MS. DAVILA: Ms. Guzman, where do you work right now?

8 A Right now, I'm unemployed.

9 Q What was the last place that you worked?

10 A Trump International.

11 Q And what position did you have there?

12 A Housekeeping.

13 Q Do you remember when you started working at the Trump
14 Hotel?

15 A June 6th of 2013.

16 Q And when you started working there, were you full time or
17 on call?

18 A On call.

19 Q And when was your last day at the Trump Hotel?

20 A July 15th of 2015.

21 Q And when you started working there or when you were
22 working there, who was your supervisor?

23 A Alejandra.

24 Q Do you know her last name?

25 A Magana.

- 1 Q Did you have any other managers or supervisors?
- 2 A Kelvin.
- 3 Q Do you know his last name?
- 4 A I don't.
- 5 Q Anybody else?
- 6 A Anthony. I don't know how to pronounce his last name.
- 7 Q Can you describe to us what he looks like?
- 8 A It's a young man not so tall, dark skin.
- 9 Q Okay. Anybody else?
- 10 A Supervisors?
- 11 Q Or manager -- supervisors or managers in housekeeping.
- 12 A There is Imelda, Anita, I don't know her last name.
- 13 Christina.
- 14 Q Do you know her last name?
- 15 A No.
- 16 Q Can you describe to us what she looks like?
- 17 A It's a young lady with short hair, white, American.
- 18 Q Anybody else?
- 19 A No.
- 20 Q Do you know about the effort to unionize the employees at
- 21 the hotel?
- 22 A Yes.
- 23 Q How do you know about it?
- 24 A There's better benefits.
- 25 Q No, how do you know about the effort to bring the

1 employees together to form a Union?

2 A The efforts that are being made, they're talking to all of
3 us.

4 Q Okay. Do you support the Union?

5 A Yes.

6 Q I'm going to ask you to look at what's been marked as GC
7 Exhibit 16.

8 JUDGE THOMPSON: Let the record reflect that I'm handing
9 the witness what's been marked as GC Exhibit 16.

10 MS. DAVILA: Thank you, Your Honor.

11 Q BY MS. DAVILA: Do you recognize what's on that form?

12 A Yes.

13 Q Can you describe it for us?

14 A Is that a yellow button? Is that one accepts the Union.

15 And the committee one is for the leaders.

16 Q Do you wear either of these buttons?

17 A Yes.

18 Q Would you wear it to work?

19 A Yes.

20 Q Which button did you wear?

21 JUDGE THOMPSON: Wait, wait, wait. Ms. Guzman, you have
22 to wait for the translation. That's okay. She asked which
23 button would you wear.

24 THE WITNESS: The yellow one.

25 Q BY MS. DAVILA: Okay. And where would you wear it?

1 A On this side.

2 MS. DAVILA: Let the record reflect the witness is
3 pointing to the top left-hand corner of her chest.

4 Q BY MS. DAVILA: Ms. Guzman, who -- do you remember who
5 told you about the Union?

6 A Yes, Guadalupe. I don't know her last name.

7 Q And do you remember when she talked to you about the Union
8 for the first time?

9 A It was at the beginning of the year.

10 Q And what did she tell you about the Union?

11 A The benefits that we are given, the insurance.

12 Q Okay. And do you remember when you started wearing your
13 Union button?

14 A It was after April.

15 Q Of what year?

16 A 2015.

17 Q Had any of your fellow coworkers talked to you about the
18 Union last year?

19 A Yes.

20 Q And did you wear a button last year?

21 A No.

22 Q Is there a reason?

23 MR. DRITSAS: Objection. Irrelevant.

24 JUDGE THOMPSON: Why do I -- why is it relevant whether
25 she wore a button last year if the events in question in the

1 complaint occurred in 2015, counsel?

2 MS. DAVILA: It goes to a memory of when she started
3 wearing a button.

4 MR. DRITSAS: Well --

5 JUDGE THOMPSON: She said that she started wearing it in
6 -- after April of 2015.

7 MS. DAVILA: I'm just trying to verify that she didn't
8 wear it last year.

9 MR. DRITSAS: Your Honor --

10 JUDGE THOMPSON: But it's not relevant whether she did or
11 not.

12 MS. DAVILA: Okay.

13 JUDGE THOMPSON: Because the focus of the case in terms of
14 the General Counsel's allegation all occurred in 2015. So I
15 have to sustain the objection. But continue.

16 MS. DAVILA: Your Honor, just for the record, the General
17 Counsel believes all of her Union activity is relevant to the
18 discrimination charge. Thank you.

19 JUDGE THOMPSON: Only what you've pled is relevant,
20 counsel.

21 MS. DAVILA: I'm trying to be, thank you, Your Honor,
22 thank you.

23 JUDGE THOMPSON: I understand.

24 MS. DAVILA: Okay. I'd like to introduce what's been
25 marked as GC Exhibit 35.

1 MR. DRITSAS: Thank you.

2 MS. DAVILA: I'm handing the witness what's been marked as
3 GC Exhibit 35.

4 Q BY MS. DAVILA: Ms. Guzman, do you recognize what's on
5 this form?

6 A Yes.

7 Q Can you describe to us what it is?

8 A That I accept the Union.

9 Q Is that your name on the top?

10 A Yes.

11 Q Is it your signature?

12 A Yes.

13 Q Can you read the date for us?

14 A March 21, 2015.

15 MS. DAVILA: I'd like to move GC Exhibit 35 into evidence.

16 MR. DRITSAS: No objection.

17 JUDGE THOMPSON: Hearing no objection, I'll receive GC-35.

18 And Ms. Guzman, you need to speak a little louder please.

19 **(General Counsel Exhibit Number 35 Received into Evidence)**

20 Q BY MS. DAVILA: Who gave you this card?

21 A Carmen.

22 Q And where did you sign it?

23 MR. DRITSAS: Objection. Relevance.

24 JUDGE THOMPSON: Wait, wait, wait. Go.

25 MR. DRITSAS: It's innocuous. It's irrelevant where she

1 signed it, the date of -- it's irrelevant.

2 MS. DAVILA: Your Honor, it's -- the whole case is about
3 her Union activity. I need to get to the details of her Union
4 activity including how she got to know about the Union, how she
5 participated in activities and the Employer's knowledge of her
6 Union activities.

7 MR. DRITSAS: The last point I agree with. But the first
8 two, I don't.

9 JUDGE THOMPSON: Well, I agree it's irrelevant and -- but
10 innocuous. But counsel, the point that I think Respondent is
11 making is yes, I understand you have to establish her Union
12 activity, but where she signed the card isn't really relevant
13 when the card that she signed is in evidence.

14 MS. DAVILA: Your Honor, she could have signed it in front
15 of -- at the facility in front of supervisors or managers.

16 JUDGE THOMPSON: Okay. But --

17 MS. DAVILA: And that would be very relevant to their
18 knowledge of her Union activity and her deciding to join this
19 campaign this year.

20 JUDGE THOMPSON: Okay. I'll allow it, but just can we
21 just keep it moving.

22 MS. DAVILA: I'm trying, Your Honor.

23 JUDGE THOMPSON: I understand. I'm not trying to chastise
24 you.

25 MS. DAVILA: She's only a discharged employee.

1 JUDGE THOMPSON: I'm just saying I'll allow it.

2 MS. DAVILA: Okay.

3 Q BY MS. DAVILA: Where were you when you signed this card?

4 A At the employee parking lot.

5 Q Had you been wearing a button before you signed this card?

6 A No.

7 Q Did you start wearing a button after you signed this card?

8 A Yes.

9 Q Did you wear your button to work every day?

10 A Yes.

11 Q Does the employee -- do you know if the employee parking
12 lot has -- the Employer's parking lot has security cameras?

13 A Yes, it does.

14 Q How do you know that?

15 A Because you can see in the building that the cameras are
16 there.

17 Q Have you been hospitalized at any point this year?

18 A Yes.

19 Q When?

20 A I was in on July 2nd, 2015. And October 27th of 2015.

21 Q Can you tell us about the day that you were hospitalized
22 on July 2nd of this year? Were you working that day?

23 A I was arriving at work. I entered security. I was able
24 to get to the office. I didn't feel well. I felt my chest
25 constricted. I felt dizzy. And I told Ms. Anita that I did

1 not feel well. She took me to security with Blanca. The
2 security personnel checked my blood pressure and it was high.
3 They called the ambulance. And when the ambulance arrived,
4 they checked me, that I had high blood pressure and that they
5 had to take me to the hospital. He asked me what had happened.
6 I couldn't talk. I was just looking at him.

7 Q Did you go to work the next day?

8 A No.

9 Q Why?

10 A Because the doctor gave me a note for five days off.

11 Q Were you scheduled to work the next day?

12 A Yes.

13 Q Did you tell the hotel that you weren't going to come into
14 work?

15 A Yes, and I called Anthony and I told him that the doctor
16 had given me a note for five days.

17 Q Do you remember what day you called him?

18 A The same day, July 2nd, 2015.

19 Q Do you remember what time of day it was?

20 A It was around 5.

21 Q And what did he respond when you told him that the doctor
22 had given you five day?

23 A That when I returned, to bring the note with me.

24 Q Is there a reason that you talked to Anthony and not a
25 status clerk?

1 A Because I called status and status transferred me to
2 Anthony.

3 Q When is the next day after that, that you went back to
4 work?

5 A I returned on July the 8th of 2015.

6 Q Between July 2nd when you spoke to Anthony and July 8th,
7 did you ever call the hotel again?

8 A No.

9 Q Were you scheduled to work any days between July 2nd and
10 July 8th?

11 A Yes, I work from Tuesday through Sunday, excuse me,
12 Tuesday through Saturday.

13 Q And the day that you came back to work, what day of the
14 week was that?

15 A Wednesday.

16 Q And is there a reason that you didn't call between July
17 2nd and July 8th knowing that you were scheduled to work?

18 A Because I believe the absence -- the doctor had given me a
19 note for five days, my next work day would be the 8th of July.

20 Q On the day that you came back, did you speak to Anthony
21 Wandick?

22 A No, I went in and I spoke to Alejandra Magana.

23 Q Was this before or after you started your shift?

24 A Before.

25 Q Okay. And what did you tell her?

1 A That the note that the doctor gave me was there. She read
2 it. And she said okay, Martha, this is fine. Go back to your
3 shift.

4 Q Have you ever presented a doctor's note to Alejandra in
5 the past?

6 A Yes.

7 Q And when you've presented her a note in the past, does she
8 read the notes when you give them to her?

9 A Yes.

10 Q Has she ever asked to speak to your doctors?

11 A Not as far as I know.

12 Q And when you gave her the note, did she tell you anything
13 else about the days that you had been -- that you hadn't come
14 to work?

15 A No.

16 Q Did you work -- I'm sorry. Did you work a full day that
17 day?

18 A Yes.

19 Q And this is July 8th, correct?

20 A Yes.

21 Q When was the next day you worked after July 8th?

22 A July 15th of 2015.

23 Q And why did you not work between July 8th and July 15th?

24 A They were asking us who wanted to have those days off
25 because the hotel was slow.

1 Q Who was asking you?

2 A I do not recall the supervisor who told us.

3 Q Can you tell us what happened when you went back to work
4 on July 15th?

5 A I went back at the regular time to work and it was around
6 4 in the afternoon that Anthony told me he wanted opt talk to
7 me.

8 Q What did he say?

9 A That he wanted to see me after 5.

10 Q Did you go see him after 5?

11 A Yes.

12 Q And what happened?

13 MR. DRITSAS: I'm sorry, counsel, did you set your date?

14 MS. DAVILA: Yeah, July 15th.

15 MR. DRITSAS: Thank you.

16 Q BY MS. DAVILA: What happened when you went to go see him?

17 A He told me to enter the office. And told me to give him
18 my name tag and my badge.

19 Q Does Anthony have his own office?

20 A Yes.

21 Q Okay. And when he told you to give him your name tag and
22 badge, did you ask why?

23 A Yes.

24 Q And what did he say?

25 A To give it to him because I was fired.

1 Q And then what happened?

2 A I told him that that was wrong. That that was not right.

3 Q And what did he say?

4 A That I had to sign this paper. And I said I'm not going
5 to sign anything because what you're doing is not right.

6 Q And then what happened?

7 A You already have ten points, you're out, give me your name
8 tag and your badge.

9 Q And then what happened?

10 A I gave him my name tag and my badge, but I said I'm not
11 going to sign this paper.

12 Q Can you describe the paper that he was giving you?

13 A I don't have it with me it's -- I don't remember it very
14 well, but it's a paper they give.

15 Q Do you remember if the paper was in English or in Spanish?

16 A In English.

17 Q Do you read English?

18 A Yes.

19 Q And then what happened?

20 A She called a young lady called Christina from status.

21 Q And then what happened?

22 A And he told her that I didn't want to sign the paper.

23 Q And then what happened?

24 A I told him no, and I went outside to speak to Mr. Gustavo
25 in human resources.

1 Q And what happened next?

2 A And I told him what was going on, and I told him that what
3 they were doing to me was not right.

4 Q And did he answer, or did he say anything?

5 A That he was going to investigate the case and that he was
6 going to call me.

7 Q And then what happened?

8 A From there I went back to the office and I went with
9 Alejandra and she asked me where I was, and I told her with
10 Gustavo.

11 Q Did you tell her anything else?

12 A I told her I wanted to speak to him because what they're
13 doing is not right, I told him.

14 Q Do you know if Alejandra knew -- I mean, did you tell her
15 what you had been talking about, that you had been fired?

16 A Yes.

17 Q Okay. And what did she say?

18 A That she couldn't do anything anymore because I had gone
19 to speak with Gustavo.

20 Q And then what happened?

21 A I was accompanied to my locker and I took my wallet.

22 Q Who accompanied you?

23 A Anthony.

24 Q And then what happened?

25 A And he accompanied me all the way outside as if I were a

1 criminal or something.

2 Q And then you left?

3 A Yes.

4 Q Did you come back to the hotel after that?

5 A On July 22nd of 2015.

6 Q Why did you come back?

7 A Gustavo called me and told me that he needed to talk to
8 me.

9 Q And then what happened?

10 A He told me that I was fired.

11 Q And when you came back, who did you meet with?

12 A On July 22nd?

13 Q Yes.

14 A Alejandra Magana and Gustavo were there.

15 Q Where did you meet with them?

16 A In Gustavo's office.

17 Q And what did they tell you on this day?

18 A That here was the check, that I was fired, and that there
19 was nothing that they could do.

20 Q Did you sign any papers that day?

21 A For my check, yes.

22 Q Did you sign anything else?

23 A Yes. The papers that he gave me -- that they gave me.

24 MS. DAVILA: No further questions, Your Honor.

25 THE WITNESS: Can I say something?

1 HEARING OFFICER THOMPSON: No. You have to wait until
2 someone asks.

3 MS. DAVILA: I have no further questions.

4 HEARING OFFICER THOMPSON: Mr. Dritsas, cross?

5 MR. DRITSAS: Your Honor, may I take a look at the Jencks
6 statement?

7 HEARING OFFICER THOMPSON: Certainly. I just didn't say
8 it.

9 MR. DRITSAS: Okay.

10 HEARING OFFICER THOMPSON: Let the record reflect that the
11 General Counsel handed over Ms. Guzman's affidavit or whatever
12 you call it, the Jencks statement. We'll go off the record for
13 a few minutes.

14 MR. DRITSAS: Thank you, Your Honor.

15 (Off the record at 10:06 a.m.)

16 HEARING OFFICER THOMPSON: We are back on the record.
17 Ms. Guzman, may I ask a few more questions? Ms. Davila asked
18 you when you started wearing the yellow Union button, and you
19 testified that you started wearing it after April of 2015. Do
20 you remember that?

21 THE WITNESS: Yes.

22 HEARING OFFICER THOMPSON: Did you wear that button every
23 day?

24 THE WITNESS: Yes.

25 HEARING OFFICER THOMPSON: Even on weekends when you

1 worked?

2 THE WITNESS: Yes.

3 HEARING OFFICER THOMPSON: One second. Do you know if
4 Ms. Magana saw you wearing the button?

5 THE WITNESS: I don't know.

6 HEARING OFFICER THOMPSON: Okay. Do you know whether
7 Mister -- strike that. Do you know whether Anthony saw you
8 wearing your button?

9 THE WITNESS: Yes.

10 HEARING OFFICER THOMPSON: Okay. When do you recall that
11 Anthony saw you wearing your button?

12 THE WITNESS: He saw me several times when he came to the
13 floor.

14 HEARING OFFICER THOMPSON: Was this in 2015?

15 THE WITNESS: Yes.

16 HEARING OFFICER THOMPSON: Okay. Ms. Davila, do you have
17 any questions based on what I've asked the witness?

18 MS. DAVILA: One minute, Your Honor.

19 (Counsel confer)

20 MS. DAVILA: I just have a few questions, Your Honor.

21 Q BY MS. DAVILA: Ms. Guzman, if you could tell us if you
22 were wearing it the day that you were sent home on July --
23 sorry -- July 15th?

24 A Yes.

25 MS. DAVILA: No further questions, Your Honor.

1 HEARING OFFICER THOMPSON: Okay. Thank you, Ms. Davila.

2 Mr. Dritsas, cross?

3 **CROSS-EXAMINATION**

4 Q BY MR. DRITSAS: Good morning. I'm the lawyer for the
5 hotel.

6 A Good morning.

7 Q They -- ask you some questions. On July 2, you came to
8 work and then, if I understand your testimony, before you
9 actually worked you were taken to the hospital?

10 A Yes.

11 Q Okay. Did you see Ms. Magana that day?

12 A No.

13 Q Okay. And you went to the Sunrise Medical Center?

14 A Yes.

15 Q Okay. And what time did you get there approximately?

16 A Around 9 o'clock in the morning, something like that.

17 Q Okay. And did security stay with you?

18 A When I went to the hospital?

19 Q Yeah.

20 A No.

21 Q Okay. When did you leave the hospital?

22 A When I went home?

23 Q Yeah. Well, I don't know where you went, but when did you
24 leave the hospital?

25 A The same day, like, around 6:00.

1 Q Okay. And how much time did you spend sitting in the
2 waiting room?

3 A No time at all.

4 Q Okay. Were you checked into a room, a hospital room?

5 MS. DAVILA: Objection. Relevance.

6 HEARING OFFICER THOMPSON: Where are you headed, counsel?

7 MR. DRITSAS: Going to the scope of limitation here.

8 HEARING OFFICER THOMPSON: I guess, why -- I mean, why --
9 I'd be --

10 MR. DRITSAS: Okay. I'll --

11 HEARING OFFICER THOMPSON: -- very happy if you just got
12 there.

13 MR. DRITSAS: Okay.

14 HEARING OFFICER THOMPSON: So I'm going to sustain the
15 objection.

16 Q BY MR. DRITSAS: Did you spend the night in the hospital?

17 A No.

18 Q Okay. And between July 2 and July 15, if I understand
19 your testimony, you did not go to the hospital again; is that
20 right?

21 A No.

22 Q Is what I said correct?

23 A Yes.

24 Q Okay. Can you -- well, I shouldn't say that.

25 MR. DRITSAS: Can you look, ma'am, for Respondent's

1 Exhibit 10.

2 HEARING OFFICER THOMPSON: Let the record reflect I'm
3 handing the witness what's been marked as Respondent's
4 Exhibit 10.

5 MR. DRITSAS: Okay. You ready?

6 THE WITNESS: Yes.

7 Q BY MR. DRITSAS: Ms. Guzman, have you seen this document
8 before?

9 A Yes.

10 Q Okay. So this document says, it's got a time -- it's
11 printed on July 2 at 10:58 a.m. Was that when you were given
12 the document?

13 A This was given to me that same day.

14 Q Was it given to you sometime close to 10:58 a.m.?

15 MS. DAVILA: Objection. Relevance.

16 HEARING OFFICER THOMPSON: Counsel?

17 MR. DRITSAS: To me it goes to credibility that she spent
18 all day at the hospital when she gets her release at 10:58.

19 MS. DAVILA: When she got her release, I don't see the
20 relevance of what time she got it and she remembers what time
21 it was printed. There's no foundation that she would know --
22 she's at the hospital, how is she supposed to know, you know?
23 She wasn't at a hundred percent.

24 MR. DRITSAS: Your Honor, there are many issues involving
25 credibility that I'm going to get into. This is just one of

1 them. So I'm not going to belabor it, I just wanted to know
2 when she got the documentation.

3 HEARING OFFICER THOMPSON: I will allow it if you don't
4 belabor it, counsel.

5 MR. DRITSAS: Okay.

6 Q BY MR. DRITSAS: When did you get this doctor note, ma'am?
7 What time of day approximately?

8 A When I went home.

9 Q Okay. Okay. Did you receive any other doctor note from
10 Sunrise -- or any other doctor, for that matter -- from July 2
11 until July 15?

12 A No.

13 Q Okay. Now, on the first page of this document, it says
14 you are excused from work from July 2, 2015, and it first said
15 through July 3, and that was crossed off, and then it says
16 July 5. Do you see the cross-off there?

17 A Yes.

18 Q Okay. Do you know why the date was changed from
19 September -- from July 3 to July 5?

20 A I do not.

21 Q Okay. So, when you got this document, I think you
22 testified that you called and spoke with Mr. Wandick; is that
23 right?

24 A Yes.

25 Q Okay. And you said you called him at about 5:00 p.m.; is

1 that right? On July 2?

2 A Yes.

3 Q Okay. Did you call him from your home?

4 A From the phone.

5 Q Did you call from your home?

6 A Cell phone.

7 Q Okay. Where were you located is what I'm trying to get
8 at.

9 A At the hospital.

10 Q Okay. And did you have the note with you when you called
11 Mr. Wandick, this Exhibit 10?

12 A No.

13 Q Okay. So you called Mr. Wandick before you got a copy of
14 the doctor's note, the Respondent's 10?

15 A They were about to release me before I called him. They
16 were about to release me.

17 Q Okay. My question is, Ms. Guzman, did you have
18 Respondent's 10 before you called Anthony Wandick?

19 A No. I had talked to the doctor, and the doctor told me
20 that he was going to give me five days.

21 Q Okay. So when you received the note from the doctor, it
22 included, among other things, after-care instructions on the
23 second page? You can take a look, ma'am.

24 A Yes.

25 Q Okay. And the third page, which says patient copy, there

1 are directions for you to follow about taking Motrin for some
2 physical pain you may have.

3 A Yes.

4 Q And did the doctor or nurse -- strike that. Did somebody
5 at the hospital go over these instructions with you before you
6 were released?

7 A Yes.

8 Q Okay. And did you review these documents to make sure you
9 knew what procedures to follow?

10 A Yes.

11 Q And did you review the first page that said that you
12 were --

13 MS. DAVILA: Objection -- sorry.

14 HEARING OFFICER THOMPSON: Go ahead.

15 MS. DAVILA: Sorry, Mr. Dritsas. You can finish your
16 question.

17 MR. DRITSAS: Okay.

18 Q BY MR. DRITSAS: Did you review the first page, which said
19 that you were excused from work through July 5, 2015?

20 A If I reviewed it when I left the hospital?

21 Q We can break it down. Did you review it when you were at
22 the hospital?

23 A No. I just took it.

24 Q Okay. Did you review it when you got home that night?

25 A No. I tried to go to sleep.

1 Q Did you review it the next day, July 3?

2 A No. I didn't check the papers until I went back to work.

3 Q Okay. So your first day back to work was July 8?

4 A Yes.

5 Q Okay. So when you went back to work on July 8, before you
6 actually went into the Trump Hotel, did you review the
7 paperwork you had from the Sunrise Medical Center that you were
8 going to give to the hotel?

9 A I took them out of my wallet, and I handed them to
10 Alejandra.

11 Q So I'm not sure you answered the question. Did you review
12 the first page of this exhibit before you turned it in to
13 anyone at the hotel?

14 A No. I didn't read it. I just handed it to her.

15 Q Okay. Did you ever come to the realization that the
16 doctor's note did not give you a five-day restriction?

17 A The doctor told me, I'm going to give you five days. And
18 if it told it to me then --

19 Q Okay. So my question -- I understand your testimony. My
20 question is, we have a note here that says that you were
21 excused from work for July 2, 3, 4 and 5. That's four days.
22 So my question to you is, did you ever come to realize that the
23 note did not give you a five-day restriction, that it only had
24 a four-day restriction?

25 MS. DAVILA: Objection. Asked and answered.

1 HEARING OFFICER THOMPSON: She didn't, unfortunately. She
2 didn't answer his direct question. So I'm going to have to
3 overrule the objection. Ms. Guzman, you can answer the
4 question.

5 THE WITNESS: I did not realize what the doctor wrote.

6 Q BY MR. DRITSAS: Okay. When you were terminated, you were
7 told that you were released to work before your next scheduled
8 day; is that right?

9 A I'm sorry, the 15th, when they told me that I was fired
10 that I was scheduled to work --

11 Q Let me rephrase the question for you. Did you ever go
12 back to the hospital or contact the doctor to say, the note
13 doesn't say five days? I need you to tell me -- I need you to
14 fix this because you told me five days.

15 A No. I went to my regular doctor. I did not go back.

16 Q Okay. Okay. Now, you gave this note to Ms. Magana on
17 July 8; is that right?

18 A Yes.

19 Q And that was your first day back from work? Excuse me,
20 your first day back from leave?

21 A Yes.

22 Q And where did you give her the note?

23 A At her office.

24 Q Inside her office?

25 A Yes. She was sitting at her desk.

1 Q Okay. Did you sit down in the chair with her?

2 A No. I was standing to the side of the desk.

3 Q Okay. How much time did you spend with her?

4 A It wasn't more than five minutes.

5 Q Okay. And then you did not work the next day, July 9; is
6 that right?

7 A Yes.

8 Q Okay. You testified that your next day that you returned
9 was July 15; is that right?

10 A Yes.

11 Q Now, isn't it correct that you actually worked on July 10?

12 A I don't remember.

13 Q And didn't you also work on July 12th?

14 A I don't remember. I remember they asked us to take days
15 off because the hotel was slow.

16 Q Okay.

17 MR. DRITSAS: Can you look for what's marked as
18 Respondent's 8?

19 HEARING OFFICER THOMPSON: Let the record reflect that I'm
20 handing the witness what's marked as Respondent 8.

21 Q BY MR. DRITSAS: Now, if you would turn to what's marked
22 as 3 of 3, the third page in. This is a report, Ms. Guzman,
23 from the company's payroll system known as Unifocus. And on
24 the far left-hand side, it shows the date. The next column
25 under original shows the punch in time for an in, and the third

1 column shows a punch out time. So, according to this document,
2 on July 10, you started work at 8:27 --

3 MS. DAVILA: Objection. Is there a question coming?

4 HEARING OFFICER THOMPSON: Yes --

5 MR. DRITSAS: Yes, there is.

6 HEARING OFFICER THOMPSON: -- it will be.

7 Q BY MR. DRITSAS: -- and you punched out at 1700, which is
8 5:00. Does this refresh your recollection that you actually
9 worked on July 10?

10 A I don't remember the days that I worked. What I do
11 remember is that we were told that we could take days off if we
12 wanted because the hotel was slow, days off or personal days.

13 Q Did you authorize anyone else to punch you in or out that
14 day?

15 A No, because you punch in with your finger.

16 Q Right. So the only person that could have your finger
17 would be you, right?

18 A Yes.

19 Q Is your answer the same for July 12? You don't recall
20 working or not?

21 A I don't remember.

22 Q Okay.

23 MR. DRITSAS: Can you show the witness, please -- well,
24 let me ask first. Maybe we can do this this way.

25 Q BY MR. DRITSAS: Your schedule, Ms. Guzman, was Tuesday

1 through Saturday? Was that your regular schedule?

2 A Yes.

3 Q Okay. July 7 was a Tuesday, so if you were -- you
4 regularly would have worked July 7; is that right?

5 A If the doctor told me to return, yes.

6 Q Okay.

7 MR. DRITSAS: So, can you show the witness, please,
8 Respondent's 28. I'm sorry, Judge. I don't mean that. Can
9 you look for Respondent's 28, please?

10 HEARING OFFICER THOMPSON: It's the same thing, counsel.
11 But I understand what you're saying. It sounds nicer the way
12 you said it the last time. Let the -- 28?

13 MR. DRITSAS: Yes, please.

14 HEARING OFFICER THOMPSON: Let the record reflect I'm
15 handing the witness what's been marked as Respondent 28.

16 Q BY MR. DRITSAS: Now, Ms. Guzman, I'm showing you an
17 e-mail dated July 7, 2015, at 4:16 a.m. from Walter Rubi. Do
18 you know who Walter Rubi is?

19 A I believe so, yes.

20 Q Does he work in status?

21 A Yes.

22 Q Okay. Okay. This note says that, on July 7, Martha
23 called off at 4:15 a.m. for her 8:30 a.m. shift. Okay. So,
24 does this document refresh your recollection that you actually
25 called in on the 7th to say you would not be reporting to work

1 that day?

2 A No. I didn't call.

3 Q Did you tell anyone else to call for you and say you
4 couldn't come to work on the 7th?

5 A No.

6 Q Have you ever had any fights or any controversy with
7 Mr. Rubi that would cause him to falsify a document?

8 A No.

9 Q Okay. You mentioned that you called on July 2, you called
10 Anthony. Did you ever present the note that we've identified
11 as Respondent's 10? Did you ever give him a copy of that note?

12 A No. On the 8th, when I returned, I handed it to
13 Alejandra. I did not see him.

14 Q Okay. You testified that you spoke with Mr. Acosta,
15 Gustavo Acosta; is that right?

16 A Yes.

17 Q Okay. And after you were -- let's go back. I think you
18 testified that Mr. Wandick said you were fired on -- which day
19 was that -- on July 15th.

20 A Yes.

21 Q Okay. And he gave you a piece of paper he wanted you to
22 sign but you refused to sign it; is that right?

23 A Yes.

24 Q Okay.

25 MR. DRITSAS: Will you take a look, please, for

1 Respondent's 6.

2 HEARING OFFICER THOMPSON: Let the record reflect I'm
3 handing the witness what's marked as Respondent's 6.

4 MR. DRITSAS: Thank you, Your Honor.

5 Q BY MR. DRITSAS: Ms. Guzman, I'm showing you a document
6 that's been admitted into evidence, and if you take a look at
7 the -- towards the bottom left, there's a box checked that
8 says, "suspension pending investigation." And to the --
9 beneath that, where it says associate's signature, it says,
10 "refused to sign." Is this the document that Mr. Wandick gave
11 you that you refused to sign?

12 A Yes.

13 Q Now, after you received -- or after you were given this
14 document that you refused to sign -- well, sorry. Let me
15 rephrase the question.

16 Were you given a copy of the document to take even though you
17 refused to sign it?

18 A Yes.

19 Q Okay. And if you turn to the second page, do you see the
20 box that says, "associate's comments"?

21 A Yes.

22 Q Is this your handwriting?

23 A Yes.

24 Q Okay. And when did you write this, Ms. Guzman?

25 A That same day when he said I was fired.

1 Q Okay. Well, on July 15th?

2 A Yes.

3 Q Okay. And did you write this before or after he asked you
4 to sign it?

5 A After.

6 Q Okay. And you gave a copy of what you signed to
7 Mr. Wandick?

8 A He made the copy.

9 Q Okay. So you took one for you and he kept one?

10 A Yes.

11 Q Okay. So let's go over what you wrote here. Can you read
12 into the record the first sentence.

13 A In English?

14 Q Well, you say it in Spanish and she'll tell us in English.

15 A Okay. I told Vania --

16 Q Well, just one sec.

17 MR. DRITSAS: Your Honor, I'm not quite sure how we're
18 going to do this. She wrote it in English.

19 HEARING OFFICER THOMPSON: Yeah.

20 MR. DRITSAS: I know she's got a translator. I'm
21 concerned that the translation may not exactly reflect the
22 writing. So can I ask her, since she wrote it in English, to
23 answer in English?

24 HEARING OFFICER THOMPSON: I guess what I would rather you
25 do, counsel, is read what she wrote, if you can, in English,

1 and then ask her whatever question that you want.

2 MR. DRITSAS: Okay. Fair enough.

3 Q BY MR. DRITSAS: Okay. I'm going to read to you,

4 Ms. Guzman -- I'll ask you a question. The first part says, "I
5 ask Vani on July before I was sick that you guys took me to the
6 hospital." Did you write that?

7 A Yes.

8 Q Okay. And Vani is -- you mean by that, Vania Mariscal?

9 A Yes.

10 Q Okay. And then it goes on to say, "How many points I
11 have." Did you write that?

12 A Yes.

13 Q Okay. It goes on to say, "She said 7 point," I'm assuming
14 points. Did you write that?

15 A Yes.

16 Q Then it says, "I don't understand why I have 10 point."
17 Did you write that?

18 A Yes.

19 Q And it says, "If I had 7 July, I went up to 10 point."
20 You wrote that?

21 A Yes.

22 Q Okay. Is there anywhere on this document that you wrote
23 that you had five days' clearance, or a five-day restriction of
24 returning to work?

25 A I don't understand.

1 Q Okay. Let me rephrase it just so I -- there's nothing in
2 this box here that says you believed you had five days before
3 you could return to work. Why didn't you put that in the box?

4 A It was just that I was aware that I had 7 points, and all
5 of a sudden it was 10 points. There was no reason for me to
6 remind them of the note that the doctor -- that the fact that
7 the doctor had given me five days.

8 Q Okay. And isn't it true that -- strike that. I'll ask
9 you this. After you left on the 15th, you had a phone
10 conversation with Gustavo Acosta about your suspension pending
11 investigation; is that right?

12 A He only called me to tell me to go back on the 22nd to
13 talk to him.

14 Q Okay. So Mr. Acosta testified that he had a conversation
15 with you before you came back. Are you saying that did not
16 occur?

17 A Not over the phone. He just said, on the 22nd I want to
18 see you in my office so I can give you the decision.

19 Q Okay. And when you met on the 27th, is it correct that
20 you did not say that you had been excused for five days, so you
21 didn't have to return to work on July 7th?

22 A He knew that. I had told him that. I asked, you know,
23 why had they done that to me since they knew the doctor had
24 given me five days because of my illness.

25 Q Okay. So my question is, on the day you came back,

1 July 22, I believe you said. Yeah. On July 22, do you agree
2 that you did not tell Mr. Acosta or Ms. Magana that you had
3 five days off from the doctor, so you didn't have to work on
4 July 7?

5 A I told him. I told both of them.

6 Q Okay. And did they say anything in response? Did they
7 look at the note from the doctor and talk to you about that?

8 A Gustavo only told me, I'm so sorry, there's nothing we can
9 do.

10 Q Did they raise -- did they have the doctor note with them
11 when they talked to you?

12 A They had my check to sign and that was it.

13 Q Okay. Did they say anything to you about the doctor note
14 you gave them?

15 A No. He said, I am sorry, you already have 10 points.
16 Sign your check, and that's it. There's nothing we can do.

17 MR. DRITSAS: So, let's see. Can you show the witness
18 her -- oh, I guess I have it. I'll give you the --

19 HEARING OFFICER THOMPSON: No, counselor, I can't.

20 MR. DRITSAS: I'm not going to read Spanish, so you can
21 have my Spanish copy of this document. Sorry. Let me find my
22 English.

23 Q BY MR. DRITSAS: So, Ms. Guzman, you went to the National
24 Labor Relations Board to give a confidential witness affidavit;
25 is that right?

1 A Yes.

2 Q And that statement was taken by Ms. Judith Davila on
3 August 7, 2015?

4 A Yes.

5 Q And you knew you were under an obligation to tell the
6 truth?

7 A Yes.

8 Q And you have the Spanish version in front of you now?

9 A Yes.

10 Q And you signed that document under penalty of perjury?

11 A Yes.

12 Q Would you agree there's nothing in that document that says
13 that Alejandra Magana told you on July 8 that everything was
14 okay?

15 A I don't know if I told Ms. Judy that.

16 Q No. My question is, would you agree there's nothing in
17 the paper you have in front of you that says you told Alejandra
18 Magana on July -- that Alejandra Magana told you on July 8 that
19 everything was okay?

20 A It does not.

21 Q Okay.

22 MR. DRITSAS: One second, Your Honor.

23 Q BY MR. DRITSAS: Okay. If you take a look at page 3, the
24 paragraph that starts with, "I came back to work on July 8th."

25 MS. DAVILA: It's her page 2, I believe.

1 HEARING OFFICER THOMPSON: Thank you, counsel.

2 MR. DRITSAS: Okay.

3 Q BY MR. DRITSAS: See that paragraph, ma'am?

4 A Yes.

5 Q Okay. In English, the English version says, "He handed me
6 a piece of paper that stated I was suspended because of 10
7 points." Did he tell you that, ma'am?

8 A Yes.

9 Q Okay. So he never said you were fired on July 15; isn't
10 that right?

11 A He said, you're fired. Give me your badge, give me your
12 name tag.

13 Q Okay. Would you agree there's nothing in your declaration
14 that says that Mr. Wandick told you were fired?

15 A I know I didn't put it, but that's what he -- that's how
16 he said it.

17 Q So you agree there's nothing in the statement that says
18 that Wandick said you were fired?

19 A This is what it means, that I'm fired.

20 MR. DRITSAS: I'm sorry, Your Honor. I need to get the
21 answer here.

22 Q BY MR. DRITSAS: Ms. Guzman, my question is very
23 straightforward. Is there anything in your declaration that
24 says that you were told by Anthony Wandick on July 15 that you
25 were fired?

1 A No.

2 Q Okay. Thank you. You understood, under the hotel's
3 attendance policy, that you could be terminated for reaching 10
4 attendance points; is that right?

5 A Yes.

6 Q Okay. Now, you said you had a conversation with Vania
7 Mariscal about how many points you had.

8 A Yes.

9 Q Did that -- that conversation took place in May of 2015?

10 A I don't recall the date but it was before July.

11 Q Okay.

12 MR. DRITSAS: I've got a lot more, Your Honor. I don't
13 know what you want to do for a morning break. I'm prepared to
14 keep going, but whatever you want.

15 JUDGE THOMPSON: Tell me how much longer you think you
16 have, counsel. It's about five to -- five after 11.

17 MR. DRITSAS: Over 30 minutes.

18 JUDGE THOMPSON: Keep going. And then we'll break and
19 then come back for -- we'll break for lunch and then come back
20 for redirect.

21 MR. DRITSAS: Okay, Your Honor.

22 THE WITNESS: I don't think I can continue. I have a
23 headache. I'm going to try.

24 JUDGE THOMPSON: Ms. Guzman, the only way that you will
25 not be able to continue is if you're telling me that you cannot

1 testify truthfully and that your headache will prevent you from
2 participating. Is that what you're saying to me today?

3 THE WITNESS: No. I am trying to find a way to.

4 JUDGE THOMPSON: And let me just say that if you believe
5 you're unable to continue, I'm going to need a doctor's note,
6 and with that note, I would need to know when you could return.
7 But if you feel up to continuing, we will continue.

8 THE WITNESS: Yes.

9 JUDGE THOMPSON: Ms. Davila, what were you going to say?

10 MS. DAVILA: May I suggest a break? She hasn't left the
11 stand all morning.

12 JUDGE THOMPSON: Well, here's the problem, counsel. I'm
13 trying to get -- you know, we've got to keep the train moving.
14 She -- Ms. Guzman, do you need a break?

15 THE WITNESS: No, continue.

16 JUDGE THOMPSON: Okay.

17 Mr. Dritsas.

18 MR. DRITSAS: Thank you, Your Honor.

19 Q BY MR. DRITSAS: Can you take a look, please, at -- you
20 should have in front of you Respondent's 10. It's a document.
21 Okay. So you testified that you were excused from work for
22 five days, correct?

23 A Yes.

24 Q Okay. And July 2 was the first day that you were excused
25 from work; is that right?

1 A It's the next day.

2 Q Well, you needed to have some excuse for -- you didn't
3 work July 2, did you?

4 A No.

5 Q Okay. And the doctor note says you're excused from work
6 from July 2. So did you understand the note to be giving you
7 an excuse for your failure to work on July 2?

8 A I don't know. What I know is that he told me I'm giving
9 you five days. I don't know what he wrote.

10 Q Okay. So if he gave you five days, I'm going to include
11 July 2, that means the last day would be July 6.

12 MS. DAVILA: Objection, question.

13 Q BY MR. DRITSAS: Did you understand --

14 JUDGE THOMPSON: Sustained.

15 Q BY MR. DRITSAS: Did you understand that five days would
16 expire on July 6?

17 A I understood that the day to return was the 8th.

18 Q So you thought you were excused on the 7th. Did you have
19 another note besides this one that excused you for July 2?

20 A No, only this one that I was given.

21 Q Okay. Let's take a look at Respondent's 6.

22 JUDGE THOMPSON: She has it, counsel.

23 MR. DRITSAS: Thank you.

24 Q BY MR. DRITSAS: Could you turn, please, Ms. Guzman, to
25 the fourth page? Okay. The third line down says the date is

1 February 5. And under the comments it says called out February
2 5, at 4:59 a.m., for her shift on February 5 at 8:30.

3 MS. DAVILA: Object. I don't know if you asked her if she
4 knows what this is first, the calendar itself.

5 JUDGE THOMPSON: She doesn't have to identify a document
6 that's already in evidence.

7 But if you feel compelled, counsel.

8 MR. DRITSAS: I just want to get a foundation here.

9 Q BY MR. DRITSAS: Can you tell me why you called off on
10 February 5, at 4:59 a.m., for your February 5, 8:30 a.m. shift?

11 A It's been a long time. I don't recall.

12 Q Okay. On February 6th, according to this attendance log,
13 it says: Spoke to Alejandra. Will remove the points.

14 So four points were removed. Did you speak with Alejandra
15 on or about February 6th?

16 A It's been a long time. I don't recall this date.

17 Q Okay. February 14 shows that you were tardy. Can you
18 tell me why you were tardy?

19 A I don't remember. If I was tardy, I don't remember the
20 reason.

21 Q Okay. Let me ask it another way. Can you tell me the
22 excuses or reasons that you gave to Alejandra for either
23 tardiness or failure to report to work in 2015?

24 A Because I have been ill. Because my uncle had been ran
25 over by a car, and we had lost him. And you know, he's not in

1 the hospital.

2 Q Let me know when you're ready to proceed.

3 A That's fine.

4 Q Did you have -- did you tell Ms. Magana about any problems
5 you had with someone hitting you or beating you up?

6 A No.

7 Q Did you ever come to work with a bruise on your face?

8 A No.

9 Q Did you ever have any problems with being evicted?

10 A Yes.

11 Q Okay. Was that one of the issues you talked with Ms.
12 Magana about?

13 A Yes.

14 Q And did Ms. Magana give you time off just so you could try
15 to get your life together?

16 A Yes.

17 Q Did you talk to Ms. Magana about problems you had with
18 your children?

19 A Yes.

20 Q Would you agree, Ms. Guzman, that 2014 and 2015, you had
21 serious attendance problems?

22 A Absences, yes, but --

23 Q Okay. And that multiple times you went into Ms. Magana
24 asking her to excuse you because of all the problems you're
25 having in your life; is that right?

1 A Yes.

2 Q And that started in 2014; is that right?

3 A I don't remember. I don't really want to remember,
4 because it's going to make me feel bad.

5 Q Well, I'm sorry. I'm not trying to make you feel bad,
6 ma'am, but I have a job to do. Will you take a look, please,
7 at Respondent's 1?

8 JUDGE THOMPSON: Let the record reflect that I'm handing
9 the witness what's marked as Respondent 1.

10 Q BY MR. DRITSAS: Can you take a look, please, Ms. Guzman,
11 at the fourth and fifth page? So there are at least 15
12 different entries in 2014 that show that you were -- you called
13 out or came to work late. Do you see that, ma'am? Do you see
14 that, Ms. Guzman?

15 A Yes.

16 Q Does this refresh your recollection that you had
17 attendance problems in 2014 that you discussed with Ms. Magana?

18 A No. I asked her for one day in order to resolve my
19 problems.

20 JUDGE THOMPSON: Counsel, we're going to have to go off
21 the record for a second.

22 MR. DRITSAS: Okay.

23 JUDGE THOMPSON: Off the record.

24 (Off the record at 11:21 a.m.)

25 JUDGE THOMPSON: We're back on the record.

1 Mr. Dritsas.

2 MR. DRITSAS: Thank you, Your Honor.

3 Q BY MR. DRITSAS: Ms. Guzman, I mentioned there are over 10
4 incidents there. There also are three times that Ms. Magana
5 removed points, 1.5, three, and -- strike that. That's a bad
6 question. Ms. Magana removed points on your -- from your
7 attendance roster on April 3, to move you from 11 to seven
8 points. Did you talk with her about that?

9 A I don't remember.

10 Q She removed points on October 6th. It's the second page -
11 - or the next page. Did you talk with her about that?

12 A I don't remember.

13 Q On December 12, Ms. Magana removed three points. Did you
14 talk with her about the circumstances of your absence that led
15 to her taking three points off?

16 A I don't remember.

17 Q Okay. Would you agree that you had multiple conversations
18 with Ms. Magana concerning your attendance in 2014 and 2015?

19 A I spoke a few times with her not several times.

20 Q You understood that your attendance was not acceptable to
21 Ms. Magana; is that right?

22 A She never told me that I had 10 points to be fired.

23 Q That wasn't my question. Did you understand that your
24 attendance was unacceptable, the number of times you were
25 missing work was unacceptable to Ms. Magana?

1 A No.

2 Q Okay. Did you think that -- or strike that -- you were
3 suspended several times for your attendance problems; is that
4 right?

5 A Twice.

6 Q In 2014 and 2015?

7 A I don't remember what year.

8 Q Okay. So can you take a look at Respondent's 5.

9 JUDGE THOMPSON: Let the record reflect that I handed the
10 witness what's been marked as Respondent 5.

11 MR. DRITSAS: Thank you.

12 Q BY MR. DRITSAS: You received -- you signed for the
13 suspension on -- I think you signed it here, which is not
14 dated. But the suspension date issued is May 16, 2015. Is
15 that one of your suspensions?

16 A Yes.

17 Q Okay. And take a look at Respondent 2.

18 JUDGE THOMPSON: Let the record reflect I've handed the
19 witness Respondent 2.

20 Q BY MR. DRITSAS: This is your signature showing that you
21 received a suspension on April 6th, 2015?

22 A I don't remember this one. I do remember that I was
23 suspended on this other date.

24 Q I'm sorry. This what? The other date?

25 A This date. On this date.

1 JUDGE THOMPSON: When she -- counsel, you may have to
2 rephrase the question.

3 MR. DRITSAS: Yeah, okay.

4 JUDGE THOMPSON: But what she -- let the record reflect
5 when she said this date, she was pointing to Respondent 5.

6 MR. DRITSAS: Okay, thank you, Your Honor.

7 Q BY MR. DRITSAS: So if I understand your testimony, Ms.
8 Guzman, you remember that you were suspended and that you
9 signed the suspension form which is marked as Respondent's 5
10 for May 16, 2015?

11 A Yes.

12 Q Okay. And is this your signature on Respondent's 2, where
13 is says associate signature?

14 A I don't remember signing this.

15 Q Is your --

16 JUDGE THOMPSON: That's not what he asked you, Ms. Guzman.
17 He asked you is this your signature on Respondent's 2.

18 THE WITNESS: Yes.

19 Q BY MR. DRITSAS: Okay. Will you please locate
20 Respondent's 1?

21 JUDGE THOMPSON: Let the record reflect I'm handing Ms.
22 Guzman Respondent's 1.

23 MR. DRITSAS: Thank you, Your Honor.

24 Q BY MR. DRITSAS: This is a suspension. And it says today
25 date December 15, 2014. Is this your signature, Ms. Guzman?

1 A Yes.

2 Q Okay. And did you receive this suspension also?

3 A Yes.

4 Q Okay. Take a look, please, at Respondent's 3.

5 JUDGE THOMPSON: Let the record reflect I'm handing the
6 witness what's marked as Respondent's 3.

7 MR. DRITSAS: Thank you, Your Honor.

8 Q BY MR. DRITSAS: This is another suspension under date
9 issued May 18, 2014. Is this your signature, Ms. Guzman?

10 A No.

11 Q Do you think someone falsified your signature?

12 A This is not my signature.

13 Q Can you turn to the second page of this document? It's in
14 the box under associate comment. Did you write I never receive
15 a second writing?

16 A No.

17 Q So that's not your writing there?

18 A No.

19 Q And take a look at the signature under associate's
20 signature on that second page. Is that your signature, ma'am?

21 A No.

22 Q Were you, in fact, suspended in -- or for I should say,
23 for May 23, 2014?

24 A I don't recall.

25 Q Okay. Do you know anyone else who would have signed a

1 associate disciplinary record about you besides you?

2 A No.

3 Q If you take a look at Exhibit 3 and then take -- and you
4 compare it to Exhibit 2. Can you take a look at the two
5 documents, please? Do the signatures on both these documents
6 look similar to you?

7 A No.

8 Q Okay. Can you take a look, please, at Respondent's 29?

9 JUDGE THOMPSON: Let the record reflect I'm handing the
10 witness what's marked as Respondent's 29.

11 MR. DRITSAS: Thank you, Your Honor.

12 Q BY MR. DRITSAS: Ms. Guzman, will you turn to the second
13 to the last page, or the fourth page in? Is that your
14 signature, ma'am?

15 A Yes.

16 Q Okay. And if you turn to the second page under job
17 standards, the second entry in, attendance and punctuality.
18 The boxes checked below, one, for have -- has difficulty
19 arriving on time for all scheduled shifts. Did you understand
20 that, under your performance appraisal, you are being graded or
21 scored as below standard for your attendance?

22 A Yes.

23 Q Okay. In addition to suspensions, you also received
24 written warnings arising out of your attendance problem; is
25 that right?

1 A Yes.

2 Q Okay. When you were issued the suspension in April, by
3 Kelvin -- let's go back. Respondent's 2, can you take a look
4 at that, please?

5 JUDGE THOMPSON: She has it, counsel.

6 MR. DRITSAS: Thank you.

7 Q BY MR. DRITSAS: This suspension was issued to you by
8 Kelvin, the assistant director of housekeeping; is that right?

9 A Yes.

10 Q And after you received this, you went to see Ms. Magana to
11 say you don't think it's fair that you got this suspension;
12 isn't that right?

13 A No.

14 Q Okay. You just -- you didn't write anything in the
15 associate comments, did you?

16 A No.

17 Q Is that I said correct?

18 A Yes.

19 Q Okay. So you took the suspension, but you didn't complain
20 to anybody?

21 A No.

22 Q Is it true that you did not complain to anyone after you
23 received this suspension, Exhibit -- Respondent's 2?

24 A No.

25 Q Did you complain to someone?

1 A No.

2 Q Okay.

3 MR. DRITSAS: Double negatives are always --

4 JUDGE THOMPSON: Yes.

5 MR. DRITSAS: -- tricky.

6 Q BY MR. DRITSAS: Respondent's 5, the May suspension. You
7 have that, ma'am?

8 JUDGE THOMPSON: Not yet. She has it.

9 MR. DRITSAS: Thank you.

10 Q BY MR. DRITSAS: This was issued by Kelvin; is that
11 correct?

12 A Yes.

13 Q Okay. And did you make any comments in the associate
14 comment section?

15 A No.

16 Q Did you complain to anyone about this discipline?

17 A No.

18 Q Okay. Do you have that Spanish statement in front of you?

19 JUDGE THOMPSON: She has it.

20 MR. DRITSAS: Okay, thank you. Now I just have to get it.
21 Okay.

22 Q BY MR. DRITSAS: Okay. You signed the document on --
23 excuse me -- August 7; is that right?

24 A Yes.

25 Q Okay. And in your statement, you said you started to wear

1 your button four months ago; is that right?

2 A Yes.

3 Q Okay. After July 15, did you ever speak to Mr. Wandick
4 again?

5 A No.

6 Q After July 8, did you speak with Vania?

7 A No.

8 Q You said, at one point, that -- you referred to a young
9 woman with short hair, Christina. Is that Christina Stills,
10 the floor manager?

11 A I don't know her last name, but I know she's with status.

12 Q Okay. Is there a Christina Stills who's a floor manager
13 that you work with?

14 A There's two Christinas, but I don't know the last name of
15 either one.

16 Q Okay. One is in status and one is in -- is a floor
17 manager; is that right?

18 A Yes.

19 MR. DRITSAS: Could I have one minute, Your Honor?

20 JUDGE THOMPSON: Yes.

21 (Counsel confer)

22 MR. DRITSAS: I have no further questions at this time,
23 Your Honor.

24 JUDGE THOMPSON: Okay.

25 Ms. Davila, we're going to take a break and then come back

1 after lunch, so that you can resume your -- or start your
2 redirect if you have any. Well, first of all, I'm assuming you
3 do.

4 MS. DAVILA: Yes, I do, Your Honor.

5 JUDGE THOMPSON: Okay. Ms. Guzman, we're going to take
6 our lunch break now. We're going to come back at 1:00. And
7 Ms. Davila will ask you a few more questions. So please don't
8 discuss your testimony with anyone. And I'll need to see you
9 back here at 1:00. Okay. Counsel, we'll -- we will resume at
10 1. Off the record.

11 (Off the record at 11:47 a.m.)

12 JUDGE THOMPSON: We are back on the record after our lunch
13 recess continuing with the examination of Martha Guzman. We
14 are now prepared for redirect by Ms. Davila.

15 **REDIRECT EXAMINATION**

16 Q BY MS. DAVILA: Can you look at the doctor's note,
17 Respondents 10.

18 JUDGE THOMPSON: She has it, counsel.

19 Q BY MS. DAVILA: I just want to clarify when this was given
20 to you by the doctor, had he already signed it?

21 A The doctor? Yes.

22 Q He didn't sign it in front of you?

23 A No.

24 Q Did he make any written changes on the document in front
25 of you?

1 A No, who handed it to me was the nurse.

2 Q What did the nurse say when she gave it to you?

3 A That I could leave.

4 Q And on April -- I'm sorry July 15, when Mr. Wandick told
5 you you were fired, did he mention the doctor's note?

6 A No.

7 Q Did he tell you that you were being fired for a false
8 document?

9 A No.

10 Q Did he tell you you were being fired for an unexcused
11 absence?

12 A No, the thing he told me was for the ten points.

13 Q Did he explain to you anything about those points?

14 A No.

15 Q And when you met with Alejandra Magana and Gustavo Acosta
16 from human resources on July 25th, I believe --

17 MR. DRITSAS: 22nd.

18 MS. DAVILA: 22nd, thank you.

19 Q BY MS. DAVILA: -- 22nd, did they tell you that you were
20 being fired for an unexcused absence?

21 A No.

22 Q Did they tell you that you were being fired because your
23 doctor note that you turned in wasn't valid?

24 A No.

25 Q Did they tell you you were being fired because you had

1 taken five days off after your hospitalization?

2 A No.

3 Q I'm going to ask you to look at this again. This paper
4 says July 2nd, correct, the doctor's note, Respondent's Exhibit
5 10?

6 A Yes.

7 Q And your testimony that you didn't read this document.
8 You didn't read this document when it was given to you?

9 A No.

10 Q Did you read it before you gave it to Alejandra Magana?

11 A I did not read it.

12 Q And just so clarify my question directly before the last
13 one where you said -- I won't make it a negative -- did you
14 read this document when it was given to you?

15 MR. DRITSAS: Objection, asked and answered.

16 THE WITNESS: No, I did not.

17 JUDGE THOMPSON: Hold on. Ms. Davila, there was an
18 objection on the floor asked and answered. How was that
19 question different from the question that you asked earlier?

20 MS. DAVILA: Because I asked it in the negative. I said
21 is it your testimony that you didn't read this document when it
22 was given to you and she said no.

23 JUDGE THOMPSON: Based on that, I'm going to overrule the
24 objection and allow the question to stand. Go ahead, Ms.
25 Davila.

1 MS. DAVILA: Okay.

2 Q BY MS. DAVILA: Response?

3 A No, I did not read it.

4 Q And when you left to the hospital in an ambulance from the
5 hotel, did anybody tell you you had to excuse your absence that
6 day?

7 A No.

8 Q Were you given any directions from the security officers
9 who helped you at the hotel about what you were supposed to do
10 that day?

11 A No. The only thing they said was for me to calm down.

12 Q And what did you do that day after you left the hospital?

13 A I went home to take the medication and rest.

14 Q I'm going to ask you to look at your affidavit that's been
15 marked as --

16 JUDGE THOMPSON: It hasn't been marked.

17 MS. DAVILA: I'm sorry.

18 Q BY MS. DAVILA: Can you look at your affidavit?

19 JUDGE THOMPSON: She has it, counsel.

20 Q BY MS. DAVILA: Okay. If you could go to the second page
21 of your affidavit, for the English version I'm at the paragraph
22 where she talks about going back to work on July 8. I'm to
23 read you to a sentence and I just want you to clarify what you
24 meant by it.

25 MR. DRITSAS: Your Honor, may I ask first: Are you going

1 to be reading a sentence that I read?

2 MS. DAVILA: No.

3 MR. DRITSAS: Because this is used for purposes of
4 impeachment; it's not used for purposes of supporting
5 testimony. So if it goes to the question that I asked, I have
6 no problem, but if you're raising this new information that was
7 not asked by me on direct then I would object, Your Honor.

8 MS. DAVILA: Your Honor, I'm just clarifying something
9 that was brought up during her testimony.

10 MR. DRITSAS: But you can clarify without reviewing the
11 Jennings statement with a witness that's not in evidence and
12 it's not -- it's an impeaching document. It's not to support
13 the General Counsel's case.

14 JUDGE THOMPSON: One minute, counsel. Let me get some
15 clarification. First of all, because it's not in evidence I
16 don't even know what you're going to be asking, first of all.
17 So first tell me are you asking for clarification on something
18 that was raised by Respondents?

19 MS. DAVILA: Yes.

20 JUDGE THOMPSON: In that case, proceed.

21 MS. DAVILA: I just don't, in my view it's clarifying. I
22 don't want to --

23 JUDGE THOMPSON: Well, just proceed and if he objects I'll
24 deal with it.

25 MS. DAVILA: Okay.

1 Q BY MS. DAVILA: So I'm going to read the English version
2 and then the interpreter will read to you the Spanish version.
3 "When I told him that I was not going to sign it, he called
4 another supervisor, Christina, last known unknown, and both
5 explained to me that I had to sign it."

6 Were you talking about Christina the status clerk or the
7 status employee or Christinas the floor manager?

8 MR. DRITSAS: Okay, so I'm going object, Your Honor. I
9 didn't ask that question. That's not clarifying anything that
10 I asked. That's a new topic, so I think it's beyond the scope
11 and it's an improper use of the Jencks statement.

12 JUDGE THOMPSON: Okay. Counsel, because I don't have the
13 document it's tough for me because the document is not in
14 evidence. But under our Board rules Mr. Dritsas is right, and
15 I can read you under our Board rules Section 102.118, B, C and
16 D. "Jencks statement are producible only after the witness has
17 testified and for use on cross-examination of the witness." So
18 you can't use the Jencks -- unless you're going to clarify a
19 point that Mr. Dritsas raised with the Jencks statement, you
20 can't use the Jencks statement to clarify anything. You can
21 use the Jencks statement to clarify something that he brought
22 out because it would be on redirect, but if it's something that
23 he did not specifically bring out in his cross-exam, you can't
24 use the Jencks statements to rehabilitate this witness unless
25 you introduce --

1 MS. DAVILA: I'm going to introduce it.

2 JUDGE THOMPSON: You can introduce it, but --

3 MS. DAVILA: If I could be allowed to go get it from the
4 copy machine.

5 JUDGE THOMPSON: Certainly.

6 MR. DRITSAS: But I'm going object to that. I don't want
7 this document introduced. That's prejudicial. I had a
8 specific purpose that I asked a few questions. She's limited
9 under the rules to only use the Jencks statement for what I was
10 going over. And this is clearly a topic that was not raised by
11 me in connection with the Jencks statement. And I would
12 vigorously oppose the introduction of the document. For my own
13 purposes, I had just quoted parts.

14 MS. DAVILA: I will go about it another way, Your Honor.

15 JUDGE THOMPSON: Okay.

16 Q BY MS. DAVILA: Ms. Guzman, you said that on the day that
17 -- you testified previously that on the day that Anthony fired
18 you -- told you you were fired on July 15th, that he brought in
19 a supervisor sore named Christina, correct?

20 A Yes.

21 Q And is that the Christina the floor manager or Christina
22 the status employee?

23 A The floor manager.

24 Q And did she say anything to you?

25 A I have to sign the paper.

1 MS. DAVILA: Sorry.

2 JUDGE THOMPSON: That's okay.

3 Q BY MS. DAVILA: Can you describe to us what that Christina
4 looked like, please?

5 MR. DRITSAS: Objection. First, it's asked and answered
6 on direct. And second, it wasn't raised during my cross-
7 examination.

8 MS. DAVILA: Yes, it was. You asked her -- in cross she
9 was asked about the difference between the two Christinas.

10 MR. DRITSAS: But there was some testimony about someone
11 who's short-haired and young.

12 JUDGE THOMPSON: Yes, yes, she is correct. I'm going to
13 have to overrule the objection. Proceed, Ms. Davila. I recall
14 that testimony.

15 Q BY MS. DAVILA: Ms. Guzman, can you describe to us what
16 that Christina looks like?

17 A It's kind of tall, short hair, kind of thin.

18 Q What color is her uniform?

19 MR. DRITSAS: Objection, assumes facts not in evidence.

20 JUDGE THOMPSON: Sustained. Rephrase, counsel.

21 Q BY MS. DAVILA: What was she wearing; if you remember?

22 A White shirt, pants the color like beige.

23 MS. DAVILA: Thank you. No further questions, Your Honor.

24 JUDGE THOMPSON: Ms. Guzman, thank you so very much for
25 your testimony. Please don't discuss it with anyone. You are

1 excused from the stand. Have a wonderful day.

2 THE WITNESS: Thank you.

3 JUDGE THOMPSON: Thank you. You can leave all those
4 papers there. Thank you so much. Let's go off the record
5 while the witness is being excused.

6 (Off the record at 1:22 p.m.)

7 JUDGE THOMPSON: We are back on the record. Ms. Davila,
8 do we have any more General Counsel witnesses at this time?

9 MS. DAVILA: No, Your Honor.

10 JUDGE THOMPSON: So has the General Counsel rested its
11 case?

12 MS. DAVILA: Yes, General Counsel rests.

13 JUDGE THOMPSON: Thank you so very much.

14 Respondent, Mr. Dritsas and/or Mr. Kramer, we are
15 beginning your case in chief. Please, proceed.

16 MR. DRITSAS: Your Honor, Respondent would like to move
17 under Section 102.35 of the NLRB rules and regulations for
18 summary judgment, Paragraph 4, Paragraph 5C and paragraph 5I.
19 All of those allegations relate to Christina Keeran.

20 JUDGE THOMPSON: Let me get this, just a second, counsel.
21 4, 5C.

22 MR. DRITSAS: 5I.

23 JUDGE THOMPSON: 5I. Okay. Okay. Would you care to make
24 any additional argument with respect to those paragraphs?

25 MR. DRITSAS: Yes, I would, Your Honor.

1 JUDGE THOMPSON: Okay, please.

2 MR. DRITSAS: I think the evidence that's been adduced to
3 date has shown that Ms. Keeran in no way satisfies any of the
4 indicia of supervisory status, let alone that the General
5 Counsel has met its burden. The testimony -- Ms. Keeran
6 testified credibly and forthrightly as to what her job duties
7 were. There was nothing that has suggested that what she said
8 -- there's no controversy. No one as controverted any of those
9 facts. There has been testimony that she wears uniforms as
10 other status clerks; that she has none of the authority to hire
11 or fire, direct the workforce, promote discipline, reward,
12 transfer. The off -- suit the Board considers.

13 The only evidence, and I use the word somewhat generously,
14 is the statements from maybe one person, Celia Vargas, that
15 called her a supervisor and said she wore a different color
16 uniform, which is controverted by Ms. Keeran herself. But the
17 color of the uniform, in my view, doesn't rise to the level of
18 material difference of fact for purposes of summary judgment.
19 And there was no foundation that was raised that would permit
20 Ms. Vargas, an hourly employee who works in housekeeping, to
21 have any knowledge as to what the job duties were of Ms.
22 Keeran, and certainly she did not express that she ever was
23 disciplined, directed or any of the other indicia. This
24 witness that we just heard, Ms. Guzman, talked about a
25 Christina. But as it came through on redirect, the Christina

1 that she was talking about was Christina who was a floor
2 manager.

3 So we believe that there is no evidence to support the
4 supervisory status and so, therefore, the allegations
5 concerning Ms. Keeran for alleged threats and interrogation are
6 not made by a supervisor. Arguably they were done, if at all,
7 by an hourly employee under the Act and they are not binding on
8 Respondent. So on that limited basis, we look to move for
9 summary judgment on those paragraphs I've identified.

10 JUDGE THOMPSON: Okay. General Counsel, Ms. Davila and/or
11 Ms. Oviedo, any response to the motion before me?

12 MS. OVIEDO: Your Honor, we ask that you deny Respondent's
13 request for summary judgment and reserve your right to make a
14 decision after we submit our briefs so that we can assess out
15 the case law and show that under the criteria she is in fact a
16 statutory supervisor.

17 JUDGE THOMPSON: Well, the whole purpose of Respondent
18 moving at this juncture is to avoid having to brief the issue
19 within the brief after the end of the case. I understand
20 General Counsel's position. Is there, other than what you just
21 stated, is there any argument that you would like to put
22 forward at this time to respond? Because I would prefer to
23 make a ruling now, as opposed to having you brief within the
24 brief of the remainder of the case. So is there any argument
25 you care to put forth at this time in denying the -- or your

1 argument denying the motion for summary judgment?

2 MS. DAVILA: Your Honor, if I may also speak?

3 JUDGE THOMPSON: Certainly.

4 MS. DAVILA: There is also an issue about credibility as
5 to her testimony. That is something that I was not prepared to
6 respond to this specific motion for summary judgment. If you
7 want all my reasons as to why I think we should go through her
8 testimony, I can go through the transcript and I would ask for
9 a recess because --

10 JUDGE THOMPSON: And when you say "her," do you mean --

11 MS. DAVILA: Christina Keeran.

12 JUDGE THOMPSON: Okay.

13 MR. DRITSAS: Can I be heard on that point, Your Honor?

14 JUDGE THOMPSON: Certainly.

15 MR. DRITSAS: First, with all respect, to brief it is not
16 sufficient in my mind because in the motion being made you have
17 to articulate facts that show that the motion should be
18 granted, so I don't think just briefing is it a justification.
19 As to the credibility, I'm not aware of any case where the
20 General Counsel has been able to sustain a burden where there's
21 been affirmative evidence put forth that shows that someone is
22 not a statutory supervisor, and the only argument to support
23 the General Counsel's burden to prove supervisory status is
24 credibility, there's been no affirmative evidence by the
25 General Counsel to show any indicia of supervisor status, so --

1 MS. DAVILA: Your Honor --

2 MR. DRITSAS: Excuse me, one second. So you can't say
3 that the evidence has been adduced is not credible. Even if
4 you were to accept that, which I don't, there is no affirmative
5 evidence by the General Counsel to show any of the supervisory
6 status indicia. So I don't think that any challenge to Ms.
7 Keeran's credibility helps carry the day for the General
8 Counsel.

9 JUDGE THOMPSON: Okay.

10 MS. DAVILA: Your Honor, with all due respect, if I may
11 respond to that? As far as there's no case where the General
12 Counsel as met its burden just by challenging the credibility
13 of the supervisor, that is why we are allowed to brief the
14 issue as to bring that case on board. The fact that I don't
15 have it in front of me right now does not mean it doesn't
16 exist, and the fact that Respondent's counsel makes a statement
17 that it doesn't exist doesn't mean it doesn't exist. General
18 Counsel has the right to brief this issue and we vehemently
19 oppose this motion.

20 MR. DRITSAS: I just don't see the facts, Your Honor.

21 JUDGE THOMPSON: No, I understand. What I'm trying to
22 work out in my head, counsel, is what Ms. Davila is arguing is
23 she wants the opportunity to respond in writing; that she's
24 basically saying that she opposes your motion, but is
25 requesting leave to file a brief so that she can respond more

1 thoroughly to your motion. I was hoping to avoid that
2 consequence, counsel, only because I wanted to rule on the
3 issue so that you're not briefing two things at once.

4 MS. DAVILA: Your Honor --

5 JUDGE THOMPSON: But -- but --

6 MS. DAVILA: General Counsel feels --

7 JUDGE THOMPSON: But, but, but. Give me a minute.

8 MS. DAVILA: Okay.

9 JUDGE THOMPSON: But, comma, but, in this instance given
10 the circumstances and the fact that this is a very fact-
11 intensive case, I'm going to allow counsel the opportunity to
12 brief the issue, and I'm going to allow Respondent's counsel to
13 respond. However, I don't want, like, three briefs or two
14 separate briefs. I would prefer if we could just have it all
15 in one brief at the end of the case.

16 I know that doesn't help you, Mr. Dritsas, in the fact
17 that the whole purpose of the motion was so that I could rule
18 now so that you would not have to address -- assuming that I
19 granted your motion -- you would not have to address that issue
20 in your brief once the hearing is closed. But I feel that I
21 should give counsel some latitude to make her argument in
22 opposition to the motion. She's indicated that she was not
23 prepared to address this issue now, but that she would like
24 time to be able to more fully develop and respond to your
25 motion. And given the circumstances of this case, I'm going to

1 give her the opportunity to do that.

2 Counsel, I would prefer if you would brief the issue
3 within your post-hearing brief, and that way I can make one
4 decision on all the issues. I will say to you, counsel, on the
5 record that as I sit here today I am inclined to support the
6 motion for summary judgment. I am not saying that I will. I'm
7 saying I'm inclined to based upon I've seen today. However, to
8 the extent that in your brief you raise other issues and point
9 to any case law that shows the indicia necessary for a
10 supervisory status to attach to Ms. Keeran, I certainly would
11 welcome that information.

12 I will tell you that I am not an expert at this moment on
13 all of the supervisory indicia that the Board has promulgated
14 to call somebody a supervisor or non-supervisor, but I will say
15 that from what I do know, short of you pointing to some
16 evidence that I am unaware of, I'm inclined to support the
17 Respondent's motion. But that is not -- I am not saying that I
18 am, I'm just saying that I'm leaning that way. So in your
19 efforts to brief, counsel, to the extent that you can pull out
20 any case law, that would be most helpful for me.

21 MS. DAVILA: Okay.

22 JUDGE THOMPSON: Normally briefs are due 35 days after the
23 close of the hearing, and so that it would be easier for all
24 parties if you can just incorporate your arguments with regard
25 to the summary judgment in that brief. Counsel, in this

1 situation only, normally when I do the briefs both parties
2 brief at the same time. Once you receive -- once you both
3 submit the post-hearing briefs, I would like for you, within 15
4 days of receiving the General Counsel's brief, to submit a
5 reply solely on the issue of the summary judgment motion.

6 MR. DRITSAS: Okay.

7 JUDGE THOMPSON: So what I'm saying is both submit your
8 post-hearing brief. If you ask for more time that will just --
9 that will be just more time. And then once of the both post-
10 hearing briefs are submitted, Respondent, I would like for you
11 to reply to the opposition to summary judgment within 14 days.

12 MR. DRITSAS: Okay. Thank you, Your Honor.

13 JUDGE THOMPSON: I will hold -- so I won't rule, I will
14 rule on the motion in my decision. Okay. Thank you, counsel.
15 Now I'm going to write down what I just said.

16 Mr. Dritsas, would you care to call your first witness?

17 MS. DAVILA: Yes. Mr. Kramer will go get our witness for
18 us.

19 JUDGE THOMPSON: And can you tell us who we are calling?

20 MR. DRITSAS: Once we find our witness, we will.

21 JUDGE THOMPSON: Oh, I got you. Good afternoon again.

22 MS. GREEN: Good afternoon. How are you?

23 JUDGE THOMPSON: I'm good. And you?

24 MS. GREEN: I'm good.

25 JUDGE THOMPSON: We are still on the record. Ms. Green,

1 good afternoon. We met about a week and a half ago, I believe,
2 before Thanksgiving. I am Judge Thompson and I am still
3 presiding over this hearing. Now, you have been called as a
4 witness on behalf of the Respondent, but before you provide
5 your testimony I'm going to swear you in again. So would you
6 raise your right hand.

7 Whereupon,

8 **OLIVIA GREEN**

9 having been duly sworn, was called as a witness herein and was
10 examined and testified as follows:

11 JUDGE THOMPSON: Great. Thank you. And although I
12 recognize you, would you please state your name again for the
13 record.

14 THE WITNESS: Olivia Green.

15 JUDGE THOMPSON: Ms. Green, do you still spell your last
16 name G-R-E-E-N?

17 THE WITNESS: Correct.

18 JUDGE THOMPSON: Okay. Do you remember the instructions
19 that I gave you when you first testified about a week and a
20 half ago?

21 THE WITNESS: Yes, ma'am.

22 JUDGE THOMPSON: Those instructions still apply today, so
23 I'm here to remind of those if you stray away or forget. But
24 seeing that you remember them, I will not repeat them. And I
25 will turn the questioning over to Respondent, Mr. Kramer.

1 MR. KRAMER: Yes, Your Honor, thank you.

2 JUDGE THOMPSON: Please proceed.

3 **DIRECT EXAMINATION**

4 Q BY MR. KRAMER: Good afternoon, Ms. Green.

5 A Good afternoon.

6 Q I appreciate you coming back here today. And just for the
7 record you are under subpoena by the hotel; is that correct?

8 A That's correct.

9 Q Now, I want to ask you a few more questions about what we
10 talked about in your earlier testimony regarding that morning
11 when the housekeepers were gathering out in front of the hotel.
12 Do you remember that morning?

13 A Yes.

14 Q Okay. And if you recall, I think you testified that you
15 had a -- you, yourself alone went down and had a discussion
16 with the housekeepers on the sidewalk in front of the hotel; is
17 that correct?

18 A That's correct.

19 Q All right. And at the point you had that discussion, had
20 there been any employees that had come onto the property and
21 hand billed at the front entrance?

22 A Can you rephrase your question, please?

23 Q Sure. At the time you went and had your discussion with
24 the housekeepers that had gathered, at any time prior to that
25 had employees come onto the property and hand billed at the

1 front entrance?

2 A No.

3 Q So you didn't have any occasion to shoo employees away
4 from the front entrance that day?

5 A No.

6 Q And I believe you asked them -- I think you said you asked
7 them what they were doing there; is that correct?

8 A Yes.

9 Q What was the response?

10 A They had business there.

11 Q At any point did they tell you that they had any sort of
12 union business there?

13 A No.

14 Q Or union activity?

15 A No.

16 Q What was your tone in your discussion with them when you
17 were out there on the sidewalk with you, yourself alone and the
18 housekeepers?

19 A Just a normal conversation.

20 Q Okay. Could you tell us in that type of normal
21 conversation what you had asked?

22 A I just asked what they were doing.

23 Q Okay. All right. And so your voice wasn't loud or
24 anything?

25 A No, it was not.

1 Q At any point in that discussion did you tell them that
2 they -- again I'm referring to the discussion with you alone
3 and the housekeepers, okay? At any point in that discussion
4 did you tell them that they -- they couldn't be on private
5 property?

6 A No, I did not.

7 Q Okay. And after that discussion, I believe you indicated
8 that you radioed control and two other officers came out to
9 assist you; is that correct?

10 A That's correct.

11 Q And the officers were Officer Bonales and Officer Johnson;
12 is that right?

13 A That's correct.

14 Q And I don't know if we have it in the record. Could you
15 state their full names?

16 A Cornelius Johnson and I don't know what's Bonales' first
17 name. I think it's Jesus.

18 Q Jesus. Okay. And do you know the ethnicity of
19 Mr. Bonales?

20 A Hispanic.

21 Q Hispanic. All right. And what is the ethnicity of
22 Officer Johnson?

23 A African-American.

24 Q Okay.

25 JUDGE THOMPSON: Ms. Green, can you spell Mr. Bonales' last

1 name?

2 THE WITNESS: I think it's B-O-N-A-L-E-S.

3 JUDGE THOMPSON: Got it. Thank you.

4 THE WITNESS: Uh-huh.

5 MR. KRAMER: Great.

6 Q BY MR. KRAMER: And at the time when they came out to
7 assist you, where did you all eventually station yourselves?

8 A I was stationed at the -- well, it's basically the exit of
9 the valet area.

10 Q Okay. Now, you have an exhibit up there called
11 Respondent's Exhibit 25, and I'd like you to pull it up.

12 JUDGE THOMPSON: Let the record reflect I'm handing the
13 witness what's been marked as Respondent 25.

14 Q BY MR. KRAMER: And I'd like you to turn -- we've lettered
15 the pages here -- to page E.

16 A Page B, as in boy?

17 Q E as in elephant, ma'am.

18 A Okay.

19 Q Are you there?

20 A Yes.

21 Q Can you tell us what this picture shows?

22 A The front of the sidewalk in front of Trump.

23 Q Okay. And then there's a driveway just to the left of
24 that stop sign. Is that the exit for the Hotel?

25 A Yes.

1 Q Okay. And where is it that -- approximately where is it
2 that you and Officer Bonales and Officer Johnson stationed
3 yourselves after they came down to meet with you?

4 A Right where the stop sign is located.

5 Q Okay. And -- and that stop sign is on Hotel property; is
6 that correct?

7 A Yes, it is.

8 Q Okay. Now, after Officer Johnson and Officer Bonales
9 joined you, at some point did the housekeepers and others who
10 were gathering, moved along the sidewalk and come to meet you
11 at the stop sign?

12 A They were -- yes.

13 Q Okay. And -- and at that point in time when they -- when
14 they came up to you, was there a conversation between the
15 officers, the three of you, and the -- the housekeepers that
16 had approached?

17 A I don't recall. I didn't have a conversation with them.

18 Q Okay. Did any of the other security officers with you
19 have a conversation with the group?

20 A I believe Mr. Johnson said, "You're not allowed on the
21 private property."

22 Q Okay. And do you recall what any of the others -- the
23 housekeepers and other people there said in response?

24 A No.

25 Q Okay. And, by the way, was it just housekeepers that had

1 approached?

2 A Yeah -- no. It was a Union representative also.

3 Q Okay. All right. And after this conversation -- sitting
4 here today, do you have -- let me ask -- let me strike that.

5 Do you -- did Officer Johnson ever tell anyone in that
6 group that they needed to get in their car and leave the
7 property?

8 A I don't recall.

9 Q Okay. And do you recall whether or not in that
10 conversation anyone asked you your name?

11 A Yes.

12 Q Okay. And who asked you your name?

13 A It was the Union representative.

14 Q Okay. And was this a male representative or a female
15 representative?

16 A It was a male.

17 Q Okay. And, as best you recall, what did he ask you and
18 what did you do in response?

19 A He noticed my badge said Olivia and he said, "What is your
20 last name?" And I didn't respond.

21 Q Okay. Did you make any gestures or anything?

22 A No.

23 Q Okay. At any point did you tell anyone there that day
24 that you were the commander and chief of the security forces
25 for Trump?

1 A No.

2 Q Are you the commander and chief for the Trump security
3 forces?

4 A No.

5 Q Who is the head of security at Trump International
6 Las Vegas?

7 A Mr. Clyde Turner.

8 Q Okay. And at some point after that confrontation, I think
9 you indicated at some point control advised you and the other
10 officers to back off; is that correct?

11 A That's correct.

12 Q Okay. And -- and when that happened, what did you and the
13 other officers do?

14 A We backed off.

15 Q And where did you go?

16 A On the inside of the building.

17 Q Okay. And after you did that, what did the housekeepers
18 -- what did the people that had gathered there, the
19 housekeepers and others, do?

20 A They walked towards the revolving doors.

21 Q And then what did they do?

22 A They were handing their fliers out.

23 Q Okay. And at any point after you were told to back off,
24 did you or the other officers do anything with regards to those
25 housekeepers?

1 A No.

2 Q And did you prepare a statement of what occurred that day?

3 A Yes, I did.

4 Q At whose direction?

5 A Mr. Turner's.

6 Q All right. And is preparing statements something you do
7 in the ordinary course of your position as a security officer?

8 A Yes. We do a statement if we required -- if someone wants
9 to file a report.

10 Q Okay. I'm going to hand you what's been marked as
11 Respondent's Exhibit 30. Could you tell us if you could
12 recognize that document?

13 A Yes.

14 Q And is this -- can you tell us what this is?

15 A This is a statement from myself.

16 Q Okay. And this is your handwriting?

17 A Yes, it was.

18 Q And it's your signature at the bottom?

19 A Yes, it is.

20 MR. KRAMER: I'd like to move for the admission of
21 Respondent's Exhibit 30.

22 JUDGE THOMPSON: Any objection?

23 MS. OVIEDO: May we have a moment to go through the
24 document?

25 JUDGE THOMPSON: I mean can you -- you can't tell me

1 whether you object to the document without reading it?

2 MS. DAVILA: Just one minute, Your Honor. I'm sorry.

3 No objection, Your Honor.

4 JUDGE THOMPSON: Hearing no objection, I'll admit

5 Respondent 30.

6 **(Respondent Exhibit Number 30 Received into Evidence)**

7 MR. KRAMER: Thank you. There's no further questions, Your
8 Honor.

9 JUDGE THOMPSON: Thank you.

10 Ms. Davila, or, Ms. Oviedo, cross?

11 MS. DAVILA: Yeah. Elise will be doing the cross.

12 JUDGE THOMPSON: Okay.

13 MS. OVIEDO: Oh.

14 **CROSS-EXAMINATION**

15 Q BY MS. OVIEDO: Good afternoon, Ms. Green.

16 A Good afternoon.

17 Q My name is Elise Oviedo. I'm with the federal government,
18 and this is Judy Davila. You've been asked some questions
19 about the positioning of -- of these employees that are in
20 question. They were on the public sidewalk, weren't they?

21 A Correct.

22 Q Okay. And you don't have authority on a public sidewalk,
23 do you?

24 A No, I do not.

25 Q In fact, you can only act as a security officer within the

1 confines of the property line; isn't that right?

2 A Yes.

3 Q And that ends before the public sidewalk?

4 A If I see some gathering at the public sidewalk, I'll go
5 ask questions. Yes.

6 Q But you have no authority to do that?

7 A No. I'm not -- no. I'm not a police officer. No.

8 Q Okay. And, in fact, your own statement here says that
9 they were on the sidewalk; isn't that right?

10 A Yes.

11 Q And isn't it true that at no point they crossed over to
12 the property line, did they?

13 A I'm sorry?

14 Q Isn't it true that at no point they actually did cross
15 over the property line?

16 A They were on the sidewalk.

17 Q Exactly. Thank you.

18 MS. OVIEDO: No further questions.

19 JUDGE THOMPSON: Mr. Kramer -- thank you, Ms. Oviedo.

20 Mr. Kramer, any redirect?

21 MR. KRAMER: Yeah.

22 **REDIRECT EXAMINATION**

23 Q BY MR. KRAMER: But they did approach you up to the stop
24 sign; isn't that correct?

25 MS. OVIEDO: Objection --

1 THE WITNESS: Yes, they did.

2 MS. OVIEDO: -- leading.

3 JUDGE THOMPSON: It is, counsel. I'm going to sustain the
4 objection. But can you rephrase the question?

5 MR. KRAMER: Sure.

6 Q BY MR. KRAMER: Officer Green, when -- where were they
7 when you first spoke with them, the housekeepers?

8 A On the sidewalk --

9 Q Okay.

10 A -- in front of Trump.

11 Q And after you and Officer Johnson and Officer Bonales --
12 after Officer Bonales and Officer Johnson joined you at the
13 stop sign, you know, how is it that you had another
14 conversation with these employees?

15 A They were walking towards the -- the parking area.

16 Q And which way were they going?

17 A Towards the doors.

18 Q Okay. As in --

19 A As in valet.

20 Q Okay.

21 A To the valet area. That's where they were walking
22 towards.

23 Q They were -- they were walking towards to go onto the
24 property?

25 A Yes.

1 Q Okay. And at that point that's when you had the
2 conversation with them; is that correct?

3 A That's when Officer Johnson had the conversation.

4 Q Okay. And after you were told to back off, where did
5 these people go?

6 A They went to the doors.

7 Q Okay.

8 A The front of the property.

9 MR. KRAMER: May I ask opposing counsel a question?

10 JUDGE THOMPSON: Certainly.

11 MR. KRAMER: Is it the General Counsel's position that the
12 housekeepers never went on and handbilled on the property?

13 MS. OVIEDO: Not necessarily, but her statement doesn't
14 even mention that they went on to the property. And her
15 statement says that they went on the sidewalk.

16 MR. KRAMER: Did you read the third page?

17 MS. DAVILA: I think the bigger issue is that the complaint
18 has to do with the encounter. We are not -- the complaint
19 doesn't say that they weren't allowed to handle.

20 MR. KRAMER: It -- I understand that. And I think -- I
21 mean and that's why I haven't put in the video that was
22 provided by the -- by the Union. But my concern is is that,
23 you know, you're making -- I mean are you raising a question as
24 to whether or not officer Green was correct, that after this
25 happened, these people went on the property and handled?

1 Because if that that's --

2 MS. OVIEDO: Well --

3 MR. KRAMER: -- the case, then I'm going to show her the
4 video and confirm that.

5 MS. OVIEDO: There is an allegation regarding surveillance
6 and the impression of surveillance back when they're on the
7 public walk and she's monitoring their Union activity. I mean
8 that's what it goes to.

9 MR. KRAMER: I understand, which is why I didn't want to
10 bring in the video. But I'm just -- I mean if you were making
11 it appear that -- that she is not testifying truthfully as to
12 that point, then I need to, you know, qualify it -- I mean I
13 need to clarify that.

14 MS. DAVILA: We're not contesting that they -- that
15 employees -- we're not saying which employees, but we're not
16 contesting that employees handbilled that day.

17 MR. KRAMER: Okay. Then --

18 MR. DRITSAS: On the property?

19 MR. KRAMER: -- what basis -- on the property?

20 MS. DAVILA: On the property, yeah.

21 MR. KRAMER: Okay. Based on that representation then, I
22 have no further questions, Your Honor.

23 JUDGE THOMPSON: Thank you, Mr. Kramer. Ms. Green, thank
24 you again for coming down to provide testimony today. As I
25 instructed a week and a half ago, please don't discuss it with

1 anyone. You are excused, and have a great rest of your day.

2 THE WITNESS: Thank you.

3 JUDGE THOMPSON: Thank you.

4 THE WITNESS: Should I just leave this --

5 JUDGE THOMPSON: You can just leave that there. We'll --

6 THE WITNESS: All right.

7 JUDGE THOMPSON: -- take good care of those.

8 THE WITNESS: All right. Thank you.

9 MR. DRITSAS: Thank you, Ms. Green.

10 JUDGE THOMPSON: We'll go off the record for our next
11 witness.

12 (Off the record at 2:06 p.m.)

13 JUDGE THOMPSON: We are back on the record.

14 Respondent, would you like to call your next witness?

15 MR. KRAMER: Yes. The Respondent calls Danny Slovak to the
16 stand.

17 JUDGE THOMPSON: Thank you. Hi, Mr. Slovak.

18 MR. SLOVAK: Hi.

19 JUDGE THOMPSON: My name is Judge Thompson. I'm an
20 Administrative Law Judge with the National Labor Relations
21 Board, and I have been assigned to preside over this case. You
22 have been called as a witness to testify in this matter by the
23 Respondent. And before you testify, I need to swear you in.
24 Would you please raise your right hand?

25 Whereupon,

1

DANIEL SLOVAK

2 having been duly sworn, was called as a witness herein and was
3 examined and testified as follows:

4 JUDGE THOMPSON: Great. Thank you.

5 Would you please state your name for the record?

6 THE WITNESS: Danny Slovak.

7 JUDGE THOMPSON: How do you spell your last name?

8 THE WITNESS: S-L-O-V-A-K.

9 JUDGE THOMPSON: Great. Thank you, Mr. Slovak.

10 Before providing your testimony, let me just give you a
11 couple of pointers that I'd like for to you keep in mind as you
12 give your testimony today. Number one, we are recording the
13 proceedings, and that's why the microphone is in front of you.
14 You don't have to lean in. You can relax as comfortably as you
15 can in that chair. However, we would ask if you would give us
16 a verbal response, yes, no, state your response. And try to
17 avoid huh-uh or uh-huh because the consider has difficulty
18 transcribing those terms. And, also, you have a nice, strong
19 voice, but remember to speak as loud as you can.

20 Second, if either of the attorneys at the tables asks you a
21 question that you don't understand, would you please tell them,
22 "I don't understand your question?" And so that they can
23 rephrase it or repeat it as often as necessary until you
24 understand it. If you answer a question, we'll presume you
25 understood what they asked you.

1 Third, if either of the attorneys at the table object,
2 they're going to say, "Objection," kind of loudly, would you
3 mind holding your response and not answering until I can
4 address what their concerns are regarding their objection?

5 And, lastly, oftentimes witnesses may know where the
6 attorneys are going to go when they ask a question and you want
7 to jump in and that answer, but that doesn't provide us with a
8 clean transcript. We'll have like half the question and then
9 half your answer what you do that. So, if you would, would you
10 hold your response until they finish their question so that way
11 we can get all of the question transcribed and then all of your
12 answer? Would you mind doing that for us?

13 THE WITNESS: Yes, ma'am.

14 JUDGE THOMPSON: Great. Thank you. Mr. Kramer, your
15 witness.

16 MR. KRAMER: Thank you, Your Honor.

17 **DIRECT EXAMINATION**

18 Q BY MR. KRAMER: Mr. Slovak, you're currently employed by
19 the Trump Hotel; is that correct?

20 A Yes, sir.

21 Q What position do you hold?

22 A Security officer.

23 Q How long have you been a security officer at the Trump
24 Hotel?

25 A Almost a year and a half.

1 Q And what -- is that a full-time position?

2 A Yes, sir.

3 Q What hours do you work normally?

4 A 7 a.m. to 3:30 p.m.

5 Q Okay. And, by the way, you're here today under subpoena;
6 is that correct?

7 A Yes, sir.

8 Q Okay. And do you work in any particular section of the
9 Hotel?

10 A No, sir.

11 Q Could you explain how it is that, you know, security
12 officers are assigned?

13 A We usually do a two-hour rotation. Rotate from post to
14 post.

15 Q Okay. And could you briefly explain what post that you
16 have?

17 A It --

18 Q What various assignments do security officers have?

19 A We usually tour the -- the tower itself, check for things
20 in the tower. We do the lobby pool level, the back of house
21 areas where the associates are.

22 Q Okay. And you also patrol the outside of the building?

23 A Yes, sir, as long -- as -- also the control desk as well.

24 Q Okay. And the officers rotate among those during the
25 course of a day?

1 A Yes, sir.

2 Q All right. And could you basically tell us what your
3 responsibility is as a security officer of the Trump Hotel?

4 A We check for safety violation, make sure that all the
5 corridors are well lit, there's no spills or anything like
6 that.

7 Q Okay. And do you deal with -- with guests?

8 A Yes, sir.

9 Q What sorts of things would you deal with with guests?

10 A We do key assist if guests can't get into their room, we
11 assist with safes. If they come to the room and the safe's not
12 open, we can open it for them. We do escorts and --

13 Q Okay. Do you check IDs to the elevator lobbies?

14 A Not IDs. We check room keys --

15 Q Okay.

16 A -- inside the -- the elevator area.

17 Q Okay. And when do you break your lunch?

18 A We have staggered lunches. So our lunches are between
19 11 a.m. and 1 p.m.

20 Q Is that so --

21 A Some --

22 Q -- there are always a sufficient number of officers on
23 duty during that time?

24 A Yes.

25 Q Okay. And do you -- do you have to punch out for lunch?

1 A Yes, sir.

2 Q Okay. So you utilize a time clock like the other
3 associates?

4 A Yes, sir.

5 Q Okay. Do you recall an occasion earlier in June where you
6 were in the lunch (sic) when employees were passing out
7 materials?

8 A Yes, sir.

9 Q Okay. Do you remember approximately when in June that
10 was?

11 A It was towards the end of June. It was before I went on
12 my vacation.

13 Q Okay.

14 JUDGE THOMPSON: Is this June 2015?

15 THE WITNESS: Yes, ma'am.

16 JUDGE THOMPSON: Thank you.

17 Q BY MR. KRAMER: And when did you go on your vacation?

18 A We left, I want to say, June 29th or 28th. Somewhere
19 around there.

20 Q Okay. And I take it you were working that day; is that
21 right?

22 A The day I left for vacation or --

23 Q No. I apologize. Were you working the day that you --
24 that day were you were in the lunch room and employees were
25 handing out materials?

1 A Yes, sir.

2 Q Okay. And what were you doing in the lunch -- lunch room
3 at that time?

4 A I was eating, sir.

5 Q Okay. Were you eating your --

6 MR. KRAMER: It's been a long day, Mr. Slovak.

7 Q BY MR. KRAMER: You were eating -- I take it you were on
8 lunch; is that correct?

9 A Yes, sir.

10 Q Had you punched out?

11 A Yes, sir.

12 Q All right. And do you recall where you were sitting when
13 this occurred?

14 A Yes. I was in the last table on the left-hand side
15 closest to the exit doors.

16 Q Okay. And, if you could, there's an exhibit up there that
17 is labeled Respondent's Exhibit 12?

18 JUDGE THOMPSON: Let the record reflect that I'm that
19 handing what's -- the witness what's been marked as Respondent
20 12.

21 Q BY MR. KRAMER: All right. And, if you could, do you
22 recognize this?

23 A Yes, sir. It's an overview of the EDR.

24 Q All right. And could you point out for us which table you
25 were at at that time?

1 JUDGE THOMPSON: Ms. Oviedo, or, Ms. Davila, would you
2 please come to the witness box?

3 Q BY MR. KRAMER: Yeah. Could you point out where you were?

4 A Yeah. I was at this back table right here.

5 Q Okay. Okay. Sure. Now, in this -- the way you're
6 looking at it, the employee entrance is on the left-hand side
7 of the page; is that correct?

8 A That's correct.

9 Q Okay. So you were on the -- you were at the table closest
10 to the entrance, to the right of the entrance; is that correct?

11 A Yes, sir.

12 Q And do you recall where at that table you were sitting?

13 A I was sitting on the rear side closest on the food line.

14 Q Okay.

15 A More towards the center row.

16 Q Okay. Somewhat towards -- towards the center aisle
17 between the two sets of tables?

18 A Yes, sir.

19 Q Okay. So you were at the -- the far end -- the farther
20 end of that table?

21 A Yeah. I wasn't at the -- all the way at the end. I was
22 in one of the middler (sic) seats.

23 Q Okay.

24 MR. KRAMER: Is that fair enough for the record?

25 Okay. Thank you.

1 Q BY MR. KRAMER: And were you seated with other people?

2 A There was a gentleman that was sitting across from me.

3 Q All right. Do you know where that gentleman worked?

4 Strike that question.

5 I take it it was another associate; is that correct?

6 A Yes, sir.

7 Q All right. And did you -- do you know that person's name?

8 A I do not.

9 Q Do you know what department he was in?

10 A Yes, sir. He was in food and beverage.

11 Q Food and beverage. And it was -- it was a male employee?

12 A Yes, sir.

13 Q All right. And while you were eating there, there were
14 employees that were handing out fliers?

15 A Yes, sir.

16 Q Do you know who those people were?

17 A No, not off the top of my head. I deal with so many of
18 them.

19 Q Okay. Do you know the names of a lot of the associates at
20 the Hotel?

21 A Yes, sir.

22 Q Okay. And did the people handing out fliers hand out any
23 to you?

24 A No.

25 Q Did they hand out any to the person that you just

1 described?

2 A The person sitting across from me, yes, sir, they did.

3 Q Okay. And when that occurred -- and was -- and when that
4 occurred, what, if anything, did you do?

5 A I asked the gentleman -- or I more so made a statement to
6 the gentleman, "I didn't know they had it approved by HR."

7 Q Okay. And the gentleman you're referring to is the one
8 that was seated across from you?

9 A Yes, sir.

10 Q Do you recall the -- the sex of the person that was
11 handing out the flier at that time?

12 A A female.

13 Q Okay. And did the -- the gentleman that you were sitting
14 across from say anything in response to that? Do you recall?

15 A He didn't say anything. He just kind of chuckled.

16 Q Okay. Did the -- did anyone else say anything in response
17 to that?

18 A Yes, sir. The lady that was passing out the fliers.

19 Q And, by the way, can you describe that lady for us?

20 A She was a housekeeper, she was in her standard wear
21 uniform, Hispanic female, older.

22 Q Okay. And -- and what did this person say to you?

23 A She asked me for my name.

24 Q Okay. And what did you say in response?

25 A I gave her my full name.

1 Q Did she ask you anything else?

2 A No, sir.

3 Q And did any other employee ask you anything about your
4 comments in the lunch room that day?

5 A No, sir.

6 Q Okay. At any point did you tell the housekeeper that had
7 handed out the flier that she couldn't do it because it was
8 private property?

9 A No, sir.

10 Q At any point did you tell her that she couldn't do it more
11 than on -- strike that. At any point did you tell her --
12 strike that. Did the housekeeper ever ask you to repeat your
13 statement?

14 A No, sir.

15 Q Did anyone else ask you to repeat your statement?

16 A No, sir.

17 Q Did you say anything else to this housekeeper other than
18 what your name was?

19 A No, sir.

20 Q What did you do next?

21 A After I was finished eat, I got up and went outside.

22 Q Okay. Did you say anything else to -- were there other
23 employees distributing at the same time?

24 A It's possible. I don't recall.

25 Q All right. So I take it you don't -- did you at any

1 point -- strike that.

2 Did the housekeeper that handed out the flier to the person
3 across from you, did she continue to hand out fliers after she
4 asked you for her name -- for --

5 A Yes, sir.

6 Q -- your name? Okay. And at any point did you make any
7 attempt to interfere with anyone who was handing out fliers in
8 the EDR that day?

9 A No, sir.

10 MR. KRAMER: No further questions, Your Honor.

11 JUDGE THOMPSON: Thank you. Cross, Ms. Oviedo, or,
12 Ms. Davila? Ms. Oviedo.

13 **CROSS-EXAMINATION**

14 Q BY MS. OVIEDO: Good afternoon, Mr. Slovak.

15 A Afternoon.

16 Q Am I saying that right? Slovak?

17 A Yeah, Slovak.

18 Q Slovak. All right. My name is Elise Oviedo. This is
19 Judy Davila. We are attorneys for the federal government. And
20 I'm going to be asking you a few questions in response to what
21 Respondent's counsel has just asked you, if you'll give me just
22 a minute. Did you review any documents in preparation of your
23 testimony?

24 A Can you explain a little bit?

25 JUDGE THOMPSON: She can't explain, but she can repeat it.

1 THE WITNESS: Oh.

2 Q BY MS. OVIEDO: Did you review any documents in
3 preparation of your testimony?

4 A The only document I reviewed beforehand was this -- the
5 overview of the employee dining room.

6 Q All right.

7 JUDGE THOMPSON: Let the record reflect that the witness
8 was referring to Respondent Exhibit 12.

9 Q BY MS. OVIEDO: And did you review that document with
10 anyone?

11 A With Mr. Kramer, I believe.

12 Q Was that the only person you spoke to?

13 A Yes, ma'am.

14 Q Okay. Did you speak to anyone in preparation of your
15 testimony?

16 A Just Mr. Kramer.

17 Q Okay. And did you speak to anyone in general about the
18 testimony you were about to give?

19 A No, ma'am.

20 Q Okay. You've seen employees pass out Union fliers in the
21 EDR room, correct?

22 A Yes, ma'am.

23 Q Okay. And you've seen them more than once, right?

24 A Yes.

25 Q And do you remember when they first started doing this?

1 A Inside the employee signing room, I don't remember.

2 Q They were doing it pretty often; isn't that true?

3 A Yes.

4 Q In fact, there were handbills all over the place, weren't
5 there?

6 A No.

7 Q No?

8 A No, ma'am.

9 Q Isn't it true that they regularly went around handbilling
10 in the EDR?

11 A I don't know about regularly, but they have done it on
12 occasion.

13 Q When you told the employees that you didn't know that they
14 had their fliers approved by HR, you were suggesting that they
15 hadn't been approved by HR; isn't that right?

16 MR. KRAMER: Objection; misstates his testimony. He said
17 he told an employee.

18 JUDGE THOMPSON: Sustained. But, counsel, rephrase your
19 question --

20 MS. OVIEDO: Sure.

21 JUDGE THOMPSON: -- if you can.

22 Q BY MS. OVIEDO: When you said that you didn't know that
23 the fliers had been approved by HR, you were suggesting, in
24 fact, that they hadn't been approved by HR; isn't that right?

25 A No, ma'am. I knew they could hand out the paperwork.

1 Q That wasn't the question. When you told -- when you said
2 that you didn't know that the fliers had been approved by HR,
3 you were suggesting that it hadn't been approved by HR; isn't
4 that correct?

5 A No.

6 MR. KRAMER: I'm going to object. I believe that misstates
7 his testimony.

8 JUDGE THOMPSON: I'm going to --

9 MS. OVIEDO: We could have --

10 JUDGE THOMPSON: -- allow it at this time because she's
11 asking him -- I'm going to allow it this -- I'm going to allow
12 the question, because it's just slightly different from the way
13 I sustained -- when I sustained your objection. Just slightly,
14 but it -- it -- it gets your -- it gets her around your
15 objection. Restate your question, Ms. Oviedo.

16 Q BY MS. OVIEDO: When you stated earlier that you didn't
17 know that they had -- or that -- that the fliers -- I'm sorry.
18 Strike that. When you stated earlier that you didn't know that
19 the fliers had been approved by HR, you were suggesting that,
20 in fact, the fliers hadn't been approved by HR; isn't that
21 right?

22 A No.

23 Q No? And then why would you comment on it?

24 A Because it was a rare occur did you understand for me. I
25 had never seen them handing them out inside the EDR before that

1 point.

2 Q And it's your position that fliers have to be approved by
3 HR; isn't that right?

4 A Anything given to associates has to be approved.

5 Q Okay. And that -- you were suggesting that what they were
6 doing was not permitted; isn't that right?

7 A No.

8 Q No? You weren't questioning whether or not their fliers
9 had been approved by HR?

10 A I knew the fliers had been approved by HR because we had
11 gotten e-mails and information on our pass-downs about them
12 being able to hand out fliers on property.

13 Q So why did you comment then that you didn't know that they
14 had been approved by HR?

15 A Because earlier in the -- a couple months before, they
16 weren't allowed to hand them out inside the EDR.

17 Q How do you know that?

18 A It was in one of our -- either a pass-down or a verbal.

19 Q Who did that come from?

20 A The verbals usually come from Mr. Turner, our director, or
21 Mr. Delgado, our security manager.

22 Q Okay. Do you remember when you received that direction?

23 A I do not.

24 Q Was it this year or last year?

25 A It would have been this year.

1 Q And was it about Union fliers?

2 A Yes.

3 Q And who sent this -- how -- how was this communicated to
4 you?

5 A If it wasn't via pass-down, which is passed out
6 electronically, it's an e-mail. It was more than likely given
7 to us verbally either by Mr. Turner Mr. Delgado.

8 Q Do you have a company e-mail address?

9 A For that personal use? No.

10 Q So when they send you e-mails, how -- what do they e-
11 mail -- or to what address do they e-mail it?

12 A They e-mail it to the department itself. Each one of us
13 in our department have access to our e-mail address, or e-mail
14 account.

15 Q To your personal e-mail?

16 A No. It's not my personal e-mail address. It's the -- the
17 department itself. We have a company -- a department e-mail
18 address.

19 Q Okay. Okay. I just wanted to -- so it's a company e-
20 mail?

21 A Yes.

22 Q Okay. Thank you. Sorry. Has human resources ever been
23 -- has human resources ever given you the authority to
24 discipline employees for Union activities?

25 A No.

1 Q If you knew that they could pass out the fliers, then why
2 did you make the comment wondering whether they had permission
3 from HR if you knew that they had been approved?

4 A I knew they had been approved to hand them out on
5 property, not inside the building, because one of our pass-
6 downs before that stated they could only come up to the doors.

7 Q What were your directions about the Union fliers?

8 MR. KRAMER: Objection; assumes facts not in evidence.

9 JUDGE THOMPSON: What was your question, counsel?

10 Q BY MS. OVIEDO: What were your directions about the Union
11 fliers?

12 JUDGE THOMPSON: What's your objection, Mr. Kramer to that
13 question when you say assumes facts not in evidence?

14 MR. KRAMER: She's assuming that he had been given
15 directions regarding fliers.

16 MS. OVIEDO: He just testified that he did.

17 MR. KRAMER: No, he didn't.

18 MS. OVIEDO: He said that he received a verbal order.

19 MR. KRAMER: Well, I -- the record says he said he saw an
20 order that says that they could come up to the front doors.

21 MS. DAVILA: Before that.

22 JUDGE THOMPSON: But before that, he said he had gotten a
23 pass-down that said they -- that GRAs weren't allowed to
24 handbill in the EDR. So I'm going to have to overrule the
25 objection.

1 Counsel, would you repeat question for the witness to
2 answer?

3 Q BY MS. OVIEDO: What were the directions that you received
4 from the pass-down?

5 A I don't recall much beyond it being they can't pass out
6 anything beyond the doors.

7 Q Were you told to take them from the employees?

8 A No.

9 Q What were you told to do if you saw employees handbilling?

10 A I was told to report it to an immediate supervisor.

11 Q Did you, in fact, ever report it to supervisors?

12 A No, ma'am.

13 Q Did you ever take down notes?

14 A No, ma'am.

15 Q Did you see it and not report it?

16 A Yes.

17 Q So you disobeyed a direct order?

18 A We were given -- a lot of the times it's based on your own
19 discretion. If it's seen as an annoyance to everybody, then,
20 yeah. But while we're on our lunches, it's our time; do with
21 it as we see.

22 Q How do you know that it's up to your discretion?

23 A In which aspect?

24 Q Is that in your job description, that you have discretion
25 over those types of decisions?

1 A No. We were told that on several occasions.

2 Q Who told you?

3 A Our director has told us and our security manager.

4 Q What are their names, please, for the record?

5 A Our security director is Clyde Turner and our security
6 manager is Eric Delgado.

7 Q And on numerous occasions, how -- how often would you say?
8 If you could define numerous occasions? Weekly, monthly,
9 daily?

10 A For -- for the handbilling?

11 Q No. About how many times they told you that you had
12 discretion over these reports?

13 MR. KRAMER: Objection; vague. I mean I'm getting confused
14 as to what --

15 JUDGE THOMPSON: Sustained. Could you rephrase the
16 question, counsel --

17 MS. OVIEDO: Sure.

18 JUDGE THOMPSON: -- because we're all confused as to what
19 you're asking.

20 MS. DAVILA: Mr. Dritsas, if you could not read
21 Ms. Oviedo's computer, please.

22 MR. DRITSAS: I'm not reading her --

23 MS. DAVILA: Oh, okay.

24 MR. DRITSAS: -- computer.

25 MS. DAVILA: I'm sorry.

1 MS. OVIEDO: I don't think --

2 MR. DRITSAS: Oh, please.

3 MS. OVIEDO: -- he can see my computer.

4 JUDGE THOMPSON: I don't know that counsel has time to want
5 to do that. But go ahead, Ms. Oviedo. Just proceed, please.

6 MR. DRITSAS: I'm not reading the computer.

7 MS. OVIEDO: I don't think you can -- you see it anyway.

8 Q BY MS. OVIEDO: You said on -- I don't want to -- I don't
9 want to misstate your testimony, but I believe it was either
10 you had -- and correct me if I'm wrong -- that on numerous
11 occasions or several times, that those two gentlemen that you
12 just named had instructed that you had discretion in reporting
13 the handbilling; is that correct?

14 A That's correct.

15 Q Okay. What specifically did they say about the
16 discretion?

17 A It's if it's seen as an annoyance to other associates, we
18 should inform them.

19 Q So handbilling is viewed as an annoyance?

20 MR. KRAMER: Objection; misstates his testimony.

21 JUDGE THOMPSON: Sustained.

22 Q BY MS. OVIEDO: So the Company considers handbilling an
23 annoyance?

24 MR. KRAMER: Objection. Not his testimony.

25 JUDGE THOMPSON: Sustained. Just --

1 MS. OVIEDO: It's a question.

2 Q BY MS. OVIEDO: If -- if that -- to your knowledge --

3 JUDGE THOMPSON: But that's not what he said, counsel. So
4 you're going to have to either move away from that topic or
5 restate your question.

6 MS. OVIEDO: It's a new question. I'm not --

7 JUDGE THOMPSON: Okay.

8 MS. OVIEDO: -- assuming what his testimony is.

9 JUDGE THOMPSON: Okay.

10 MS. OVIEDO: But it's -- it's --

11 Q BY MS. OVIEDO: I'm asking, to your knowledge, does the
12 Company view handbilling as an annoyance?

13 A I don't know.

14 Q But you were told by those two gentlemen that if it was
15 seen as an annoyance to report it, correct?

16 A Correct.

17 Q Okay. And it's your testimony that you've never reported
18 it?

19 A Correct.

20 Q Besides the -- is it called a pass-down?

21 A Yes, ma'am.

22 Q Are there any other forms of communication between and you
23 your -- your -- what are their -- what are their names again?

24 Forgive me.

25 A Mr. Turner and Mr. Delgado.

1 Q Mr. Turner and Mr. Delgado, do they use anything like, I
2 don't know, paper memos or do you guys have cubbies, mailboxes,
3 anything like that?

4 A We -- we do have personal spaces like cubbies, so to
5 speak. But as -- what they use for communication, if it's not
6 in the e-mail and it's not verbal, I don't know what they use
7 to pass back and forth.

8 Q Were you ever given any other instructions regarding
9 handbilling besides from the pass-down?

10 A The verbally use our discretion.

11 Q Okay.

12 MS. OVIEDO: Okay. No further questions.

13 JUDGE THOMPSON: Mr. Kramer, any redirect?

14 Thank you, counsel.

15 MR. KRAMER: Yeah, I do. Can I get General Counsel to make
16 a copy of the exhibit for me?

17 JUDGE THOMPSON: Certainly. Let's go off the record,
18 please.

19 (Off the record at 2:35 p.m.)

20 JUDGE THOMPSON: We're back on the record.

21 Mr. Kramer, redirect.

22 MR. KRAMER: Thank you.

23 **REDIRECT EXAMINATION**

24 Q BY MR. KRAMER: Just a few questions, Mr. Slovak.

25 You indicated that -- correct me if I'm wrong -- but that

1 you had recalled some pass-down reports regarding handbilling;
2 is that correct.

3 A Yes, sir.

4 Q All right. I've handed you what's been marked as
5 exhibit -- Respondent's Exhibit 31, and I'd like you to take a
6 look at these. And when you're done, let me know when you're
7 done.

8 A Okay.

9 Q Can you tell us what the first document is? It's two
10 pages. It's double sided.

11 A The first document is going to be a day shift pass-on
12 report.

13 Q Okay. And is this the type of pass-down report you were
14 talking about?

15 A Yes, sir.

16 Q Okay. And just for clarification, there's an e-mail
17 address to lvsecurity@trumphotels. Is that the general group
18 security e-mail address?

19 A Yes, sir. That's our department security address.

20 Q Okay. So when the pass-down comes out, it would go to --
21 you would have access to that e-mail?

22 A Yes, sir.

23 Q Okay. And do you see anywhere on this pass-down report on
24 this first page here, for the day shift pass-down report, a
25 discussion of handbilling?

1 A Yes, sir. That would be number three.

2 Q Okay. And can you explain to us -- let me take a step
3 back. Is this the pass-down report you were recalling when you
4 testified you'd seen pass-down reports?

5 A Yes, sir.

6 Q Okay. And could you tell us -- that second sentence
7 there, it says, "Per Adam-1 they are allowed to distribute as
8 long as they do not enter the property?"

9 A That's correct.

10 Q Whose Adam-1?

11 A Adam-1 would be Mr. Turner.

12 Q Okay. And this incident -- now, let's turn to the second
13 document. Can you tell us what the second page of this
14 document is -- excuse me -- which is page 3? It's the second
15 swing shift, the way it's -- strike that.

16 If you turn to -- that's why I hate double-sided documents.

17 If you turn to page 3 of the document, it begins with
18 another e-mail. Do you see that there?

19 A Yes, sir. It's our swing shift pass-on.

20 Q Okay. And this -- and this is -- for what date is this
21 swing shift pass-down done?

22 A It's for Saturday, February 28th, 2015.

23 Q Okay. And this is the pass-down that the swing shift
24 sends to the graveyard shift, I take it, to advise them of the
25 exciting things that happened on your shift; is that correct?

1 A Essentially, yes.

2 Q Okay. And this is separate and apart from -- could you
3 tell us, are you familiar with the term daily activity report?

4 A Yes, sir. DAR.

5 Q Okay. And what is a DAR?

6 A DAR is our daily activity report. Anything we do during
7 that shift, we report it to our control officer --

8 Q Okay.

9 A -- and they log it.

10 Q All right. Such as, "I patrolled this floor and
11 everything's fine?"

12 A Yes, sir.

13 Q Or, "I had to assist guest so and so with a key?"

14 A Yeah. "Key assist this room. This is the outcome."

15 Q Okay. Now, were you working the swing shift on February
16 -- Saturday, February 28th, 2015?

17 A Yes, sir.

18 Q Okay. And were you aware at that time that off-duty
19 employees had gained access to the front entrance of the Hotel
20 to handle?

21 A Yes, sir.

22 Q Okay. And was there another note on this pass-down to
23 make sure that the graveyard shift was aware that those
24 employees could handbill in the front entrance? Is that
25 correct?

1 A Yes, sir.

2 Q Okay. And is there anything in these two pass-down
3 reports that addresses employees handbilling in the EDR?

4 A No, sir.

5 Q Okay. Did you ever receive any -- strike that.

6 Do you recall any written reports of any kind giving you
7 instructions as to what to do if the employees were handbilling
8 in the EDR?

9 A Written? No.

10 Q Okay. And I believe you testified on a few occasions you
11 recall verbal instructions from either Mr. Delgado or
12 Mr. Turner giving you -- letting you know that if you saw
13 handbilling that you thought -- what -- how did you describe
14 it?

15 A It was an annoyance.

16 Q -- was an annoyance, that you should report it; is that
17 correct?

18 A Yes, sir.

19 Q Okay. Did you receive any other instructions regarding
20 handbilling from Mr. Turner or Mr. Delgado?

21 A No, sir.

22 Q Okay. And were you given any direction from either of
23 them as to -- or were you provided any instructions other than
24 reporting as to what to do if you saw handbilling that you
25 believed was an annoyance?

1 A Besides reporting it?

2 Q Yes.

3 A That was the end of our -- as far as we could take it, it
4 was to report it.

5 Q Okay. You had no authority to do anything else about it?

6 A No, sir.

7 Q And you, in seeing handbilling, you never saw any
8 handbilling that you saw -- you believed was a sufficient
9 annoyance to report it to anyone?

10 A No, sir.

11 Q Okay. And do you -- sitting here today, do you know what
12 the Hotel solicitation policy is?

13 A I do not recall.

14 Q Okay. Are -- have you ever been instructed to enforce the
15 solicitation policy as to other associates?

16 A To other associates, no, sir.

17 Q Okay.

18 MR. KRAMER: I'd like to move for the admission of
19 Respondent's Exhibit 31.

20 JUDGE THOMPSON: Counsel, any objection?

21 MS. OVIEDO: No objection, Your Honor.

22 JUDGE THOMPSON: Hearing no objection, I'll receive
23 Respondent 31.

24 **(Respondent Exhibit Number 31 Received into Evidence)**

25 MR. KRAMER: And I have no further questions, Your Honor.

1 JUDGE THOMPSON: Thank you, Mr. Kramer.

2 Mr. Slovak, thank you so much for your testimony. Please
3 don't discuss it with anyone. But having said that, you are
4 excused, and have a wonderful day. Thank you again.

5 THE WITNESS: Thank you. You guys have a -- a wonderful
6 day as well.

7 JUDGE THOMPSON: You too.

8 Counsel, would you please stay in the courtroom once
9 Mr. Slovak is --

10 MR. KRAMER: Can I --

11 JUDGE THOMPSON: -- has exited?

12 Thank you.

13 Ms. Davila, you -- I don't want to say allegation. But you
14 indicated that you thought that Mr. Dritsas was looking at
15 Ms. Oviedo's computer during her cross-examination of
16 Mr. Slovak. And since it was put on the record, he denied that
17 he was looking at the computer.

18 But, Mr. Dritsas, would you like to respond to the
19 statement?

20 MR. DRITSAS: Yes, I would, Your Honor. I -- it's my
21 practice to look at the attorney that's asking the questions.
22 And I've looked at Ms. Davila for several days now cross-
23 examining my clients. And I was looking at Elise. I have
24 never tried and have not in this trial tried to look at
25 anyone's notes, computers or any other work product.

1 So, number one, I couldn't see it anyway, even if I wanted
2 to. But, number two, I was just looking at Elise inferring
3 questions at the witness, not trying to look at her computer.

4 JUDGE THOMPSON: Thank you.

5 MS. DAVILA: And if I may respond to counsel's --

6 JUDGE THOMPSON: Yeah. Yeah. But not -- yeah.

7 MS. DAVILA: I apologize, Mr. Dritsas. I didn't mean to
8 say it into the record. I thought I said it under my breath.
9 And I apologize. I wouldn't have made such an allegation on
10 the record. I apologize.

11 JUDGE THOMPSON: Fair enough.

12 Mr. Kramer, would you like to call your next witness?

13 MR. KRAMER: I think we would. But if I might use the rest
14 room for one minute, I'd appreciate it.

15 JUDGE THOMPSON: Certainly. Let's take a -- our afternoon
16 break. Let's come back at 3:00. It's ten after -- it's ten
17 'til. Off the record.

18 (Off the record at 2:48 p.m.)

19 JUDGE THOMPSON: We are back on the record continuing with
20 the Respondent's case in chief.

21 Mr. Dritsas, would you like to call your next witness?

22 MR. DRITSAS: I would, Your Honor. I would like to call
23 Walter Rubi.

24 JUDGE THOMPSON: Rubi?

25 MR. DRITSAS: R-U-B-I.

1 JUDGE THOMPSON: Thank you. Hi, Mr. Rubi.

2 MR. RUBI: How are you?

3 JUDGE THOMPSON: I'm fine. And you?

4 MR. RUBI: I'm good.

5 JUDGE THOMPSON: Good. I'm Judge Thompson. I'm an
6 Administrative Law Judge with the National Labor Relations
7 Board, and I have been assigned to preside over the hearing in
8 this case.

9 MR. RUBI: Uh-huh.

10 JUDGE THOMPSON: You have been called as a witness to
11 testify in this matter on behalf of Respondent. But before you
12 testify --

13 MR. RUBI: Uh-huh.

14 JUDGE THOMPSON: -- I need to sway you in. So would you
15 please raise your right hand?

16 Whereupon,

17 **WALTER RUBI**

18 having been duly sworn, was called as a witness herein and was
19 examined and testified as follows:

20 JUDGE THOMPSON: Great. Thank you.

21 Mr. Rubi, would you please state your name for the record?

22 THE WITNESS: My name?

23 JUDGE THOMPSON: Yes.

24 THE WITNESS: Walter Rubi.

25 JUDGE THOMPSON: How do you spell your last name, please?

1 THE WITNESS: R-U-B-I.

2 JUDGE THOMPSON: Great. Thank you, Mr. Rubi.

3 Let me give you some instructions that I'd like for to you
4 keep in mind --

5 THE WITNESS: Uh-huh.

6 JUDGE THOMPSON: -- as you answer counsel's questions.
7 Number one, we're recording the proceedings today, and that's
8 why the microphone is in front of you. You have a nice, strong
9 voice, but I'd like to ask if you would ensure to speak as
10 loudly as you can so that we can hear your testimony. And give
11 us a verbal response, if you would. If you could try to avoid
12 huh-uh or uh-huh. That's difficult for our court reporter to
13 transcribe.

14 Next, if you don't understand a question that either --
15 either of the attorneys ask you, would you please tell them, "I
16 don't understand what you're asking me?" That way they could
17 repeat it or rephrase it as many times as necessary for you to
18 understand. If you answer a question, we'll presume you
19 understood it.

20 Number three, if either of the attorneys at the table
21 object, they're going to say, "Objection," and they're going to
22 be loud about it.

23 THE WITNESS: Uh-huh.

24 JUDGE THOMPSON: So would you please hold your response so
25 that I can address their concerns? I -- we would appreciate

1 that.

2 And, lastly, in order for the transcript to be clean --
3 clear and clean, would you wait until counsel have finished
4 their question before you answer? Could you do that for us,
5 please?

6 THE WITNESS: I would do that.

7 JUDGE THOMPSON: Thank you so much.

8 Mr. Dritsas, your witness.

9 MR. DRITSAS: Thank you, Your Honor.

10 **DIRECT EXAMINATION**

11 Q BY MR. DRITSAS: Mr. Rubi, you work for Trump
12 International Las Vegas?

13 A Yes, sir, I work.

14 Q Okay. And what's your position?

15 A I'm a housekeeping supervisor.

16 Q Okay. Are you an hourly paid or salaried employee?

17 A Hourly.

18 Q Okay. And how long have you worked for the Trump Hotel?

19 A Since we opened. January 28th --

20 Q Oh. You're referred --

21 A -- 2008.

22 Q You're referred to as one of the founders?

23 A Yes.

24 Q Okay. And what is your -- what has been your shift for
25 the past year? Day, swing, grave?

1 A I've been working swing, days and graveyard. So I've been
2 working on graveyard like more than a year. You know, the last
3 year and a half --

4 Q Okay.

5 A -- I've been working on graveyard.

6 Q So we appreciate you coming because I know you -- I think
7 we woke you up to come here.

8 A Yes.

9 Q So, tell me, when you are on the -- the grave shift and
10 somebody calls off, do you have any responsibilities in
11 connection with that?

12 A Yeah. Actually, PBX is the -- they take the call --
13 outside calls. And when -- we have a outside call for
14 housekeeping. So if I'm not on my desk, they call me over the
15 radio and I go to my desk to take the call. And I let them
16 know could I transfer the call because I'm can -- sometimes
17 when I'm on my desk, I take -- even PBX call me and tell me,
18 "We have an outside call from housekeeping." So I take the
19 calls anyway. So --

20 Q Okay.

21 JUDGE THOMPSON: Mr. Rubi --

22 THE WITNESS: So either way.

23 JUDGE THOMPSON: -- I want -- I hear everything you're
24 saying but I want to make sure that our court reporter gets
25 everything down.

1 THE WITNESS: Uh-huh.

2 JUDGE THOMPSON: So if you could just speak a little
3 slower --

4 THE WITNESS: Slower.

5 JUDGE THOMPSON: -- so that she can get --

6 THE WITNESS: Uh-huh.

7 JUDGE THOMPSON: -- everything you say, we'll appreciate
8 it.

9 THE WITNESS: Okay.

10 JUDGE THOMPSON: Continue, Mr. Dritsas.

11 MR. DRITSAS: Thank you, Your Honor.

12 Q BY MR. DRITSAS: So if somebody calls in and you're on the
13 swing shift and you get the call directly or from PBX, they
14 call and say, "I'm not coming to work in the morning," what do
15 you do?

16 A First of all, when I get the call, so I said, "I'm Walter
17 Rubi, from housekeeping." And then so, "How can I help you?"
18 So it's -- for example, I'm like Jose, for example, "I'm
19 calling in for my shift." "Okay." So, I take the whole name.
20 I ask them I think all the time their whole name and I ask them
21 for the shift and the position, if they are housekeeping or a
22 runner or house person or whatever they do so --

23 Q Okay.

24 A And then I write it down on the paper and also I send an
25 email right away.

1 Q And who do you send an email to?

2 A I send it to all management and status clerk because they
3 are getting the call in and they track and they do the, for
4 example, they let to the management know who's coming, who's
5 not coming to --

6 Q Okay.

7 A -- you know --

8 Q Okay.

9 A -- to fix the schedule.

10 Q Can you look through the stack of papers there for what's
11 marked as Respondent's 28.

12 JUDGE THOMPSON: Let the record reflect that I'm handing
13 the witness what's been marked as Respondent's 28.

14 Q BY MR. DRITSAS: Can you identify this, Mr. Rubi?

15 A Say again?

16 Q Can you identify this document?

17 A Yeah.

18 Q What is it?

19 A It's a calling off form.

20 Q Okay. So is the an email that you sent?

21 A Uh-huh.

22 Q You have to answer --

23 JUDGE THOMPSON: Yes?

24 THE WITNESS: Yes.

25 Q BY MR. DRITSAS: Okay.

1 A It's the email that I sent.

2 Q So the date is June 7, 2015, at 4:16, and you say that
3 Martha called off at 4:15. So does that suggest you were at
4 your desk when that call came?

5 A Yes, that time that I called in.

6 Q Okay. And did you send this email?

7 A Yes, I sent this email.

8 Q Okay. DO you know who Martha Guzman is?

9 A Martha Guzman is a GRA worker.

10 Q Okay. Have you ever had any fights or problems with Ms.
11 Guzman before?

12 A Not before that I -- I never, you know, I haven't -- I
13 don't have problem or anything with any GRAs or co-worker.

14 Q Did anyone ever tell you to falsify a report concerning
15 Ms. Guzman?

16 A Yeah, it was like I haven't do nothing to anybody I never
17 like any people or to nobody so I don't know what is the
18 problem with this.

19 Q Okay. So as best you can -- strike that. Is it your
20 testimony then that you sent this email on July 7, at 4:16 a.m.
21 reporting that Ms. Guzman called off at 4:15 for her shift on
22 July 7 at 8:30?

23 A Yes.

24 MR. DRITSAS: Okay. I have nothing further of this
25 witness.

1 JUDGE THOMPSON: Hold on. Thank you, Mr. Dritsas.

2 Cross.

3 MS. DAVILA: Ms. Oviedo is going to take over. I'm just
4 looking for a document.

5 JUDGE THOMPSON: Certainly.

6 MS. OVIEDO: Can we have your copy, please. We can't seem
7 to find ours. Thank you. We'll give it back.

8 MS. DAVILA: And I'll be doing the questioning. I'm
9 sorry.

10 JUDGE THOMPSON: Okay.

11 **CROSS-EXAMINATION**

12 Q BY MS. DAVILA: Mr. Rubi, good afternoon. My name is Judy
13 Davila. I'm an attorney with the Government. This is my co-
14 counsel, Elise Oviedo. When an associate calls out off of
15 their shift, you send an email --

16 A Yes.

17 Q -- every single time, correct?

18 A Yes.

19 Q And you send this email to the people listed on
20 Respondent's Exhibit 28, correct?

21 A Yes, I send it.

22 Q Okay. And how often would you say people call off?

23 A How often?

24 Q Yes.

25 A Probably -- it all depends. Like, so how often? So I

1 send it like every time they call me for call offs, like --

2 Q Do you send emails frequently?

3 A Yes, for call off or all -- you have to let them -- my
4 management know about those something that would have been
5 done --

6 Q Okay.

7 A -- or of being few -- rooms or something that we need to
8 double check.

9 Q And when an employee calls you to call off, what
10 information do they have to give you?

11 A First of all, the name, the time for they're calling in so
12 -- and name and time. So -- and also like, for example, if
13 they are calling in sick or sometime if they have to -- if they
14 have FMLA or something they'll call off so I ask them all those
15 questions just to make sure I write down the right, you know,
16 information and send it.

17 Q And after you send off -- after you relay this message, do
18 you do anything else related to the call off or whatever email
19 that you sent?

20 A What do you mean?

21 Q Do you take any other steps? Do you have to call back the
22 employee or do you do anything else after you pass along the
23 message that they won't be coming in for the day?

24 A For if they -- for example, I don't call them back so --

25 Q Okay.

1 A -- so I used to get the right information. If I have a
2 question, I ask them again for the information. And then when
3 I'm sure of the name and the date and the time they're calling
4 in sick, so I send the email.

5 Q And if you have a question you said, just to clarify, if
6 you have a question while you have them on the phone, you ask
7 them?

8 A I ask them, like, they go -- most of the time they call --
9 everybody call for they say please who themself I'm calling in
10 sick. I don't question them, like, why you calling in sick for
11 -- what is the reason. Just --

12 Q Yeah, that was my --

13 A -- they themself, yeah.

14 Q That's what I meant. I just wanted to know.

15 A I'm calling in sick.

16 Q You just took the message and that was it, correct?

17 A Uh-huh.

18 Q Okay. And how do you remember this particular email in
19 Respondent's 28?

20 A How do I remember?

21 Q Yes.

22 A I remember it right now because I'm seeing it.

23 Q Oh, because you see it, right?

24 A Yeah.

25 Q Because the email is from you, correct?

1 A Uh-huh.

2 Q And so --

3 MR. DRITSAS: Yes?

4 JUDGE THOMPSON: Yes?

5 THE WITNESS: Yes.

6 MS. DAVILA: Oh, sorry.

7 THE WITNESS: Sorry.

8 Q BY MS. DAVILA: So you remember it -- have you seen this

9 email before today?

10 A Today?

11 Q Did you review this email before you came to testify

12 today?

13 A No, like --

14 Q You've never seen a sheet of paper like this?

15 A No, to be honest.

16 Q Okay. You've never seen the email printed out before?

17 A No.

18 Q Okay. And did you speak to anyone in preparation for your

19 testimony today?

20 A No.

21 Q You didn't speak to Mr. Kramer?

22 A Uh-huh.

23 JUDGE THOMPSON: Yes?

24 THE WITNESS: Yes.

25 MR. DRITSAS: I'm not -- I'm Dritsas, not Kramer.

1 THE WITNESS: Oh, sorry.

2 Q BY MS. DAVILA: Did you speak to either of the gentlemen
3 at that table before today?

4 A I did with him.

5 JUDGE THOMPSON: It's been a long day, counsel.

6 THE WITNESS: Sorry.

7 JUDGE THOMPSON: Everybody gets confused.

8 Q BY MS. DAVILA: Okay. So you spoke to Mr. Dritsas here
9 before today?

10 A Yes.

11 Q How many times did you speak to him?

12 MR. DRITSAS: Well, no, not before today. Today.

13 Q BY MS. DAVILA: Oh, I'm sorry. Today?

14 A Today?

15 Q Oh, today.

16 A Just before I come to the --

17 Q Oh, okay. So not before today?

18 A Uh-huh.

19 Q Okay. Thank you.

20 JUDGE THOMPSON: You got to give a verbal response.

21 THE WITNESS: Yes.

22 JUDGE THOMPSON: Thank you.

23 THE WITNESS: Not before today. Just today.

24 Q BY MS. DAVILA: And when you say -- are you saying PDX
25 when you -- you used an acronym before. I just didn't

1 understand it.

2 A PBX.

3 Q PBX. And what is that?

4 A They take all the -- they take guest calls. Also they
5 take all the call from outside calls from the property,
6 employees. So it's like, for example, it's the main -- they
7 call it's the main, like, reception.

8 JUDGE THOMPSON: What does PBS is it?

9 MR. DRITSAS: X.

10 THE WITNESS: PBX.

11 JUDGE THOMPSON: X. What does that stand for? Do you
12 know?

13 THE WITNESS: Does stand for?

14 JUDGE THOMPSON: What does PBX stand for?

15 THE WITNESS: It like a -- extension of some person.

16 JUDGE THOMPSON: Okay.

17 MR. DRITSAS: It's a switchboard.

18 JUDGE THOMPSON: Is it a switchboard?

19 THE WITNESS: Uh-huh.

20 JUDGE THOMPSON: Yes?

21 THE WITNESS: Yes.

22 JUDGE THOMPSON: Okay. Continue, Ms. Davila.

23 Q BY MS. DAVILA: And do you remember speaking to Martha on
24 July 7th, 2015?

25 A Remember?

1 Q Yes.

2 A Speaking over the phone or personally?

3 Q Either. Did you speak to her over the phone?

4 A I don't remember to be honest because, you know, we get
5 calls and I don't remember about what do we spoke this night or
6 this, you know.

7 Q I understand. You send a lot of these emails --

8 A Yes, so --

9 Q -- all the time, correct?

10 A Yes, I do.

11 Q Okay.

12 A I do send emails so that's why.

13 Q Has there ever been a situation where you were involved
14 where you sent an email with the wrong associate's name?

15 A Not that I remember.

16 Q Okay. Do you remember if that's happened to any other --
17 to any other of the status clerks?

18 A No, I don't remember.

19 MS. DAVILA: One minute. Sorry.

20 Q BY MS. DAVILA: Just one more question or a few, I guess.
21 On Respondent's 28 here, your email, in your signature line it
22 says housekeeping supervisor?

23 A Uh-huh.

24 Q Is that --

25 A Yes.

1 Q -- your title?

2 A Yes, housekeeping supervisor.

3 Q What department do you work in?

4 A Housekeeping.

5 Q Housekeeping. And is there -- do you work in the status
6 department?

7 A Status? No.

8 Q No. So then why are you taking calls about call offs?

9 A Because, like, for example, status start at 4 in the
10 morning to open and make the paperwork for the GRAs. So
11 sometime, like, when PBX refer a call, they can send it to my
12 extension or a status extension. So whoever they can get it or
13 I can get the calls.

14 Q So the majority of your job isn't to take calls?

15 A Uh-huh.

16 Q Correct?

17 A Yes.

18 Q The status clerks that's their job to take the calls?

19 A Yes.

20 MS. DAVILA: Okay. No further questions.

21 JUDGE THOMPSON: Thank --

22 THE WITNESS: Yeah. Even them or me.

23 JUDGE THOMPSON: -- sir, you're good.

24 THE WITNESS: Oh, sorry. Okay.

25 JUDGE THOMPSON: Thank you.

1 MS. DAVILA: Thank you.

2 JUDGE THOMPSON: Thank you. Mr. Dritsas, any redirect?

3 MR. DRITSAS: No, Your Honor.

4 JUDGE THOMPSON: Mr. Rubi, thank you so very much for your
5 testimony. Please don't discuss it with anyone. You are
6 excused and have a wonderful day.

7 THE WITNESS: Okay. Thank you.

8 JUDGE THOMPSON: Thank you. You can just leave that on
9 the table for us.

10 THE WITNESS: All right.

11 JUDGE THOMPSON: Thank you.

12 Mr. Dritsas or Kramer, can we call our next witness.

13 MR. DRITSAS: Let me see if one of them is here, Your
14 Honor.

15 JUDGE THOMPSON: Okay. Let's go off the record.

16 (Off the record at 3:16 p.m.)

17 JUDGE THOMPSON: We are back on the record. Mr. Dritsas,
18 would you like to call your next witness.

19 MR. DRITSAS: I would, Your Honor. I'd like to call Vania
20 Mariscal.

21 JUDGE THOMPSON: Good afternoon.

22 MR. DRITSAS: I hope I pronounced that right.

23 JUDGE THOMPSON: Good afternoon. Is it Ms. Mariscal?

24 MS. MARISCAL: Yes.

25 JUDGE THOMPSON: Good afternoon.

1 MS. MARISCAL: Good afternoon.

2 JUDGE THOMPSON: My name is Judge Thompson. I'm an
3 administrative law judge with the National Labor Relations
4 Board, and I have been assigned to preside over this hearing
5 today. You have been called as a witness to testify on behalf
6 of the Respondent, Trump Hotel. But before you provide your
7 testimony, I need to swear you in.

8 MS. MARISCAL: Okay.

9 JUDGE THOMPSON: So would you please raise your right
10 hand.

11 Whereupon,

12 **VANIA MARISCAL**

13 having been duly sworn, was called as a witness herein and was
14 examined and testified as follows:

15 JUDGE THOMPSON: Yes. Thank you. Would you state your
16 name for the record, please.

17 THE WITNESS: Vania Mariscal.

18 JUDGE THOMPSON: Okay. Ms. Mariscal, would you spell your
19 first name so that we have it accurately.

20 THE WITNESS: V-A-N-I-A.

21 JUDGE THOMPSON: V-A -- I just butchered that. And would
22 you spell your last name as well.

23 THE WITNESS: M-A-R-I-S-C-A-L.

24 JUDGE THOMPSON: Great. Thank you, Ms. Mariscal. Let me
25 give you just a couple of reminders that I would like for you

1 to keep in mind as you give your testimony. Number one, we are
2 recording the proceedings today and that's why the microphone
3 is in front of you. You don't have to lean in. You can sit as
4 comfortably as you can in that chair. However, we would ask if
5 you could speak as loud as you can so that we can hear you
6 clearly; and if you give us a verbal response, yes, no or
7 whatever your response is. You're going to have to try to
8 avoid saying uh-huh --

9 THE WITNESS: Okay.

10 JUDGE THOMPSON: -- or huh-uh because our court reporter
11 can't transcribe those terms. So just remember yes, no or a
12 verbal response for us. That would be appreciated.

13 Second, if either of the attorneys at the table asks you a
14 question and you don't understand what they've asked you, would
15 you please tell them I don't understand what you're asking or I
16 don't understand your question. That way they can rephrase it
17 or repeat it as many times as necessary so that you will
18 understand what they ask you. If you answer a question, we
19 will assume that you understood what they were asking.

20 Next, if either of the attorneys at the table object to
21 something, a question that's asked, they're going to say
22 objection. I want you to hold your response. Don't answer the
23 question until I address the objection.

24 And finally, often times you may know where the attorneys
25 are headed when they are asking a question; but in order for

1 the record to be clear, could you hold your response until the
2 attorney has finished their complete question and then you
3 answer. Would you do that for us, please?

4 THE WITNESS: Yes.

5 JUDGE THOMPSON: Great. And finally, there is water and
6 hopefully a cup there for you. Please feel free to help
7 yourself if you get thirsty.

8 THE WITNESS: Thank you.

9 JUDGE THOMPSON: Mr. Dritsas, your witness.

10 MR. DRITSAS: Thank you, Your Honor.

11 **DIRECT EXAMINATION**

12 Q BY MR. DRITSAS: Vania, you work for the Trump Hotel in
13 Las Vegas?

14 A Yes, that's correct.

15 Q And what's your position title?

16 A I'm a housekeeping administrative assistant.

17 Q Okay. And how long have you worked for the hotel
18 approximately?

19 A I have worked since 2009.

20 Q Okay. And in your job, do you have any responsibility for
21 recording or monitoring attendance points?

22 A Yes, I do.

23 Q Okay. And so in particular, do you maintain the
24 attendance log for employees in the housekeeping department?

25 A Yes, I do.

1 Q Okay. Can you look in front of you there, there is a
2 stack of documents. We're only going to talk about one which
3 is Respondent's 6.

4 JUDGE THOMPSON: Let the record reflect I've handed Ms.
5 Mariscal what's been marked as Respondent's 6.

6 Q BY MR. DRITSAS: Okay. So in your job, if someone has an
7 attendance infraction, you record that on some kind of log?

8 A Yes.

9 Q And is that a handwritten document or a computer or what?

10 A We have it on an Excel spreadsheet.

11 Q Okay. And how do you get the information to record the
12 information?

13 A Usually when an associate calls in, they have to call in
14 through a status board operator or the operator when it's after
15 hours, and they just say they're calling off and then I get the
16 emails.

17 Q Okay. And then what do you do when you get the emails?

18 A I open their attendance calendar and document the
19 incident.

20 Q Okay. And do you calculate any of the points?

21 A Yes, I do.

22 Q And how do you know what points to issue or to count --
23 strike that. How do you know what points to calculate?

24 A It just depends on if they -- whether they call off on a
25 peak period, on a regular day, less than four hours or if they

1 were just tardy or anything.

2 Q Okay. So I want to focus you now do you know who Martha
3 Guzman is?

4 A Yes.

5 Q Okay. Did Martha Guzman come to you at any time in 2015
6 and ask you how many points she had?

7 A Yes.

8 Q And when was that?

9 A I believe it was back in May.

10 Q Okay. So if you take a look at Respondent's 6 and look
11 back in May, how many points did she have when she asked you
12 how many points she had?

13 A She had seven.

14 Q Okay. And how did you -- was that a face-to-face
15 conversation you had with her?

16 A Yes.

17 Q Okay. And did you tell her seven points?

18 A Yes.

19 Q Okay. Now, let's fast forward. Did -- as part of any
20 investigation, did anyone ever ask you about any communication
21 you had with Ms. Guzman about how many points she had in 2015?

22 A No.

23 Q Did -- okay. Do you know who Gustavo is?

24 A Yes.

25 Q Gustavo Acosta?

1 A Yes.

2 Q Did Gustavo ever ask you if you talked to Ms. Guzman about
3 how many points she had?

4 A No. I only spoke to my director.

5 Q Okay. And who is that?

6 A Alejandra Magana.

7 Q Okay. Did she ask you whether you said anything to Ms.
8 Guzman about how many points she had?

9 A Yes, she did.

10 Q Okay. And what did she ask you?

11 A She asked me if I told her if she had seven points, and I
12 clearly state, "Yes, I did tell her she had seven points back
13 in May." But Mrs. Guzman was confused about the time date that
14 I told her about the seven points.

15 Q Okay.

16 A And it states here on her --

17 Q Let me kind of move you to the next question. Ms.

18 Guzman's discipline on the second page says -- she says she
19 references talking to you and in July that you said she had
20 seven points in July. Did you ever tell Ms. Guzman in July
21 that she had seven points?

22 A No.

23 MR. DRITSAS: Okay. I have nothing further, Your Honor,
24 of this witness.

25 JUDGE THOMPSON: Okay. Just a second, counsel. Okay.

1 Thank you, Mr. Dritsas. General Counsel, any cross?

2 MS. DAVILA: Just a few questions, Your Honor.

3 JUDGE THOMPSON: Certainly.

4 **CROSS-EXAMINATION**

5 Q BY MS. DAVILA: Good afternoon, Ms. Mariscal. My name is
6 Judy Davila. I'm an attorney with the Government. This is my
7 co-counsel, Elise Oviedo. Did you review any documents in
8 preparation for your testimony today?

9 A No.

10 Q Did anyone speak to you to prepare you for your testimony
11 today?

12 A No.

13 Q Did you speak in general to anyone at the -- any employees
14 of the hotel that -- about your testimony today?

15 A No. I want to add to that. I just found out like at 2
16 that I had to come in.

17 JUDGE THOMPSON: Okay.

18 Q BY MS. DAVILA: And it's your job to track employees'
19 points, correct?

20 A Correct.

21 Q And it's their responsibility to keep track of their own
22 points, correct?

23 A Correct.

24 Q And if an employee wants to know how many points they
25 have, who do they ask?

1 A Me.

2 Q Okay. So you have conversations with employees about
3 their points all the time, correct?

4 A That's correct.

5 Q Are you the only one who makes entries into the attendance
6 box about points?

7 A No.

8 Q Who else does?

9 A Christina Keeran.

10 Q And who is she?

11 A She is the housekeeping lead.

12 Q And she also makes entries into the attendance calendars?

13 A Yes.

14 Q Do employees ask her about their points as well?

15 A Yes.

16 MR. DRITSAS: Object. Well, go ahead.

17 Q BY MS. DAVILA: And do you remember talking to Martha
18 Guzman about her points this year, correct?

19 A Yes.

20 Q And how do you remember talking to her about it this year?

21 A She had seven points.

22 Q I'm sorry, ma'am. How do you remember?

23 A She came in and I think she was sick, and she said she was
24 sick and she asked me, "How many points do I have?" So I
25 stated -- I told her seven.

1 Q Okay.

2 A That was the last time I spoke to her.

3 Q And that was when?

4 A Back in May.

5 Q And do you speak Spanish, ma'am?

6 A Yes.

7 Q And can you write in Spanish?

8 A Yes.

9 MS. DAVILA: No further questions, Your Honor.

10 JUDGE THOMPSON: Thank you. Mr. Dritsas, any redirect?

11 MR. DRITSAS: No, Your Honor.

12 JUDGE THOMPSON: Ms. Mariscal, thank you so much for your
13 testimony. Please don't discuss it with anyone. You are
14 excused and have a great day. I'll take that.

15 THE WITNESS: Okay.

16 JUDGE THOMPSON: Thank you so much.

17 THE WITNESS: Thank you.

18 MR. DRITSAS: Thank you for coming in.

19 THE WITNESS: Thanks.

20 JUDGE THOMPSON: We're off the record for our next
21 witness?

22 (Off the record at 3:29 p.m.)

23 JUDGE THOMPSON: We are back on the record continuing with
24 Respondent's case in chief. Counsel has advised that their
25 next witness has -- is not here and despite the subpoena, is

1 not currently here today. Counsel, is there -- are there any
2 other witnesses that you have been able to get ahold of that
3 could potentially appear today?

4 MR. DRITSAS: We tried, Your Honor, and we've been
5 unsuccessful.

6 JUDGE THOMPSON: Okay. Ms. Oviedo, did you want to put
7 something else on the record before -- because I'm going to
8 adjourn for the day, but I think you indicated you had
9 something you wanted to put on the record before we adjourned.

10 MS. OVIEDO: Yes, Your Honor, there's one issue I would
11 like to address and that's the fact that throughout this
12 hearing, we've been allowing Respondent's counsel to ask
13 leading questions of their witnesses. And essentially now
14 what's happening, especially with Mr. Wandick who's failed to
15 return, is they've been allowed to lead all of these witnesses
16 and now they're asking for a second crack at the whip by
17 recalling all of these witnesses and then putting on their
18 direct. So essentially they're getting a chance to do the
19 direct twice and I mean they had asked Mr. Wandick leading
20 questions the whole time and if they had just completed it,
21 then we wouldn't be in this situation right now. And I have
22 spoken with the Regional attorney and essentially what's going
23 to happen is we would have to go into federal district court
24 and get the subpoena enforced and then this case won't be
25 resolved in like -- until another six months. So the whole

1 point was to expedite this hearing and yet really they're
2 plowing the same ground with the same witnesses.

3 JUDGE THOMPSON: Okay. Mr. Dritsas, would you like to
4 respond?

5 MR. DRITSAS: Yes, Your Honor. So I was not consulted by
6 the General Counsel how they should put their case on. They
7 for some reason they called our witnesses. We can put our case
8 on the way we see fit. We have tried to expand as need be
9 sometimes the scope of the direct or to the scope of what's
10 really cross, but they want to call it direct based on their
11 testimony. We can't anticipate every question that's going to
12 be needed on our side when they're presenting evidence that
13 comes after Mr. Wandick as an example that touches on
14 allegations that he's got to respond to. So we don't -- we can
15 and I know I particularly have tried to expand to try to
16 minimize people coming back. But the idea that we're somehow
17 manipulating the process to get two bites at the apple or
18 something, I just find completely unwarranted and if you would
19 have put your case on without our witnesses, we wouldn't have
20 this. But since you've done that, we're doing what we can to
21 respond to the questions presented and then to present our
22 case.

23 MS. OVIEDO: This Region always puts on 611(c) witnesses
24 first. That's the way we do it here. And the whole point was
25 that is our direct and then you can recall them at a later

1 date. You're calling them at a later date but you also got to
2 ask leading questions throughout the entire hearing. So I mean
3 that'll have to go to credibility.

4 JUDGE THOMPSON: It will and I've noted your concern, Ms.
5 Oviedo. I don't believe that Respondent and I don't believe
6 there's any evidence that the Respondent is somehow trying to
7 using Respondent's term manipulate the rules of this hearing so
8 that they can get a second bite at the apple.

9 You know, we've encountered this issue in other regions,
10 the division of judges, in terms of the way that one party may
11 put on the case and whether Respondent counsel needs to recall
12 the witness, et cetera, et cetera, and it always ends up -- I
13 don't know in this situation, but there is the appearance that
14 there is some double dipping. Even if Respondent had not
15 expanded the testimony vis-à-vis Mr. Wandick, for example, we'd
16 still be in this position because he would have called him
17 today and he's not here.

18 So I don't know that we would have been in any different
19 of a position had Mr. Dritsas or Mr. Kramer not have expanded
20 direct or cross and then recall the witness again. But you've
21 made your point, counsel. I think unfortunately that's the
22 nature of how this particular way that we track cases at the
23 Board is -- I don't believe that counsel is trying to get two
24 cracks at the apple. And I agree with Mr. Dritsas that I have
25 to let counsel try his case as I have to let you guys try

1 yours. There was some objections to General Counsel's case in
2 chief and I recall saying I'm going to let Ms. Davila try her
3 case the way she sees fit because they can't tell you how to
4 try your case.

5 Be that as it may, Ms. Oviedo, I understand your concern.
6 I won't call it frustration. But I understand your concern,
7 but I don't think that counsel is trying to get -- at least I
8 don't have the impression that counsel is trying to get the two
9 bites at the apple. It just is unfortunate. I actually did
10 some due diligence myself with regard to the subpoena issue and
11 my understanding is you are correct, in the event that Mr.
12 Wandick does not appear and/or ignores the subpoena, Respondent
13 would have to go into federal court if it chooses to enforce
14 the subpoena, which would delay the case. Obviously, we can
15 continue to put on any other of Respondent's witnesses that
16 were available, but subject to Respondent withdrawing the
17 witness and just relying on the testimony that's provided. If
18 Respondent sought to enforce the subpoena, Respondent would
19 have to go to federal court which would as you suggested delay
20 the case. I don't believe that's Respondent's fault
21 necessarily. It just unfortunately is what it is. But Ms.
22 Oviedo, I understand your concern. I just don't necessarily
23 think that in this circumstance, it is Respondent's attempt to
24 get two bites at the apple.

25 MS. OVIEDO: And I didn't mean to suggest that you were

1 trying to manipulate everything. I just meant that if we did
2 all of this the way we did it in order to save time, we're
3 really not saving time because we're recalling those witnesses
4 anyway. So I think it should be noted somewhere that, you
5 know, either -- if they're going to be recalling these
6 witnesses, then they shouldn't have been asked -- they
7 shouldn't have been able to ask leading questions to begin with
8 on their own witnesses.

9 JUDGE THOMPSON: Well, that was at my discretion, counsel,
10 and but unfortunately the way this process works, and I think
11 we -- I think I know what you're saying, but just let me say
12 this. Unfortunately, the way this process works, you know,
13 everything is a mystery. We don't know who the witnesses are.
14 We don't know when they're going to be called. I allow counsel
15 to do some semblance of leading on cross because like you
16 suggested, to try to expedite the case.

17 At the same time, both parties get to try their case the
18 way they see fit. That's the rub. Even if counsel wasn't
19 allowed to lead again and they ask open ended questions on
20 cross, we'd still be back here because then Mr. Dritsas would
21 or Respondent would recall Mr. Wandick for example. He's still
22 not here and we'd still be in the same scenario. So I just
23 think it's an unfortunate turn of events because the witness
24 isn't here. And it's delayed -- it is delaying the case
25 somewhat. Mr. Dritsas, do you still believe even with this

1 delay assuming that you don't enforce the subpoena vis-à-vis
2 Mr. Wandick, that you could still make your time target as you
3 have indicated?

4 MR. DRITSAS: Let me say this, Your Honor. I'm not
5 prepared opt say that we're not going to enforce. I have to
6 give that some thought.

7 JUDGE THOMPSON: No, I'm not suggesting you are.

8 MR. DRITSAS: If Mr. Wandick appeared, I still believe
9 that we'll fit the time period around.

10 JUDGE THOMPSON: Okay. So with that said, counsel, your
11 concern is noted.

12 MS. OVIEDO: Thank you, Your Honor.

13 JUDGE THOMPSON: And that's all I'm going to say about
14 that. Based on the situation, we're going to have to
15 unfortunately adjourn for the evening and return back at 9 a.m.
16 Hopefully, Respondent, we will have witnesses ready and
17 available to proceed because I --

18 MR. DRITSAS: We will, Your Honor.

19 JUDGE THOMPSON: Good. Okay. Having said that, we'll
20 adjourn until 9 a.m. tomorrow. Have a good evening.

21 MR. DRITSAS: Thank you, Your Honor.

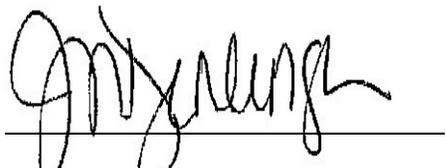
22 JUDGE THOMPSON: Off the record.

23 **(Whereupon, the hearing in the above-entitled matter was**
24 **recessed at 4:13 p.m. until Thursday, December 03, 2015 at 9:00**
25 **a.m.)**

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Wednesday, December 2, 2015, at 9:07 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.


A handwritten signature in black ink, appearing to read 'Jacqueline Denlinger', is written over a horizontal line.

JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: December 3, 2015

Pages: 1366 through 1624

Volume: 8

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Thursday, December 3, 2015, at 9:10 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Imelda Cretin	1376	1402	1425		
I. Gonzalez	1429	1440	1448		
Christina Keeran	1454	1459	1469		
Christina Keeran	1477				
James Doucette	1482	1499	1516		
Gustavo Acosta	1525	1544			
Alejandra Magana	1546				1561/1563

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-36	1475	1475
Respondent:		
R-32	1457	1459
R-33	1540 (Rejected)	1540
R-34	1550	1550
R-35	1553	1553
R-36	1557	1564
R-37	1566	1566
R-38	1572	1572
R-39	1572	1572
R-40	1575	1575
R-41	1579	1579
R-42	1586	1586
R-43	1589	1589
R-44	1589	1589
R-45	1597	1597
R-46	1604	1604
R-47	1604	1604
R-48	1609	1609
R-49	1613	1613

1 With regard to her issue with regard to the leading
2 questions during the General -- strike that. With regard to
3 her concern regarding the Respondent's leading questions during
4 the General Counsel's direct, I would direct General Counsel's
5 attention to 611(c) and particularly 611 -- strike that. And
6 particularly, Section 16-611.2 and 16-611.4 which allows a
7 party based on the judge's discretion to ask leading questions
8 of non-adverse witnesses.

9 However, with respect to her concern of counsel for
10 Respondent's leading questions on direct, I'm going to construe
11 her concern as an objection since none was lodged during
12 Respondent counsel's direct, I'm going to construe her concern
13 as an objection to counsel's leading their witnesses. And I'm
14 going to sustain the objection to this extent, Respondent. I
15 am going to instruct you to ask open but direct questions of
16 your witnesses and only request permission to lead witnesses if
17 is necessary to further the development of the record if the
18 witness is hostile or in the interest of judicial efficiency, I
19 would request that you ask permission to lead if it will
20 promote efficiency when there is a language barrier with regard
21 to the witness.

22 I recall that I allowed counsel for the General Counsel to
23 lead in instances where there was language barriers of the
24 witness, when she invoked her 611(c) to treat the witness as
25 hostile and just to promote judicial efficiency at times she

1 was allowed to lead the witness on direct. And I'm going to
2 extend that same instruction to Respondent counsel. But to the
3 extent that those issues are not applicable, I would ask
4 counsel for Respondent to remember to ask open ended, if not
5 direct, questions of your witnesses on direct.

6 I don't want to have a long drawn out discussion. I just
7 wanted to address more formally Ms. Oviedo's concern and
8 construe it as an objection as I took it to be an objection to
9 counsel leading on direct. So I wanted the record to be clear.
10 I want to sustain that objection, but sustain it in the
11 following manner that I just indicated.

12 MR. DRITSAS: Can I ask for clarification, Your Honor?

13 JUDGE THOMPSON: Yes.

14 MR. DRITSAS: I think I understood you to say that for the
15 hostile witness called by the General Counsel on direct, your
16 ruling was for juridical efficiency and other reasons, you were
17 not objecting to leading questions by Respondent of that
18 witness.

19 JUDGE THOMPSON: That's correct.

20 MR. DRITSAS: Okay. And then the second clarification is,
21 are you ruling anything retroactively? So are you -- do we
22 need to go back and see --

23 JUDGE THOMPSON: No.

24 MR. DRITSAS: Okay. That's all I needed.

25 JUDGE THOMPSON: Sorry, I didn't mean to -- as I tell

1 every witness, don't interrupt and then I proceed to interrupt.

2 MR. DRITSAS: You're the Judge, you can do that. I
3 understand.

4 JUDGE THOMPSON: No. Going forward, counsel.

5 MR. DRITSAS: Thank you, Your Honor.

6 JUDGE THOMPSON: Okay. Now, all of the same instructions
7 that I have -- that I gave, god, a week and a half ago
8 regarding witnesses being sequestered, silence, cell phones, et
9 cetera, still remain in effect. And if there be nothing
10 further with regard to housekeeping for either counsel, Mr.
11 Dritisas and/or Mr. Kramer, we'll continue with Respondent's
12 case. Would you like to call your next witness?

13 MR. KRAMER: Yes, Your Honor. Respondent calls Imelda
14 Cretin.

15 JUDGE THOMPSON: Okay. And counsel, does she need an
16 interpreter?

17 MR. KRAMER: She has told me no, Your Honor.

18 JUDGE THOMPSON: Okay. Perfect.

19 MS. OVIEDO: Could we go off the record real quick?

20 JUDGE THOMPSON: Off the record.

21 (Off the record at 9:18 a.m.)

22 JUDGE THOMPSON: We are back on the record. Good morning,
23 Ms. Cretin.

24 MS. CRETIN: Good morning.

25 JUDGE THOMPSON: Am I pronouncing it properly?

1 MS. CRETIN: Yeah.

2 JUDGE THOMPSON: I am Judge Thompson. I'm an
3 Administrative Law Judge with the National Labor Relations
4 Board. I have been assigned to preside over the hearing in
5 this case. And you have been called as a witness to testify on
6 behalf of Respondent. But before you do so, I need to swear
7 you in. Would you raise your right hand please.

8 Whereupon,

9 **IMELDA CRETIN**

10 having been duly sworn, was called as a witness herein and was
11 examined and testified as follows:

12 JUDGE THOMPSON: Great. Thank you. Ms. Cretin, would you
13 please state your name for the record.

14 THE WITNESS: Imelda Cretin.

15 JUDGE THOMPSON: How do you spell your first name?

16 THE WITNESS: I-M-E-L-D-A.

17 JUDGE THOMPSON: Okay. How do you spell your last name?

18 THE WITNESS: C-R-E-T-I-N.

19 JUDGE THOMPSON: Got it. Thank you. Ms. Cretin, let me
20 give you just a few instructions on the procedures that we
21 operate under when you are giving testimony. Number one, we
22 are recording the proceedings today and our court reporter is
23 creating a transcript. To help us, we would ask if you would
24 speak as loud as you can. You don't have to lean into the mic.
25 You can sit as comfortably as you can in that chair. But if

1 you would just speak as loud as you can. And also, give us a
2 verbal response. Our court reporter has trouble transcribing
3 uh-uh or uh-huh.

4 THE WITNESS: Oh, yeah.

5 JUDGE THOMPSON: So if you give us a verbal, that would be
6 great.

7 THE WITNESS: Okay.

8 JUDGE THOMPSON: Second, if you don't understand a
9 question that either of the attorneys at the table asks you,
10 would you please tell us, I don't understand your question. So
11 that way, counsel can repeat or rephrase the questions as often
12 as necessary in order for you to understand what they're asking
13 you.

14 THE WITNESS: Absolutely.

15 JUDGE THOMPSON: Next, if either attorney objects, they're
16 going to say objection really loudly. Would you mind holding
17 your response and don't answer until I can address their
18 concerns.

19 And finally, if you would wait when they ask you a
20 question, you may know kind of where they're headed, but if you
21 would just wait until they finish their entire question before
22 you answer, we would appreciate that. Can you do that for us?

23 THE WITNESS: Absolutely.

24 JUDGE THOMPSON: Perfect. Thank you. Mr. Kramer, your
25 witness.

1 MR. KRAMER: Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 Q BY MR. KRAMER: Good morning, Ms. Cretin.

4 A Good morning.

5 Q Could you tell us where you currently work?

6 A I work for the company name is MasterCorp.

7 Q What do you do for MasterCorp?

8 A I'm an executive housekeeper.

9 Q And prior to MasterCorp, where did you work?

10 A I work at the Trump Hotel.

11 Q You recall when you started working at the Trump Hotel?

12 A Absolutely. January 28, 2008.

13 Q And how long did you work -- when did you leave the
14 employment?

15 A July 15, 2015.

16 Q And what position did you hold at the time you ceased
17 being employed at the Trump Hotel?

18 A Housekeeping floor manager.

19 Q How long were you a housekeeping floor manager?

20 A Almost seven years I believe. I'm not sure.

21 Q And prior to that, what position did you hold?

22 A I was a guestroom attendant when I opened the hotel.

23 Q Okay. Could you explain for the Judge what you do as a
24 housekeeping -- what you did as a housekeeping floor manager?

25 A Yeah, well my responsibility were I was the opening

1 manager. My shift start at 7 or 7:30 in the morning. I was in
2 charge to check in the occupancy of the hotel for the day,
3 making sure I have enough staff for the day. If I don't enough
4 staff, I had to call and replace them. Then I had to do my VIP
5 assignments for the VIP team. And after that, I had to do a
6 preshift for the 7:30 a.m. housekeepers. And after the 7:30
7 a.m. shift, preshift, I had to -- well making sure all the
8 papers and keys or iPads are ready for the 8:30 shift.

9 After I'm done with that, I making sure all the runners
10 because there have different times to start, they have the
11 assignments ready and key and ready to go. I also had to
12 monitor our status making sure all the HotSOS goals, our
13 delivery on the time to the guests and as well I talk to front
14 desk and reservation to make sure I have the information for
15 the reservations on the guests, any special requests or you
16 know early arrivals. Well, pretty much all the housekeepers.
17 And then I do an 8:30 a.m. preshift to the housekeepers.
18 Sometimes I do it by myself. Sometimes I do it with another
19 manager. It depends.

20 JUDGE THOMPSON: Mr. Kramer, I'm going to ask you if you
21 wouldn't mind so that it is not so much of a narrative, if you
22 might -- if you would kind of break it down so that --

23 THE WITNESS: Yeah, it's a lot of duties.

24 JUDGE THOMPSON: -- we can make sure we get everything.

25 MR. KRAMER: Perhaps I can ask some more direct questions,

1 Your Honor?

2 JUDGE THOMPSON: Perhaps.

3 MR. KRAMER: Okay.

4 Q BY MR. KRAMER: Ms. Cretin, were you responsible for
5 managing the GRAs on your shift?

6 A Yes.

7 Q Okay. And did you have responsibility for disciplining
8 GRAs?

9 A Yes.

10 Q Did you -- could you tell us and by the way, you're here
11 today under subpoena; is that correct?

12 A Uh-huh.

13 Q Okay.

14 JUDGE THOMPSON: Yes?

15 THE WITNESS: Yes, sorry.

16 Q BY MR. KRAMER: Could you -- I'd like to direct your
17 attention to what happens at the end of the day when you are
18 working there. Could you tell us what your responsibilities
19 were at the end of your shift?

20 A The very end of the shift is collect keys and iPads from
21 housekeepers. And make sure double checking the computer all
22 the assignment in each housekeepers was clean and ready to go.

23 Q Okay. And just for clarification here, you've mentioned
24 iPods (sic throughout) and papers. Can you tell us what you
25 mean by that?

1 A Well, at the beginning, we used to have assignment on
2 papers for them. And the last year I work it, we used to have
3 iPads. So they're no longer carrying papers. Only the iPads.

4 Q Okay. Do you remember when they started carrying the
5 iPads instead of the papers?

6 A Not really.

7 Q Okay. And you said you were collecting keys and papers
8 and their iPads. From who would you collect these?

9 A For all the housekeeper, which ones come to my desk.
10 Sometimes we have one or two managers collecting them. So
11 they're used to make a line and whoever --

12 Q Okay.

13 A -- make line behind me, I take them.

14 Q Okay. And they would line up next to your desk; is that
15 correct?

16 A Well, kind of behind.

17 Q Behind? Okay.

18 A Yeah.

19 Q And when you would do this, would -- I mean you said they
20 would line up. How often did that occur?

21 A Every day.

22 Q Okay. Now there is an exhibit there that's marked
23 Respondent's Exhibit 18.

24 JUDGE THOMPSON: Let the record reflect I'm handing Ms.
25 Cretin what's been marked as Respondent Exhibit 18.

1 Q BY MR. KRAMER: All right. Do you -- can you identify for
2 us the first page of this document?

3 A Yeah, it's the map from the housekeeping office. The very
4 entry of the office.

5 Q Okay. And can you tell us where the manager's desks --
6 tables were?

7 A Oh, by number 2.

8 Q Okay. Now if you could take a look at page -- these pages
9 are lettered at the bottom. Do you see that? Could you go to
10 page E?

11 A Got it.

12 Q Okay. Do you recognize this?

13 A Yeah.

14 Q Could you tell us what this is?

15 A This is the housekeeping office. This is Christina's desk
16 and this is the managers' counter.

17 Q Okay.

18 MR. KRAMER: And may I approach, Your Honor?

19 JUDGE THOMPSON: Please.

20 MS. DAVILA: May I?

21 JUDGE THOMPSON: Yes.

22 Q BY MR. KRAMER: Could you -- because we need to describe
23 this for the court reporter, could you point to Christina's
24 desk?

25 A This.

1 Q Is that the desk in the front of the photo?

2 A Uh-huh.

3 Q All right.

4 JUDGE THOMPSON: Yes?

5 THE WITNESS: Yes, I'm sorry.

6 MR. KRAMER: Let the record reflect she's pointing to the
7 front of the photo.

8 Q BY MR. KRAMER: And what -- do you know Christina's last
9 name?

10 A Keeran.

11 Q Keeran, okay. And where is it that you indicated were the
12 managers' desks?

13 A Right here.

14 Q So you're pointing to the wall at the end there?

15 A Yeah, on the counter.

16 Q Okay. And to the right of that wall, do you see a closed
17 door?

18 A Yeah.

19 Q Do you know whose door that is?

20 A Yes, Alejandra Magana's office.

21 Q Okay. And could you point for the Judge as to where your
22 station was along this wall?

23 A At the very end. It's not on the picture, but well yeah,
24 it is here. At the very end.

25 Q Okay. So where is it you would collect the keys and the

1 iPods or sheets from the employees?

2 A Right here. I sit right there and the people line up this
3 way and then this way by the entrance.

4 Q Okay. So they line up in front of you and then back
5 towards the entrance?

6 A Behind me because I'm sitting like this and they're like
7 this.

8 Q Okay. And if you could go to page A.

9 MR. DRITSAS: Can you -- excuse me, Your Honor, but can
10 you guys describe for the record because -- at the very end,
11 behind me, you've got to make sure that the record's clear.

12 THE WITNESS: Okay. I can tell you that it depend where
13 you see it. I'm here at the left side.

14 Q BY MR. KRAMER: Okay, before you do that. You're looking
15 at letter, what letter page?

16 JUDGE THOMPSON: If you could switch to E, page E.

17 THE WITNESS: Okay.

18 JUDGE THOMPSON: Okay.

19 THE WITNESS: Yeah. On the left side.

20 Q BY MR. KRAMER: Okay. On the far left side is where
21 you're sitting; is that right?

22 A Yeah, the first computer on the left side.

23 Q Okay. And when you're sitting and collecting keys, are
24 you facing the wall or are you --

25 A Yes.

1 Q Okay. And then where would the GRAs come to turn in your
2 key -- their keys and stuff?

3 A Behind me.

4 Q Okay. They would be standing behind you?

5 A Yes.

6 Q And then would they come next to you to turn in --

7 A Yeah, when it's their turn, they come very close to me.

8 Q Okay.

9 A So they can see the computer screen at the same time I
10 check in the iPad and asking questions. Is that room
11 completed, why it's not showing clean or you're good to go,
12 thank you, have a good day.

13 Q Okay. So you actually -- both of you look at the computer
14 screen and go through and make sure the rooms are clean?

15 A Yes, they have to.

16 Q And you need to wait until I finish asking the question,
17 okay?

18 JUDGE THOMPSON: Thank you.

19 MR. KRAMER: The court reporter will end it.

20 THE WITNESS: Yeah.

21 JUDGE THOMPSON: Okay.

22 Q BY MR. KRAMER: So and then you recall, would they sit --
23 would they stand to the right of you or to the left of you as
24 you were seated?

25 A Left.

1 Q To the left. So they would be even farther to the left on
2 this photo; is that right?

3 A Yes.

4 Q Okay. And you said they would line up?

5 A Yes.

6 Q Okay. Now I'm going to turn you to the front page because
7 I think this may be easier for everyone. You see the manager
8 here on number 2?

9 A Yes.

10 Q So how would they -- could you describe for us on this
11 paper, how they would line up to have their keys turned in?

12 A On my left side.

13 Q Okay.

14 A And then go straight and then if the line becomes long,
15 they go this side.

16 Q Left.

17 A They make an L.

18 Q Okay. So they go behind you until you see the hallway
19 next to Vania's desk?

20 A Yes.

21 Q Is that correct?

22 A Uh-huh.

23 Q And that's where they would make the L towards the
24 entrance?

25 A Yes.

1 Q Okay.

2 MR. KRAMER: Is the record clear, Your Honor, on that?

3 JUDGE THOMPSON: To me it is.

4 MR. KRAMER: Okay.

5 JUDGE THOMPSON: I got it. Thank you.

6 MR. KRAMER: Thank you.

7 Q BY MR. KRAMER: In that particular station you described,
8 was that your station in 2015?

9 A For all the time I worked there, that was my station.

10 Q Okay. And from where you were sitting in your station,
11 were you able to listen to conversations of Alejandra Magana
12 would have in her office?

13 A No.

14 Q You couldn't hear her?

15 A No.

16 Q Why not?

17 A Because they always close the door first of all. And
18 second thing, I'm far away. And the housekeeping office is
19 very loud when they're inside. All the housekeepers, you had
20 to keep telling them, they're excited all the time, a lot of
21 energy. You had to tell them calm down, it's status is on the
22 phone. Plus that the radios are on and status is taking calls.
23 It's a lot of noise in there. And she always close her door.
24 It's very weird when if somebody inside and they leave the door
25 open.

1 Q Okay. There have been times I take it when she's had her
2 door open, right?

3 A Well, probably.

4 Q Okay. Have you ever heard anything coming out of her
5 office?

6 A No.

7 Q Now you mentioned radios. What are you talking about
8 radios?

9 A Well, all the hotels I believe and especially
10 housekeeping, we have radios. And Trump Hotel, we have three
11 channels for housekeeping. One for the supervisors, one for
12 the runners and another one for the public areas employees. So
13 it's three channels at the same time, everybody's talking and
14 plus that the phones ringing on status.

15 Q Okay. You said three what was that word you're using?

16 A Three channels on the radio.

17 Q Channels.

18 JUDGE THOMPSON: Channels.

19 Q BY MR. KRAMER: Okay, thank you. So I'm going to -- do
20 you know someone by the name of Maria Jaramillo?

21 A Maria Jaramillo, yes, I do.

22 Q And who is she?

23 A She's a housekeeper at the Trump.

24 Q Okay. Was she one of the associates that you managed
25 while you were there?

1 A Yes.

2 Q And do you know an employee by the name of Antonia Garcia?

3 A Antonia Garcia, yes.

4 Q And who is she?

5 A She's another housekeeper.

6 Q Okay. Someone else that you would manage?

7 A All the housekeeping department.

8 Q Okay. Was there -- and Ms. Jaramillo would turn in her
9 keys and iPod to you on occasion?

10 A Sometimes, yes.

11 Q Okay. You recall, I want to take you back to June of this
12 year, okay.

13 A Uh-huh.

14 Q Do you ever recall a situation where Ms. Jaramillo was
15 turning in keys and an iPad to you where you heard a
16 conversation coming from Ms. Magana's office?

17 A No.

18 Q Okay. Have you ever heard Ms. Magana tell an associate,
19 one of your GRAs, anything along the lines that she considered
20 her to be a traitor?

21 A No.

22 Q Do you know an associate by the name of Rodolfo Aleman?

23 A Rodolfo Aleman, yes.

24 Q What position did he hold?

25 A Housekeeper.

1 Q Was he someone else that you would manage on occasion?

2 A Yes.

3 Q Okay. Do you know an employee by the name of Carmen
4 Llarull?

5 A Carmen Llarull, yes.

6 Q What position did she hold?

7 A Housekeeper.

8 Q Another person that you would manage from time to time?

9 A Well, it's a lot of names. I can say the housekeeping
10 department is big. But it's all the housekeeping department.

11 Q All right. And when you're on a shift, are you the only
12 floor manager on the shift?

13 A For two hours, yes, and when somebody requests vacations
14 and the season is too slow, yes.

15 Q Okay. And other times there's more floor managers?

16 A Yeah, when I was working there the last year, we have four
17 floor managers and one training manager.

18 Q Okay. Do you recall any time when Ms. Llarull asked you
19 about a possible promotion for Mr. Aleman?

20 A Rodolfo?

21 Q Yes.

22 A Yes, absolutely, I remember very clear the time.

23 Q Okay. Let me ask you some questions. Do you remember
24 where this conversation occurred?

25 A Yes, just right there in front of the window where we post

1 the schedule inside the housekeeping office.

2 Q Okay. And do you remember approximately when this
3 conversation occurred?

4 A No.

5 Q Okay. And do you remember if anyone else was present?

6 A Well, we were talking only me and her, but I'm telling you
7 the housekeeping office is always in and out.

8 Q Okay.

9 A It's always somebody around.

10 Q All right. And do you remember -- did you initiate this
11 conversation or did she?

12 A She did it.

13 Q Okay. And now I want you to as best as you can, can you
14 tell us what she said to you and you said to her?

15 A She was looking at the window where we post the schedule
16 for any position open for them to sign in. I don't remember
17 exactly if the position was already given to somebody or was
18 that been for that position to assign. She asked me how come
19 Rodolfo didn't get this position. And I say, what position?
20 And she say the warehouse position and I say I should don't
21 tell you this because every information for each employee is
22 private. But I will let you know. That way you cannot think
23 what it's not. I told her that Rodolfo has some disciplinary
24 actions on his file and as we talking on the preshift
25 previously, any employee with job performance or attendance

1 disciplinary actions, they're not eligible to get a transfer to
2 any position or to any other department.

3 Q Okay. And did she say anything in response to that?

4 A Well, she's like are you sure? I say yes, absolutely and
5 you can go and check your handbook. There is that information.
6 And Rodolfo knows why he didn't get that promotion because he
7 got disciplinary actions in his file.

8 Q Okay. And she say anything in response to that?

9 A I don't remember nothing else.

10 Q Okay. Now let me ask you this. You said -- well, first
11 of all, you were -- just for clarification, you were talking
12 about a warehouse position; is that correct?

13 A Yeah, the warehouse attendant.

14 Q Okay. And when you explained this, you said that you said
15 to her that you were telling her this because you didn't want
16 her to think what it is not; is that what you said?

17 A Yes.

18 Q What did you mean by that?

19 A Well, it was a lot of coming comments from the employees
20 that there were a lot of favoritism in there. And all the time
21 they had the opportunity, they try to twist things into
22 favoritism. But there were not favorites. It's just you're
23 not eligible to get it, you don't get it.

24 Q Okay. Do you recall whether there was any discussion
25 between you and Carmen at that time about --

1 A No.

2 Q == well, let me finish the question. About the Union?

3 A No.

4 Q Okay. Did -- do you recall, does Carmen Llarull wear a
5 Union pin?

6 A Repeat the question.

7 Q Yeah. Did Carmen wear a Union pin?

8 A Always.

9 Q Okay. Did in this conversation at all, did you point to
10 the Union pin?

11 A Never.

12 Q Okay. Did you ever tell Carmen that Mr. Aleman was not
13 promoted because of his Union button?

14 A No.

15 Q Did you tell her that he was not promoted because of his
16 Union activities?

17 A No.

18 Q Did you tell her he was not promoted because of his
19 support for the Union?

20 A No.

21 Q Did you ever tell her the hotel would never give the
22 position to him because of his Union activities?

23 A No.

24 Q Or because of his Union button?

25 A No.

1 Q Okay. Now, do you know an employee by the name of Ofelia
2 Diaz?

3 A Yes.

4 Q And what position did she hold?

5 A She was a housekeeper but she focused on cleaning Hilton
6 units.

7 Q Okay. You recall sometime in the summer having a
8 conversation with her regarding the possibility of her training
9 other associates?

10 A Yes, I do.

11 Q Do you -- in 2015 summer?

12 A Dates I don't really remember.

13 Q All right.

14 A But I remember those things.

15 Q It would have been before you left your employment?

16 A Absolutely.

17 Q Do you recall whether it was before or after the election
18 that had been scheduled at the end of June?

19 A That was before.

20 Q Before? Okay. And was it before or after you had the
21 conversation with Carmen regarding Mr. Aleman?

22 A Not sure.

23 Q Okay. Do you remember where this conversation occurred?

24 A Yeah, I was sitting at my desk and she come to turn her
25 key and her iPad.

1 Q Okay. So this would have been at the end of her shift?

2 A Yes.

3 Q And it would have been in the housekeeping office?

4 A Yes.

5 Q And were there other housekeepers turning in their
6 materials at the same time?

7 A I don't remember.

8 Q Okay.

9 A But probably.

10 Q All right. And as best as you could recall, could you
11 please tell the Judge what she said to you and you said to her?

12 A Well, her question was about training. Okay. She asked me
13 how come I'm no longer training the new hires. And I say I'm
14 no longer the training manager, but goes I used to be the
15 training manager before and she trained new hires for me when I
16 ask her. So things change. We have a new housekeeping
17 training manager. And of course he does everything a different
18 way. He like to do a training class for the trainees so
19 everybody has the same information.

20 So I believe at the time we did the training classes, she
21 was not on duty. So she didn't get the classes. So that's the
22 reason she didn't get no more to be a trainer. And she asked
23 me, how come I'm no longer a trainer. I say, well, I'm not
24 sure but I can talk to Anthony who's in charge of the training
25 and ask him if he can put you back for training. And then

1 she's like can you do that for me? Why I'm no longer a
2 training because I'm wearing the Union pin and I say,
3 absolutely no. That's not a point. The point is we have new
4 procedures and you had to take a class to be able to be a
5 trainer. And she told me, can you tell him please, I want to
6 be a trainer again. I say, yes, absolutely.

7 At the time, Anthony walk inside the office and I ask him,
8 hey, Ofelia is asking me if she can train again the new hires
9 and he's like okay, let me check the schedule when there's
10 going to be a new class.

11 MS. DAVILA: Objection. Narrative.

12 JUDGE THOMPSON: I'll sustain the objection. Counsel, can
13 you kind of break it up for me a little bit. Even though I
14 understand what the witness is saying, can you kind of
15 interject questions to direct the witness?

16 MR. KRAMER: Sure.

17 Q BY MR. KRAMER: Let me walk you through this piece by
18 piece. It makes it easier for everyone.

19 A Okay.

20 Q So at the time -- you used to be the training manager?

21 A Yes.

22 Q And when you were training manager, you had assigned Ms.
23 Diaz to train some new people?

24 A Yes.

25 Q And do you -- and then Mr. -- you said Anthony. Is that

1 Anthony Wandick?

2 A Yes.

3 Q He became the training manager?

4 A Yes.

5 Q And what was his practice with regards to who would train?

6 A He get together with Gustavo in human resources and they
7 do some classes for the trainees. So to be able to train new
8 hires, you had to take that class.

9 Q Okay.

10 A I never been in the class. I'm not sure about what it is.

11 Q All right. And do you recall whether or not Ms. Diaz had
12 been on a leave of absence earlier that year?

13 A I don't remember, but she kind of missed days sometimes.
14 The reason I don't remember.

15 Q Okay. Now I'm going to go kind of sentence by sentence
16 here. So she came to you and what did she say to you?

17 A How come I'm no longer training new hires?

18 Q Okay. What did you say in response?

19 A I'm not sure. Let me find out because I'm no longer the
20 training manager.

21 Q Okay. And then did you continue or did she continue?

22 A She's like yeah, I want to know why. Is that because my
23 Union pin?

24 Q And what did you say to that?

25 A I say absolutely no. It's not that. And please don't

1 think that way. I will talk to Anthony and find out why you no
2 longer training and he is -- he can put you back.

3 Q Okay. So she's the one who raised her Union pin?

4 A Repeat?

5 Q Yeah. She's the one who pointed out her Union pin?

6 A Yes.

7 MS. DAVILA: Objection. Leading.

8 JUDGE THOMPSON: Overruled.

9 MR. KRAMER: Okay.

10 Q BY MR. KRAMER: Did you when she -- well strike that. And
11 so after you told her that you would talk to Anthony, then did
12 she say anything else?

13 A No.

14 Q Okay. And did you say anything else to her?

15 A No.

16 Q Okay. All right. And during this conversation, did you
17 at any point point to her Union pin?

18 A No.

19 Q At any point in this, did you touch her Union pin?

20 A No.

21 Q At any point in this, did you tell her that she wasn't
22 training because she was supporting the Union?

23 A No.

24 Q At any point in this, did you tell her that she was not
25 training because she was wearing a Union button?

1 A No.

2 Q Did you -- have you ever told Ms. Diaz that she was
3 ruining her career by wearing a Union button and she would not
4 get anything at the hotel?

5 A Absolutely no.

6 Q Okay. Now, I think you indicated that just as that
7 conversation was ending, Mr. Wandick came in -- you saw Mr.
8 Wandick in the office?

9 A Yes.

10 Q All right. And where did you have your conversation with
11 Mr. Wandick?

12 A Desk to desk.

13 Q Okay. He sit -- where does he sit in relation to you?

14 A On the other side -- it's like one manager between he and
15 me.

16 Q Okay. And do you remember where Ms. Diaz was at the time
17 you spoke to Mr. Wandick?

18 A Stand up next to me.

19 Q Okay. And we're going to do what you said and what he
20 said one at a time, but as best as you can remember, could you
21 tell us what you said to Mr. Wandick?

22 A Yeah, I say hey, Anthony, Ofelia wants to know why she is
23 no longer training.

24 Q Okay. And then what did Mr. Wandick say to you?

25 A I think she missed the class. She needs to take a class.

1 Q What did you say then?

2 A Okay, can you find out for her? And he say yes, I will.
3 Let me share with Gustavo when there's going to be another
4 class.

5 Q Okay. Was there -- did you say anything else to Mr.
6 Wandick during that conversation?

7 A No.

8 Q Okay. Now did you have any follow-up conversations with
9 Ms. Ofelia Diaz regarding this?

10 A No.

11 Q And did you have any follow-up conversations with Mr.
12 Wandick about this?

13 A No, because I thought he would follow up with her.

14 Q Okay. And did Ms. Diaz ever get back to you and say that
15 she hadn't gotten back -- heard from Mr. Wandick?

16 A No.

17 Q Okay. I'm going to show you another document here. If
18 you could, look at Respondent's Exhibit 3. It's --

19 JUDGE THOMPSON: Let the record reflect I'm handing the
20 witness Respondent 3.

21 Q BY MR. KRAMER: Ms. Cretin, if you could look at the first
22 page of the document, Ms. Cretin.

23 A Huh?

24 Q Could you look at the first page of this document?

25 A Yes, I am.

1 Q Okay. Is -- can you tell us what this form is?

2 A Yeah, it's a disciplinary action for the Trump Hotel.

3 Q Okay. And you see the manager's signature down at the
4 bottom?

5 A Yeah.

6 Q Can you identify that signature?

7 A Yeah, the first one is my.

8 Q Okay. And I think you indicated that you do discipline
9 employees; is that correct?

10 A Yes.

11 Q Okay. Now if you take a look at the second page of this
12 document, do you recognize the manager's signature there?

13 A Yes, it's mine.

14 Q Okay. Now, could you tell us what your process is when
15 you issue discipline to employees?

16 A It depends. It's job performance. There had to have --

17 Q Well, let me maybe if I may, with regards to attendance.

18 A Attendance.

19 Q And I'm not asking you about how many points you need. I
20 really want to ask you what you do when you issue the
21 discipline?

22 A When I issue?

23 Q Yes.

24 A Well, I call the employee on private.

25 Q Okay.

1 A And then I explain to them why they're there with me.

2 Q Okay.

3 A And then I handle the disciplinary action so they can read
4 it. And then I explain why they're getting the point on the
5 discipline. And then I ask is they have questions or is what
6 happened. Their answer and then they're sign -- I sign. I
7 always sign after them in presence of them. And then we have a
8 little box, the employee leave, and then we have a little box
9 where we fold this and we place it and then the coordinator
10 puts it to a chart.

11 Q All right. And is that your practice for handling
12 discipline?

13 A Yes.

14 Q Okay. And so just for clarification here, you have the
15 employee sign in front of you the discipline; is that right?

16 A Yes, absolutely.

17 Q And then you sign?

18 A Yes.

19 Q Okay. And you recognize the signature on the first page
20 of page -- of Respondent's Exhibit 3 for the employee?

21 A Yeah, it's Martha Guzman.

22 Q Okay. And you have issued discipline to Martha Guzman in
23 the past?

24 A Well, I'm not sure because sometimes any manager available
25 will do the discipline for the day.

1 Q Okay. All right. Would you have signed discipline
2 without having the employee sign in front of you first?

3 A Never.

4 Q Okay. Do you have a specific recollection of issuing this
5 discipline to Ms. Guzman?

6 A Repeat.

7 Q Sure. In fact, maybe just take a minute and take a look
8 at this. But my question for you is do you have a -- do you
9 remember issuing this discipline to Ms. Guzman? But take a
10 look at it first to see if it refreshes your recollection.

11 A Well, it's not really remember, but yes, kind of remember.

12 Q Okay. And one other thing. Just another question, Ms.
13 Cretin. There was a -- on the second page, you see a box that
14 says associate comments.

15 A Yes.

16 Q And when is it when you issue discipline that the employee
17 fills that in?

18 A When you give it to them and you tell them, do you have
19 questions or comments, you can write it down in English or
20 Spanish in there.

21 Q Okay. And do they do that in your presence?

22 A Yes.

23 Q Okay. And then they sign it?

24 A Yes.

25 Q And then you sign it?

1 A Uh-huh.

2 Q Okay.

3 JUDGE THOMPSON: Yes?

4 THE WITNESS: Yes. Sorry.

5 MR. KRAMER: All right. No further questions, Your Honor.

6 JUDGE THOMPSON: Thank you, Mr. Kramer. Ms. Davila or Ms.
7 Oviedo. Cross?

8 MS. DAVILA: Your Honor, may I have five minutes?

9 JUDGE THOMPSON: Yes. Off the record until 10.

10 (Off the record at 9:53 a.m.)

11 JUDGE THOMPSON: We are back on the record for
12 cross-examination. Ms. Davila.

13 MS. DAVILA: Thank you, Your Honor.

14 JUDGE THOMPSON: Your witness.

15 **CROSS-EXAMINATION**

16 Q BY MS. DAVILA: Hi, Ms. Cretin. My name is Judy Davila.
17 I'm an attorney with the government. This is Elise Oviedo and
18 she's my co-counsel. I'm just going to do some follow-up
19 questions. Did you meet with either of these two gentlemen
20 before you came here today? Respondent's counsel.

21 A Well, he come to the waiting room just to tell me it's
22 going to be a few minutes.

23 Q You never met with them in person before today?

24 A Well, we went to the meetings and from, but I don't
25 remember.

1 Q Is that when you worked there?

2 A Yeah.

3 Q And have you had phone conversations with either of these
4 two men before you came here?

5 A No.

6 Q Did you review anything in preparation for your testimony
7 today?

8 A No.

9 Q And you worked at the Trump Hotel seven years, correct?

10 A Repeat.

11 Q You worked at the Trump Hotel seven years, correct?

12 A Well, kind of. I'm not exactly remember. It was from
13 January 2008 to July 2015.

14 Q And do you remember what year you became a floor manager?

15 A Repeat.

16 Q What year you became a floor manager?

17 A The same year I start.

18 Q Oh, you started as a floor manager?

19 A No, after three months or six months as a housekeeper, I
20 get a promotion.

21 Q Okay. And as a floor manager, employees often come to you
22 with questions, right?

23 A Yes.

24 Q And you know that the Culinary Workers Union is trying to
25 organize the hotel's employees, correct?

1 A Yes.

2 Q And you've seen employees wear pro-Union buttons at work,
3 correct?

4 A Yes, a lot.

5 Q And you've seen the employees wearing -- some employees
6 wearing these buttons since last year, correct?

7 A Yes, kind of.

8 Q Were you aware that some employees were suspended last
9 year for wearing their buttons?

10 A I was aware. But the day it happens, I was off. I
11 believe it was Sunday because I think so there come the first
12 day, the very first day there come with a button and they
13 suspend them because they're didn't know that was the right of
14 the employees. But I was off the day. But when I come back to
15 work, yeah, I hear about it.

16 Q And do you know who those employees were that were sent
17 home?

18 MR. KRAMER: Objection, Your Honor. It's beyond the scope
19 of direct.

20 JUDGE THOMPSON: It -- sustained and --

21 MS. DAVILA: It's part of one of the employees sent home
22 was part of the conversation that we talked about.

23 JUDGE THOMPSON: Then can we just go straight to -- can
24 you -- sustained, but rephrase your question.

25 Q BY MS. DAVILA: Was Ofelia Viaz one of the employees that

1 was sent home?

2 MR. KRAMER: I'm sorry, I didn't understand the last name?

3 JUDGE THOMPSON: Diaz.

4 MR. KRAMER: Diaz, thank you.

5 THE WITNESS: I'm not sure because I was telling you I was
6 off that day. But probably.

7 Q BY MS. DAVILA: Was Carmen Llarull one of the employees
8 that was sent home?

9 A I'm not sure because I was off that day. I just know some
10 employees show up with the pin and they were suspended and then
11 after that, that's all I know. And that's the very first day
12 they started wearing those pins. That's the only thing I know.

13 Q Okay. I'm going to ask you what's marked as -- to look at
14 what's marked as GC Exhibit 6.

15 JUDGE THOMPSON: Let the record reflect I'm handing what's
16 been marked as GC-6.

17 Q BY MS. DAVILA: Can you turn to the third page, please?
18 Do you remember seeing a poster in the housekeeping department
19 that looked something like this?

20 A I don't remember, sorry.

21 Q No, it's fine. Okay. I'm going to ask you to look at GC
22 Exhibit 16.

23 JUDGE THOMPSON: Let the record reflect I'm handing the
24 witness what's been identified as GC-16.

25 Q BY MS. DAVILA: Do you recognize what's on that paper?

1 A Yeah, it's the Union buttons.

2 Q Okay. Can you tell me if you've seen those at work at the
3 Trump Hotel?

4 A Yeah.

5 Q And can you just -- do you know what the red and white one
6 means?

7 A No, well I know the red one means the committee leader
8 because it's big letters. But the yellow one, I never read it
9 what it was something, no.

10 Q And do you know what a committee leader is?

11 A Yes.

12 Q What is it?

13 A It's a person who organize and lead a group of people to
14 certain goals.

15 Q And in this case, Union committee leaders wore them,
16 correct?

17 A Yes. Well, everybody wear it.

18 Q Okay. And you've seen employees do Union activities in
19 the EDR, correct?

20 A Yeah, sometimes.

21 Q You've seen employees pass out flyers, Union flyers,
22 correct?

23 A Yes.

24 Q And you've seen, I'm sorry, employees do Union chants
25 before their shifts in the mornings, correct?

1 A Yes.

2 Q And have you ever been in the Union?

3 A No. I always been salary employee.

4 Q And the Trump Hotel is opposed to the Union campaign,
5 correct?

6 A What was the question again?

7 Q The Trump Hotel is opposed to the Union campaign, correct?

8 A Yeah.

9 Q As far as you know, are there any hotel managers or
10 supervisors who are in favor of the Union coming in?

11 MR. KRAMER: Again, Your Honor, I will object again. This
12 is beyond the scope.

13 JUDGE THOMPSON: Sustained.

14 MS. DAVILA: It's, Your Honor, it's -- this is cross and
15 I'm asking her about the Union activity that she was aware of
16 which goes to the part of the complaint.

17 JUDGE THOMPSON: You asked her was she aware of were there
18 any other -- I'm sorry. Let me not say that. Jacqui, what was
19 counsel's last question?

20 THE COURT REPORTER: The last one?

21 JUDGE THOMPSON: Yes, ma'am.

22 THE COURT REPORTER: Do you -- as far as you know, is the
23 Trump Hotel opposed to the Union?

24 JUDGE THOMPSON: And the question -- the question after
25 that?

1 THE COURT REPORTER: The Trump Hotel is opposed to the
2 Union campaign, correct? Yes, as far as you know. As far as
3 you know and then there was an objection.

4 MR. KRAMER: No, there was a last --

5 THE WITNESS: No, she asked --

6 JUDGE THOMPSON: Well, she asked --

7 THE WITNESS: She asked about managers.

8 MR. KRAMER: Yes.

9 JUDGE THOMPSON: Yeah, but I don't know what the question
10 was.

11 MS. DAVILA: I can repeat it. I have it written down.

12 JUDGE THOMPSON: You have -- okay, can you repeat it,
13 counsel, I'm sorry.

14 MS. DAVILA: As far as you know, are any of the hotel's
15 managers or supervisors in favor of the Union?

16 MR. KRAMER: I'm going to object. It's outside the scope.
17 And it's irrelevant.

18 MS. DAVILA: Your Honor, it's relevant because Anthony
19 Wandick is a manager who was part of the conversation that we
20 just discussed.

21 JUDGE THOMPSON: I'm going to sustain the objection but
22 narrow the question, counsel.

23 MS. DAVILA: Okay.

24 Q BY MS. DAVILA: Ms. Cretin, as far as you know, was
25 Anthony in favor of the Union coming into the Trump Hotel?

1 MR. KRAMER: Objection, Your Honor, outside the scope.

2 JUDGE THOMPSON: I'm going to let her -- I'm going to
3 allow the question. Overruled. You can answer the question if
4 you know.

5 THE WITNESS: Can you repeat the question? There's too
6 much.

7 Q BY MS. DAVILA: It's okay. As far as you know, was
8 Anthony Wandick in favor of the Union coming into the hotel?

9 A I'm not sure.

10 Q Were you ever given any instructions about what to say to
11 employees about the Union organizing campaign?

12 MR. KRAMER: Your Honor, if I could just --

13 THE WITNESS: That's a very general question.

14 JUDGE THOMPSON: Wait, wait, wait. You got to kind of
15 wait just a second, hold your response. Mr. Kramer.

16 MR. KRAMER: It's a precautionary objection because I
17 don't know what the witness is going to say. But I would
18 object on the grounds of attorney/client privilege to the
19 extent that Ms. Davila is asking questions about meetings where
20 attorneys were present.

21 JUDGE THOMPSON: I'll sustain the objection to the extent
22 it calls for attorney/client privileged information. But
23 subject to that, Ms. Davila, would you repeat the question?

24 MS. DAVILA: I will --

25 JUDGE THOMPSON: Go ahead.

1 MR. KRAMER: May, Your Honor, I also object on the grounds
2 outside the scope and relevance. I suspect I know where you're
3 going with that, but I wanted to raise that and ask for it to
4 be a continuing objection assuming you don't grant my
5 objection.

6 JUDGE THOMPSON: Okay.

7 MS. DAVILA: Your Honor, if I may answer to that about the
8 relevance. Just so we all know what I'm trying to get at here.
9 It's these two conversations about employees and they were
10 asking about Union activity and whether it affected their work.
11 And so I'm tiring to figure out if she ever was given
12 instructions on what to say to that.

13 JUDGE THOMPSON: Okay. I'm going to over -- I'm going to
14 sustain the objection insofar as your asking for any
15 attorney/client privilege information. I don't know if the
16 witness is privy to that, but I'm going to sustain the
17 objection and ask the witness not to tell me any information
18 that attorneys may have told you or that you learned through
19 counsel.

20 However, I'm going to overrule the objection because I do
21 think it isn't beyond the scope and so the witness can answer
22 the question. I'm going to have her repeat it so that you can
23 answer the question. Ms. Davila, would you please repeat the
24 question that you asked?

25 Q BY MS. DAVILA: Yes, Ms. Cretin, were you ever given

1 instructions by human resources about what to say to employees
2 about the Union organizing campaign?

3 A I would say no, but I would say they were trying to
4 educate us in case we don't know the rights of the employees.

5 Q And who tried to educate you?

6 A Well, human resources, of course. They would do a
7 meetings where they tell us what employees rights are in case
8 you don't know rights. That's it.

9 Q Do you remember when these meetings were held?

10 A I don't know. I will say sometimes in Alejandra's office
11 or in one of the rooms where meetings are for.

12 Q And were the meetings in 2015 or 2014?

13 A I don't remember.

14 Q Okay. Do you remember if they were around the time that
15 there was a scheduled Union election?

16 A Yes, I remember. I was there.

17 Q So, were the meetings around the time of the Union
18 election, yes or no?

19 A Yes.

20 Q And do you remember what year the election was supposed to
21 happen?

22 A No.

23 Q Okay. Were you ever asked to report who you thought
24 supported the Union?

25 A No.

1 Q Did you ever hear any supervisors or managers talk about
2 which employees they thought supported the Union?

3 MR. KRAMER: Objection, Your Honor. Relevance. Outside
4 the scope.

5 JUDGE THOMPSON: It is, counsel. I'm going to sustain the
6 objection, but --

7 MS. DAVILA: Your Honor --

8 JUDGE THOMPSON: -- perhaps you could rephrase the
9 question.

10 MS. DAVILA: Your Honor, I will rephrase the question.
11 But just for the record, Respondent was allowed to expand on
12 their cross, and we feel that we should be entitled to do the
13 same.

14 MR. KRAMER: And, Your Honor, just for the record, this
15 witness was subpoenaed by the General Counsel and they could
16 have put her on in their case, as they indicate they always put
17 managers on in their case in chief.

18 MS. DAVILA: Your Honor, I --

19 JUDGE THOMPSON: Okay. Because we need to get witness
20 testimony. I've noted for the record, I made -- I sustained
21 the objection. So counsel, if you could rephrase the question.

22 MS. DAVILA: Okay.

23 Q BY MS. DAVILA: Did you ever hear any supervisors or
24 managers talk about which employees they thought supported the
25 Union?

1 JUDGE THOMPSON: It's the -- that's the same question.

2 THE WITNESS: I need more --

3 JUDGE THOMPSON: Hold on, Ms. Cretin. It's the same
4 question.

5 Q BY MS. DAVILA: Did you ever hear Anthony talk about who
6 he thought supported the Union?

7 MR. KRAMER: Same objections, Your Honor.

8 JUDGE THOMPSON: I'm going to have to overrule. I know
9 why you're making the objection, counsel, but I'm going to have
10 to overrule on that one. You can answer that question if you
11 know.

12 A Yes.

13 MS. DAVILA: Five more minutes. I'm sorry, Your Honor. I
14 don't know what she just said yes to, so if Jacqui could read
15 back the question, please. Thank you. She said yes, but to
16 what question? I rephrased the question a few times.

17 THE COURT REPORTER: "Did you ever hear Anthony talk
18 about who he thought supported the Union?"

19 MS. DAVILA: Okay.

20 Q BY MS. DAVILA: And you said yes?

21 A Yes.

22 Q And do you know what employees he mentioned?

23 MR. KRAMER: Your Honor, can I just have a continuing
24 objection on this, both outside the scope and really the
25 relevance of who Anthony thought was for or not for the Union?

1 Frankly, all of the allegations here involve employees who were
2 wearing Union buttons. I don't know why we're going into this
3 line.

4 MS. DAVILA: I appreciate Respondent summarizing it that
5 way, but, Your Honor, certainly Mr. Wandick was part of their
6 direct, and I have an obligation, really, to ask about it.

7 JUDGE THOMPSON: Well, he's not -- he's ask -- he's saying
8 that your line of questioning isn't related to what he asked on
9 direct.

10 MS. DAVILA: And my --

11 JUDGE THOMPSON: What he asked on direct with regard to
12 Mr. Wandick was limited to this witness's knowledge of a
13 conversation that this witness had with Mr. Wandick concerning
14 Ms. Diaz. And so his objection is, it's beyond the scope of
15 what they brought out in direct. So the fact that you're
16 asking about whether Mr. Wandick supported or didn't support
17 the Union doesn't have any relation whatever to what they
18 brought up and how Mr. Wandick got brought up through this
19 witness.

20 MS. DAVILA: Your Honor, if I may respond a few ways.
21 This, yes, was one of the Union people involved, the committee
22 leaders, as he just identified, and wearing the button. She
23 was asked by a Union-button wearing person about another
24 manager's feelings about why she wasn't doing training, a
25 manager who was in charge of training. And I'm talking about

1 Anthony Wandick.

2 The fact that my questioning isn't in the order that they
3 did as far as isolated incidents doesn't mean that it's not
4 relevant. Just because I'm not following their outline of
5 their questioning doesn't mean it's not related or important.

6 JUDGE THOMPSON: It's not about the order, it's about the
7 scope. And, see, this is why, when you objected to them going
8 outside the scope of their direct, see how this works. See
9 then, now they get to object to you going outside the scope.

10 So, since counsel -- I respect your objection, but I'm
11 going to overrule it, and I'm sure you're going to have a
12 standing objection, and I'm going to allow you to have one.
13 And I'm going to say that for -- in the interest of judicial
14 efficiency, I'm going to allow counsel, just as I allowed you
15 on cross, to expand the scope of cross so that we do not have
16 to recall this witness back in order for General Counsel to ask
17 the questions that she wants to ask.

18 So I'm going to overrule the objection. I'm going to
19 note -- I'm just going to sua sponte assume that you're going
20 to have a standing objection to that, and I will note it for
21 the record.

22 Counsel, continue. You may want to repeat your question
23 again, because I'm sure the witness has gotten -- has forgotten
24 with all of the legal jargon that we've used here. So if you
25 could repeat the question that you just asked.

1 MS. DAVILA: Okay.

2 Q BY MS. DAVILA: Do you know employees -- what employees
3 Mr. Wandick mentioned about supporting the Union?

4 A No. The only comment he made is, more and more employees
5 are getting the pin.

6 Q Do you remember when he made that comment?

7 A No.

8 Q Do you remember what year?

9 A No.

10 Q Do you remember if it was around the time of the Union
11 election?

12 A Well, probably. I'm not sure.

13 Q Okay. And you have a -- back to Respondent's Exhibit 18.

14 JUDGE THOMPSON: Mr. Kramer, would you approach, please?

15 MR. KRAMER: Yes, Your Honor.

16 Q BY MS. DAVILA: I'm not going to ask you again. I'm
17 just -- I want to clarify. So, you said that your station was
18 where?

19 A Right here, on the left.

20 Q Number 2 on Respondent's 18 on the corner --

21 A It was right next to the closet.

22 Q Okay. And how long have you had a station there?

23 MR. DRITSAS: Which page are we on?

24 A For the entire time I worked there --

25 MR. DRITSAS: 18 --

1 JUDGE THOMPSON: I'm sorry. I'm sorry. 18A, counsel.

2 MR. DRITSAS: Thank you.

3 JUDGE THOMPSON: Go ahead.

4 THE WITNESS: For the entire time I worked there, it was
5 not set up like this. Before we have big desk, but my desk is
6 still in there. So that's the corner I like to be.

7 Q BY MS. DAVILA: Appreciate that. So the housekeeping
8 office has always been in that room, or that --

9 A Yes.

10 Q Okay. And so you've also sat there, correct?

11 A Yes.

12 Q Okay. And you've never heard a conversation come out of
13 Alejandra's closed door?

14 A No.

15 Q Never?

16 A No.

17 Q And Alejandra has her door closed often?

18 A When somebody walk into her office, majority of the
19 people, you come in and you want to talk to her, and you close
20 the door, yeah.

21 Q So the majority of the time, people close the door when
22 they talk to her?

23 A Yes.

24 Q Okay. And you said that status -- what is status?

25 A It's the dispatcher.

1 Q Okay. And you said the dispatchers are also in that
2 floor?

3 A Yeah. If you can see where it says status, okay, is just
4 behind me. It's the same counter for them, and then the other
5 side's for the managers.

6 Q And that's number --

7 A It's right here. I don't know what number.

8 Q 3? Is that Respondent's 3?

9 MR. DRITSAS: Are we still on the first page?

10 JUDGE THOMPSON: Yes.

11 MR. DRITSAS: It's the counter that says status?

12 MS. DAVILA: Says status -- okay.

13 THE WITNESS: Yeah. Right here is four stations, I
14 believe.

15 MR. KRAMER: Witness is reflecting the counter that says
16 status.

17 THE WITNESS: Right here.

18 MS. DAVILA: On Respondent's 18.

19 JUDGE THOMPSON: Okay. Thank you.

20 Q BY MS. DAVILA: And where it says Christina on
21 Respondent's 18, that's Christina Keeran's desk, correct?

22 A Yes.

23 Q And does anyone else ever use that desk?

24 A It was never there before. It just -- before I left, it
25 was just recently put in there for her. Because this was her

1 desk.

2 JUDGE THOMPSON: And the witness is pointing to Vania's --

3 MS. DAVILA: To Vania's --

4 JUDGE THOMPSON: -- the area that says Vania.

5 THE WITNESS: Yeah. But then Vania become a coordinator,
6 and they move Christina in place the desk for her right here.

7 Q BY MS. DAVILA: And what's Christina's position?

8 A She's the lead office status clerk.

9 Q And what duties does Christina have?

10 MR. KRAMER: Objection, Your Honor. Outside of the scope.

11 JUDGE THOMPSON: And I'm going to have to sustain the
12 objection on that one. And we've got testimony as to what her
13 duties are. I know why you asked the question, counsel,
14 though.

15 MS. DAVILA: I just want on the record that for judicial
16 efficiency --

17 JUDGE THOMPSON: I gotcha.

18 MS. DAVILA: -- I am doing the best that I can. Okay.

19 JUDGE THOMPSON: I gotcha.

20 Q BY MS. DAVILA: Ms. Cretin, I want to talk about, now, the
21 conversation you had with Carmen Llarull about Rodolfo Aleman.
22 Was this conversation in English or in Spanish?

23 A Spanish.

24 Q And you told her, in this conversation, that you usually
25 don't tell other employees about another employee's discipline

1 record, correct?

2 A Yes.

3 Q And do you, in fact, tell employees about other employees'
4 discipline records?

5 A No.

6 Q And why did you tell her about it in this instance?

7 A Because I want to remove her talks about a favoritisms in
8 the housekeeping office from the housekeeping management.

9 Q And do you usually tell employees to check the employee
10 handbook when they come to you with a question?

11 A Yes. And I want to add a comment to that, that --

12 Q You just have to wait for me to ask the questions. I'm
13 sorry.

14 A Okay.

15 Q Are you familiar with the employee handbook?

16 A Yes.

17 Q Do you reference it a lot?

18 A Yes.

19 Q What parts of the employee handbook do you usually
20 reference?

21 A Depends on the question of the employee.

22 Q Okay. So when the employee is asking you about whether
23 they can be trainers, what part of the employee handbook would
24 you reference?

25 A That is not in the handbook. It was -- I was telling you

1 that that was just moving to Anthony, and they decide to train
2 all the trainees to help them on the same page and pass
3 information to the new hires.

4 Q And Anthony was in charge of the training, correct?

5 A Yes.

6 Q Had you ever been in charge of the training?

7 A Yes.

8 Q And why did they switch -- why did you stop being part of
9 the -- in charge of the training?

10 MR. KRAMER: Objection. Relevance and foundation.

11 JUDGE THOMPSON: She testified in your direct that she had
12 previously been a trainer, so that's the foundation. In terms
13 of relevance, counsel, where are you headed in that regard?

14 MS. DAVILA: I just want to know why she's not in charge
15 of the training --

16 JUDGE THOMPSON: Why does that matter to us?

17 MS. DAVILA: -- and why Anthony -- because if Anthony is
18 in charge of the training and why she's being asked to -- about
19 the training procedures. Why is an employee coming to her
20 asking about training?

21 JUDGE THOMPSON: I could posit a whole bunch of reasons.
22 Because they ran into her in the hallway, because she used to
23 be the trainer, because she's the manager.

24 MS. DAVILA: Your Honor --

25 JUDGE THOMPSON: I just don't see --

1 MS. DAVILA: -- I can't guess in my brief when I write
2 about this, so I would just like to know now.

3 JUDGE THOMPSON: I understand. But the point I'm making
4 is, there could be an innumerable number of reasons why an
5 employee would ask her about the training, none of which is
6 really relevant to what I think you're trying to get at. So
7 I'm going to sustain the objection, but --

8 MS. DAVILA: Your Honor, there's also an issue of
9 credibility. I -- the General Counsel has many reasons to ask
10 this question. I don't think it's outside of scope or
11 irrelevant. It's directly related to a conversation that is
12 quoted -- or cited in the complaint.

13 JUDGE THOMPSON: Yes. So I would appreciate if you could
14 get to that part, which is relevant, as opposed to why she
15 isn't training anymore or why an employee would come to her
16 versus Mr. Wandick. That part doesn't make a difference in the
17 whole scheme of things.

18 MS. DAVILA: With all due respect --

19 JUDGE THOMPSON: But your initial reason for going down
20 this road is. I don't know if you can -- I can't say it any
21 other way than that without directing your cross. So, I'm
22 going to sustain the objection, but to the extent that you want
23 to stay in this line, counsel, I would just ask that you get to
24 what you're trying to get to more directly.

25 MS. DAVILA: Your Honor, the General Counsel, for the

1 record, will continue to ask a few more questions on this,
2 and --

3 JUDGE THOMPSON: Go ahead.

4 MS. DAVILA: -- Respondent is likely to object, and
5 General Counsel --

6 JUDGE THOMPSON: We will -- I'll deal with it.

7 MS. DAVILA: -- is fine with it. Okay.

8 JUDGE THOMPSON: But, go ahead.

9 Q BY MS. DAVILA: Ms. Cretin, when did you stop being in
10 charge of the training program?

11 A When they hired Blanca Alegret as a quality assurance
12 manager.

13 Q Do you know what year that was?

14 A No.

15 Q Okay. And after you, who was the -- who became the
16 training director?

17 A Blanca Alegret.

18 Q And do you remember when Anthony became in charge of
19 training?

20 A When she got transferred to security where the injuries
21 are handled.

22 Q Okay. And was Carmen Llarull wearing a Union button
23 during this conversation?

24 A Yes.

25 Q Do you know if Rodolfo Aleman wears a Union button?

1 A Yes.

2 Q Do you know if Rodolfo Aleman still works at the Trump
3 Hotel?

4 A No, I don't.

5 Q Okay. I'm going to talk about your conversation with
6 Ofelia Diaz. Was our conversation in English or in Spanish?

7 A Spanish.

8 Q And during this conversation, she was wearing a Union
9 button, correct?

10 A Yes.

11 Q And Ofelia Diaz had worked at the Trump Hotel for a long
12 time, correct?

13 A I'm not sure. I don't remember, but probably.

14 Q And Ofelia Diaz was a full-time employee, correct?

15 A Yes.

16 Q Did you have any reason to believe that Ms. Diaz wouldn't
17 have been a good trainer?

18 A No.

19 Q When Ms. Diaz came to you about her training question, did
20 you refer her to the employee handbook?

21 A No.

22 MS. DAVILA: No further questions, Your Honor.

23 JUDGE THOMPSON: Thank you, Ms. Davila. Mr. Kramer, any
24 redirect?

25 MR. KRAMER: Yes, Your Honor. Just a few questions.

1 REDIRECT EXAMINATION

2 Q BY MR. KRAMER: Ms. Cretin, I just want to make some
3 clarification here. The man to my right here, prior to today,
4 had you ever met him?

5 A I wouldn't remember.

6 Q Okay. Had you ever spoken to him on the phone?

7 A No, I don't think so.

8 Q All right. You met me for the first time today; is that
9 right?

10 A Yeah.

11 Q Okay. Have we had conversations before today?

12 A No.

13 Q Okay. Have we had conversations on the phone?

14 A No. Well, maybe -- let me change -- maybe, when I was
15 working at the Trump, sometimes the -- I don't know, they call
16 on the phone to ask us, did you did this, or, did you remember
17 this, or, you know?

18 Q All right. So you remember having conversations with
19 someone about the things that you testified here today; is that
20 correct?

21 A Yes.

22 Q Okay. Don't necessarily remember who you spoke to?

23 A No.

24 Q Okay. And you indicated that you've never been in a union
25 before. Have any of your family members been in a union

1 before?

2 A My ex-husband.

3 Q Okay. And when -- did he recently become your ex-husband?

4 JUDGE THOMPSON: Okay.

5 MS. DAVILA: Objection. Relevance.

6 JUDGE THOMPSON: Hold on. Hold on. Sustained.

7 MR. KRAMER: On what ground, Your Honor, just so I can --

8 JUDGE THOMPSON: Because I -- I don't -- what does that
9 have to do with this -- I know why you asked the question, the
10 first question I understood, but --

11 MR. KRAMER: Okay. Understood.

12 Q BY MR. KRAMER: Understanding that issue, let me ask you
13 this. Did he have a role in the Union?

14 MS. DAVILA: Objection. Relevance.

15 JUDGE THOMPSON: Sustained.

16 MR. KRAMER: All right.

17 JUDGE THOMPSON: Let's get off of her ex-husband, please.

18 THE WITNESS: Yeah.

19 MR. KRAMER: Fair enough. No further questions.

20 JUDGE THOMPSON: That didn't sound quite right.

21 MR. KRAMER: No further questions, Your Honor.

22 JUDGE THOMPSON: Thank you, Mr. Kramer.

23 THE WITNESS: Oh, lord.

24 JUDGE THOMPSON: Ms. Cretin, thank you so very much for
25 your testimony. Please don't discuss it with anyone. Have a

1 great day. You're excused.

2 THE WITNESS: Thank you.

3 JUDGE THOMPSON: Thank you. Let's go off the record.

4 (Off the record at 10:30 a.m.)

5 JUDGE THOMPSON: We are back on the record. Mr. Kramer,
6 would you like to call your next witness?

7 MR. KRAMER: Yes. Respondent calls Iresyane Ariosa
8 Gonzalez.

9 JUDGE THOMPSON: Okay. Ms. Gonzalez?

10 MS. GONZALEZ: Yes.

11 JUDGE THOMPSON: Good morning. My name is Judge Thompson.
12 I'm an administrative law judge assigned to preside over this
13 case. You have been requested to provide testimony on behalf
14 of Respondent Trump. Before I allow you to testify, I need to
15 swear you in. Please raise your right hand.

16 Whereupon,

17 **IRESYANE ARIOSA GONZALEZ**

18 having been duly sworn, was called as a witness herein and was
19 examined and testified, by and through an interpreter as
20 follows:

21 JUDGE THOMPSON: Great. Thank you. Ms. Gonzalez, could
22 you state your name for the record, please.

23 THE WITNESS: Iresyane Ariosa Gonzalez.

24 JUDGE THOMPSON: Ms. Gonzalez, would you spell your first
25 name?

1 THE WITNESS: I-R-E-S-Y-A-N-E.

2 JUDGE THOMPSON: Would you spell your last name as well?

3 THE WITNESS: A-R-I-O-S-A.

4 JUDGE THOMPSON: Oh, okay. I'm -- Ms. De Gascon, could
5 you spell it again for me, please?

6 THE INTERPRETER: A-R-I-O-S-A.

7 JUDGE THOMPSON: And Gonzalez, would you spell that for
8 us, please?

9 THE WITNESS: G-O-N-Z-A-L-E-Z.

10 JUDGE THOMPSON: Great, thank you. Ms. Gonzalez, I
11 understand that you may speak -- or understand some English,
12 but for purposes of this hearing only, would you please speak
13 in Spanish so that our interpreter, who's sitting to your left,
14 can translate to English?

15 THE WITNESS: Perfect.

16 JUDGE THOMPSON: Okay. Ms. De Gascon, let me swear you in
17 now. If you would raise your right hand.

18 (Interpreter, sworn)

19 JUDGE THOMPSON: Great, thank you. Ms. Gonzalez, let me
20 give you just a few instructions I'd like for you to keep in
21 mind when you give your testimony. First, there's a microphone
22 in front of you that we're using to record the proceedings.
23 Would you please speak as loud as you can and give us a verbal
24 response.

25 THE WITNESS: Okay.

1 JUDGE THOMPSON: Try to avoid saying huh-uh or uh-huh --

2 THE WITNESS:

3 JUDGE THOMPSON: -- because that's difficult for our court
4 reporter to transcribe.

5 Next, if you don't understand a question that either of
6 the attorneys at the table ask you, would you please say, I
7 don't understand, so they can repeat the question as many times
8 as necessary until you understand it. Okay?

9 THE WITNESS: Okay.

10 JUDGE THOMPSON: Next, if either of the attorneys at the
11 tables object, they're going to say, objection. Would you
12 please hold your answer until I can address their concerns?

13 Next, when you provide your answer, would you pause for a
14 moment so Ms. De Gascon can translate what you said before
15 continuing on with your answer. And lastly, please remember to
16 allow -- to speak one at a time. Could you do all of those
17 things for us, please?

18 THE WITNESS: Yes.

19 JUDGE THOMPSON: Great, thank you. And remember, verbal
20 response. Thank you.

21 THE WITNESS: Okay.

22 JUDGE THOMPSON: Mr. Kramer, your witness.

23 MR. KRAMER: Thank you.

24 **DIRECT EXAMINATION**

25 Q BY MR. KRAMER: Good morning, Ms. Gonzalez.

1 A Good morning.

2 Q I'm one of the attorneys, along with Mr. Dritsas, for the
3 hotel.

4 A Okay.

5 Q I have a few questions for you. Could you tell us where
6 you work?

7 A At Trump Hotel.

8 JUDGE THOMPSON: And, Ms. Gonzalez, you can relax.

9 THE WITNESS: I have never been in court.

10 JUDGE THOMPSON: It's okay. You can relax, sit back. You
11 don't have to lean into the microphone. It's okay, just answer
12 the questions as if you were in a conversation.

13 THE WITNESS: Okay.

14 JUDGE THOMPSON: There you go.

15 MR. KRAMER: All right.

16 JUDGE THOMPSON: Okay, Mr. Kramer.

17 Q BY MR. KRAMER: How long have you worked at the Trump
18 Hotel?

19 A Six months and something.

20 Q What position do you hold at the Trump?

21 A Housekeeping.

22 Q Okay. Are you a GRA?

23 A Yes.

24 JUDGE THOMPSON: Remember, wait until the interpretation.

25 It's okay.

1 THE WITNESS: Yes.

2 Q BY MR. KRAMER: Okay. Do you know a person by the name of
3 Alejandra Magana?

4 A Yes.

5 Q Who is she?

6 A My director.

7 Q Do you know a person by the name of Anthony Wandick?

8 A Yes.

9 Q Who is he?

10 A One of the managers who worked at the Trump. He was the
11 one who gave me the training.

12 Q Does Mr. Wandick still work at the Trump?

13 A The one who continues working there is Alejandra, not him.

14 Q Okay. Do you know another housekeeper by the name of
15 Janet Vazquez?

16 A Yes.

17 Q Do you remember having a conversation with Ms. Magana,
18 Mr. Wandick and Ms. Vazquez regarding Union representations?

19 A Yes.

20 Q And do you remember when that conversation occurred?

21 A I don't recall the exact date.

22 Q Okay. Do you remember whether -- do you remember that
23 there was an election that was scheduled at the end of June of
24 this year?

25 A Yes.

1 Q Do you remember if this conversation occurred before or
2 after that date?

3 A Before the election date.

4 Q Okay. All right. And where was this meeting?

5 A The conversation between me and Alejandra?

6 Q And Ms. Vazquez.

7 A Inside of Alejandra's office.

8 Q Do you remember what time of day it was?

9 A In the morning.

10 Q Do you remember how it came to be that you were in her
11 office having this conversation?

12 A Yes.

13 Q And how did it come to be that you had that conversation
14 in her office?

15 A Some ladies who represent the Union at my work, she told
16 me that if I voted for the Union, I was going to be paid
17 17-something an hour, that I was no longer going to be on-call,
18 and that I was going to have health insurance free.

19 MS. DAVILA: Objection. Hearsay.

20 JUDGE THOMPSON: Overruled.

21 Q BY MR. KRAMER: And Ms. -- so Ms. Gonzalez, after you
22 heard that, how is it that you ended up in Ms. Magana's office
23 with Mr. Wandick and Ms. Vazquez?

24 A Because Janet and I are very good friends, we started
25 together at the hotel, and we had to doubt whether this was

1 true or false. And I told her, let's go ask Alejandra to
2 decide if we should vote or not. When we arrived at
3 Alejandra's office, and, Your Honor, in there were me,
4 Alejandra, Anthony and Janet.

5 Q Okay. All right. If you may, let me ask a question here.
6 So you went to her office, and with you -- excuse me. So you
7 and Ms. Vazquez went to Ms. Magana's office; is that right?

8 A I told Janet, let's go to Alejandra's office to ask her.

9 Q All right. And Mr. Wandick was there for this
10 conversation?

11 A Yes.

12 Q Now, I'm going to walk you through this statement by
13 statement, all right?

14 A Okay.

15 Q So, can you tell us, when you came into the office, what
16 was the first thing anyone said?

17 A Okay. I said, Alejandra, do you remember that I'm new in
18 this state? I would like to know if it's true what I'm being
19 promised regarding the Union, the money and the benefits
20 they're going to give me. To which Alejandra answered that she
21 could not give me any opinion, any answer. She just showed me
22 some papers that were all over the whole hotel for everybody to
23 see that if the Union promised everything that they were
24 promising, that the Union representative should sign the paper.

25 Q Okay. So she showed you some papers that the Union

1 representatives could sign; is that what you're saying?

2 A Yes, but they, you know, they are displayed all over the
3 hotel.

4 Q Okay. And after she did that, what's the next thing you
5 remember happening?

6 A Janet mentioned the things that the ladies from the Union
7 were promising. I mentioned what had been promised to me,
8 nothing else. We left the office.

9 Q Okay. All right. Just let me make sure here. So, did
10 you take some of these promise sheets?

11 A I didn't take any sheet.

12 Q Okay. Did Ms. Vazquez take any sheets?

13 A No. Anthony offered, he said, you know, do you want these
14 sheets. But they are displayed all over the hotel.

15 Q All right. When Anthony offered her the sheets, did she
16 say anything in response?

17 A No. She just said, I'm convinced I'm not going to vote
18 for the Union.

19 Q Okay. And she said that in that meeting with you and
20 Mr. Wandick and Ms. Magana?

21 A Yes.

22 Q Okay. All right. In that meeting with you and
23 Mr. Wandick and Ms. Vazquez and Ms. Magana, at any point did
24 Mr. Wandick ask Ms. Vazquez if she knew how she was going to
25 vote?

1 A Not inside, but outside he did.

2 Q Okay. All right. And inside, did he ask her at any point
3 whether she was going to vote for the Union?

4 A Well, inside there were only questions and answers, but
5 nothing like, are you going to vote? Are you going to vote?

6 Q Okay. And then do you remember anything else about -- was
7 there anything else in that meeting in the office with
8 Ms. Magana and Mr. Wandick?

9 A Inside the office?

10 Q Correct.

11 A There was only a question from a worker to my manager --

12 Q Okay.

13 A -- that's it.

14 Q Now, when you left the office -- and let me clarify, when
15 you left Ms. Magana's office, what happened then?

16 A Janet and I went out -- Janet and I left. Anthony left
17 the office, and he started talking to Janet outside the
18 director's office.

19 Q Okay. Were you with Janet at the time?

20 A Yes.

21 Q Okay. All right. And did you hear what Anthony was
22 talking to Janet about?

23 A Hear it, I was able to hear it; but understand it, I was
24 not able to understand it perfectly. I asked her what she had
25 been told, but she didn't answer, okay?

1 Q Okay. So you didn't understand what he was talking to her
2 about?

3 A Because he approached her and he spoke to her, you know,
4 low, in a low voice close to her ear.

5 Q Okay. So you couldn't really hear what he was saying?

6 A That day, I did not hear him. From Janet's mouth --

7 MR. KRAMER: Okay. And I'm going to object, because
8 there's no question pending.

9 JUDGE THOMPSON: Well, I thought she was finishing
10 answering your question.

11 MS. DAVILA: The translator should be allowed to finish
12 if --

13 JUDGE THOMPSON: Go ahead, Ms. De Gascon.

14 A -- but Monday of this week, she told me everything that
15 had been said.

16 MR. KRAMER: All right. That's non-responsive. It's
17 beyond the question which I asked, which, you know, whether she
18 had heard anything at that point.

19 JUDGE THOMPSON: Okay. Got it. Sustained.

20 MR. KRAMER: Thank you.

21 Q BY MR. KRAMER: And you said that you did ask her what
22 Mr. Wandick had said after he had spoken to her outside the
23 office on that day?

24 A Yes.

25 Q And did she say anything?

1 A She told me, no, nothing.

2 Q Okay. Did you hear her respond -- when you saw
3 Mr. Wandick talking to her closely into her ear, did you hear
4 her respond to Mr. Wandick?

5 A They spoke, but I don't know what they said to each other
6 at the moment.

7 Q Okay. So did you ever hear, then, from Mr. Wandick,
8 actually hear Mr. Wandick say anything to Ms. Vazquez along the
9 lines of, are you going to support the Union, or, do you know
10 who you're going to vote for?

11 A Outside the manager's office, no. He's asked, are you
12 going to vote, but I always say, I'm not going to vote for the
13 Union. They don't even ask me because I always say -- he asked
14 Janet, but not me.

15 Q Okay. And what I'm trying to get at here is, did you hear
16 him ask Janet?

17 A They were talking afterward. I asked Janet, what did he
18 tell you -- what did he say to you, and she said, no, no,
19 nothing.

20 Q Okay. So let me try this again, because I just --

21 A Okay --

22 JUDGE THOMPSON: Wait, wait. Mr. Kramer, go ahead.

23 MR. KRAMER: All right.

24 Q BY MR. KRAMER: Did you hear Mr. Wandick ever ask
25 Ms. Vazquez who she was going to vote for?

1 A They remained talking, but, you know, afterward I asked
2 her, and she said they were talking, but she never told me what
3 he had told her at that moment. I heard them, but I couldn't
4 understand what they were talking about.

5 Q Okay.

6 MS. DAVILA: Objection to the translation.

7 JUDGE THOMPSON: Okay.

8 MS. DAVILA: I don't know how to -- did you use the word
9 (Spanish spoken)?

10 THE WITNESS: What do you mean?

11 MS. DAVILA: Did you just say that you heard (speaking in
12 Spanish)?

13 THE WITNESS: Anthony remained asking her something, you
14 know. He was talking to her on her ear, so I couldn't
15 understand what they were saying.

16 MS. DAVILA: I just wanted to clarify she used the
17 word "asking."

18 JUDGE THOMPSON: Certainly. Certainly.

19 MR. KRAMER: Okay.

20 JUDGE THOMPSON: Thank you. I don't know that you're
21 going to get any more than that, counsel, on her -- in
22 response.

23 MR. KRAMER: I understand.

24 Q BY MR. KRAMER: And just for clarification, Ms. Gonzales,
25 if you couldn't hear or understand -- if you couldn't

1 understand what Mr. Wandick was telling Ms. Diaz (sic) in her
2 ear, how do you know he was asking her a question?

3 JUDGE THOMPSON: Hold on. I thought we were talking about
4 Ms. Vazquez.

5 MR. KRAMER: Did I say Vazquez?

6 JUDGE THOMPSON: You said Diaz.

7 MR. KRAMER: Diaz? I apologize. Let me rephrase.

8 Q BY MR. KRAMER: Ms. Gonzalez, if you could not understand
9 what Mr. Wandick was telling Ms. Vazquez, could you -- how
10 could you tell she -- he was asking her a question?

11 A Because I saw him asking her, and I want to say something.
12 Until this Monday --

13 Q No, I --

14 MS. DAVILA: Your Honor --

15 JUDGE THOMPSON: You got to let her translate the answer,
16 counsel --

17 MR. KRAMER: All right.

18 JUDGE THOMPSON: -- before you.

19 THE WITNESS: You know, she has told me and repeated what
20 has been told to her.

21 Q BY MR. KRAMER: Okay. So your basis for believing he
22 asked her a question is what she told you this Monday?

23 A Yes, correct.

24 Q And that was the first time she told you what he had said
25 to her?

1 A Correct, yes.

2 Q Even though she told you it was nothing on the day you
3 asked her what he was saying to her outside the office?

4 A Correct, yes.

5 Q All right.

6 MR. KRAMER: I have no further questions. Thank you,
7 Ms. Gonzales.

8 JUDGE THOMPSON: Thank you, Mr. Kramer. Cross, Ms. Oviedo
9 or Ms. Davila?

10 **CROSS-EXAMINATION**

11 Q BY MS. DAVILA: Good morning --

12 A Good morning.

13 Q -- Iresyane? Iresyane. My name is Judy Davila, I'm an
14 attorney with the government. This is Elise Oviedo, an
15 attorney with the government. As you know, we've spoken
16 before. We've spoken before, correct?

17 A Correct.

18 Q Yes. I called you last Friday, correct?

19 A Yes.

20 Q And I asked you about a conversation you had with
21 Alejandra Magana and Anthony Wandick, correct?

22 A But at that time, you didn't ask me like you're talking to
23 me now.

24 Q Okay. And you hung up on me, correct?

25 A Yes, because you didn't ask me in a perfect tone. You

1 make me nervous. You called me and told me that I had to --
2 that I had talked in a room, not in an office, with Janet,
3 Anthony and Alejandra. I said that I didn't have to tell you
4 anything because I didn't know who you were. And you told me,
5 I want you to tell me what you spoke about in the room, that's
6 how you said it.

7 JUDGE THOMPSON: Okay. Ask the question, counsel, because
8 I don't want her to do a narrative.

9 MS. DAVILA: Okay.

10 Q BY MS. DAVILA: And did I call you back after that?

11 A No, you didn't call me again. I hung up on you.

12 Q And did you call me back on Sunday?

13 A I called you because at my house, there were two Union
14 representatives, and I was mentioning to them what had happened
15 with Ms. Judy, and they told me, no, she doesn't work for us.
16 She's an attorney.

17 And I said, yes, but, you know, she's talking about the Union
18 and she's asking about what I said about the Union at my
19 director's office. And I asked the Union people if they wanted
20 me to call before, you know, in front of them, because, you
21 know, they were saying that I could no longer talk --

22 JUDGE THOMPSON: Counsel, hold on.

23 MS. DAVILA: Okay, Your Honor -- yeah. Okay.

24 Q BY MS. DAVILA: And I just want to clarify, when you
25 called me back on Sunday, I told you we didn't need to talk,

1 correct?

2 A That's right, correct.

3 Q Okay. And you testified that you started working with
4 Janet, at the same time Janet did, correct?

5 A Yes, correct.

6 Q And that was this year, correct?

7 A Yes.

8 Q And when you started working there, there was already a
9 union campaign going on?

10 A I'm not sure.

11 Q Okay. Do you remember that there was a union election
12 scheduled?

13 A Yes.

14 Q And that was one of the reasons you were going to go ask
15 Alejandra Magana something, to her office, correct?

16 A Yes.

17 Q Okay. And you said that you went to go to her office to
18 ask her if you should vote yes or no for the Union, correct?

19 A First of all, to clarify the doubts about what was being
20 promised to me.

21 Q Were you going to ask her her opinion about the Union?

22 A Yes, because I'm new in this state and I didn't know who
23 the Union was.

24 Q Have you attended any meetings at the hotel about the
25 Union?

1 MR. KRAMER: Objection, Your Honor. Outside the scope.

2 MS. DAVILA: Your Honor --

3 JUDGE THOMPSON: I'm going to give counsel a little
4 latitude, similar to how I allowed her to go beyond the direct
5 for judicial efficiency so that counsel does not have to recall
6 this witness to ask the questions that she's about to ask now.
7 So in light of that, I'm going to overrule the objection.

8 And to the extent that you want to have a standing
9 objection, let me know, counsel.

10 MR. KRAMER: I do, Your Honor.

11 JUDGE THOMPSON: Okay. So noted. Continue, Ms. Davila.

12 Q BY MS. DAVILA: Have you attended any meetings at the
13 hotel about the Union?

14 A At the hotel, yes.

15 Q Were you on the clock during these meetings?

16 A Yes.

17 Q I want to go now to the conversation in Alejandra's
18 office.

19 A Okay.

20 Q Did you -- did you bring up the election in this
21 conversation?

22 A The election the day of voting?

23 Q No, I'm sorry. When you were in Alejandra's office with
24 Janet and Anthony, did you bring up the Union election?

25 A How would it be, if I asked her about the election,

1 something like that?

2 Q Yes. Did you ask Alejandra about the Union election?

3 A No. I just asked her about what was being promised to me,
4 nothing else.

5 Q Did you ask Anthony about the Union election?

6 A I also asked him about what I was being promised.

7 Q Did Janet ask either Alejandra or Anthony about the
8 election?

9 A She asked him the same thing, you know, about what was
10 being promised, and that her husband worked for the Union, and
11 like that.

12 Q Okay. And you said that outside of the office, Anthony
13 discussed the Union election with Janet, correct?

14 MR. KRAMER: Objection, Your Honor. That misstates the
15 record.

16 MS. DAVILA: I'm asking her if that's what she said.

17 JUDGE THOMPSON: Wait a minute. When did you -- how did
18 you -- could you repeat the question, counsel?

19 MS. DAVILA: Outside the office, she talked -- Anthony
20 talked to Janet about the election, correct?

21 JUDGE THOMPSON: Say it again, I'm sorry.

22 MS. DAVILA: Outside the office, Anthony -- I -- what am I
23 saying?

24 JUDGE THOMPSON: We don't know. Outside the office -- no.
25 I want you to say it the way you said it. Don't clean it up,

1 counsel. Just say it the way you said it originally.

2 MS. DAVILA: If I could have Jacqui read me the record,
3 please.

4 JUDGE THOMPSON: Okay.

5 MS. DAVILA: Because I don't --

6 JUDGE THOMPSON: You don't remember. Okay. Jacqui, can
7 you tell me what -- how she asked the question so I can rule on
8 the objection?

9 THE COURT REPORTER: And you said that outside -- and you
10 said that outside of the office, Anthony discussed the Union
11 election with Janet, correct?

12 JUDGE THOMPSON: I'm going to sustain the objection,
13 but --

14 MS. DAVILA: Okay.

15 JUDGE THOMPSON: -- you can rephrase the question,
16 counsel, if you can.

17 Q BY MS. DAVILA: And so, when you two left the office,
18 Janet had a conversation with Anthony, correct?

19 A Correct.

20 Q And you saw Anthony talk to Janet in her ear, correct?

21 A Correct. I didn't hear him, I saw him. And what I was
22 able to hear, I could not understand it very well.

23 Q Okay. Iresyane, do you know if Anthony speaks Spanish?

24 A Not as far as I know.

25 Q Has he ever spoken to you in Spanish?

1 A No.

2 Q And does Janet speak Spanish?

3 A Yes.

4 Q Does Janet speak English?

5 A Perfect.

6 Q And can you describe what Anthony looked like when he was
7 talking to Janet? Was he standing straight up?

8 A I was in front, they were behind. They stopped to talk.
9 You know, he approached, you know, came closer. He, you know,
10 they spoke. I said, let's go, she said, hold on. And then we
11 left. And you know, they remained talking. And then she came
12 out, and that's when I asked her.

13 MS. DAVILA: Let the record reflect that the witness
14 leaned to her left side and moved her head down a bit when she
15 was describing Anthony talking to Janet.

16 Q BY MS. DAVILA: What question did you ask her when she
17 caught up to you?

18 A I asked her what happened, what did he ask you.

19 Q And what did she tell you?

20 A No, no, nothing, nothing. Let's go.

21 Q Before Monday, have you ever talked about that
22 conversation -- have you ever talked to Janet about that
23 conversation with Anthony again?

24 MR. KRAMER: Object just for clarification on the Monday
25 that we're -- I'm assuming this Monday.

1 Q BY MS. DAVILA: Before Monday of this week?

2 A I did not ask her anything.

3 Q So you never talked about the conversation that she had
4 with Anthony outside Alejandra's office when you two were in
5 there, before this week?

6 MR. KRAMER: Objection, misstates her testimony.

7 JUDGE THOMPSON: She's just asking --

8 MS. DAVILA: I'm trying to clarify.

9 JUDGE THOMPSON: -- for clarification. I'm going to have
10 to overrule the objection.

11 Ms. Davila, would you mind repeating the question, so the
12 witness can answer?

13 MS. DAVILA: Okay.

14 Q BY MS. DAVILA: I'm just trying to clarify if you ever
15 talked to Janet about that conversation she had with Anthony
16 any time before this week.

17 A I never asked her, because it didn't seem to be something,
18 you know, out of the ordinary, out of this world.

19 Q And you don't support the Union, correct?

20 A No.

21 Q And Janet knows that you don't support the Union, correct?

22 A Janet didn't support them along with me.

23 MS. DAVILA: Objection, nonresponsive.

24 JUDGE THOMPSON: I don't know if the witness can tell you
25 whether she knows what somebody else knows. But if you could

1 rephrase the question.

2 MS. DAVILA: Okay.

3 Q BY MS. DAVILA: Do you wear a union button?

4 A I don't wear anything on my uniform.

5 Q Does Janet wear a union button?

6 A A few days ago, she started wearing.

7 Q Was that the first time that she wore it?

8 A Excuse me?

9 Q Was that the first time that she wore it?

10 A She put it on, took it off, threw it away. And then
11 because of some problems that she had because of rooms that she
12 didn't finish, she put it on again.

13 Q So it's your testimony that you've seen Janet wear a union
14 button?

15 A Yeah it -- yes. Currently, she has it on.

16 Q Okay.

17 MS. DAVILA: No further questions.

18 JUDGE THOMPSON: Thank you, Ms. Davila.

19 Mr. Kramer, any redirect?

20 MR. KRAMER: A few questions, Your Honor.

21 **REDIRECT EXAMINATION**

22 Q BY MR. KRAMER: Ms. Gonzalez, just for clarification, you
23 indicated, when I was asking you questions, that you did ask
24 Ms. Vasquez, right after her conversation with Mr. Wandick,
25 what they had been talking about; is that right?

1 A Yes.

2 Q Okay.

3 A Yes, right there at the office.

4 Q All right. Besides that conversation you had with her,
5 did you have any other conversations with Ms. Vasquez regarding
6 what she had talked about with Mr. Wandick until Monday of this
7 week?

8 A No.

9 Q Okay. Now if you -- when Ms. Davila was asking you
10 questions about how Mr. Wandick was speaking to Ms. Vasquez --

11 MS. DAVILA: Objection. Because it's me, I know that
12 that's not what -- she didn't say that that's what I said,
13 because that's not what I said. I asked her what happened in
14 that room.

15 JUDGE THOMPSON: You asked her to describe Mr. Wandick's
16 tone and how he was asking. That's where he's headed in his --

17 MS. DAVILA: Oh, I'm sorry. I thought she -- he was
18 talking about when I called --

19 JUDGE THOMPSON: -- question.

20 MS. DAVILA: -- her on the phone.

21 JUDGE THOMPSON: Oh, huh-uh.

22 MR. KRAMER: No.

23 MS. DAVILA: Oh, I'm sorry.

24 JUDGE THOMPSON: He's talking about your question about
25 describing --

1 MS. DAVILA: Oh.

2 JUDGE THOMPSON: -- his tone.

3 MS. DAVILA: Oh, okay. Yes.

4 JUDGE THOMPSON: So, technically --

5 MS. DAVILA: Objection withdrawn.

6 JUDGE THOMPSON: -- sustained. Oh, withdrawn. There you
7 go.

8 Mr. Kramer.

9 Q BY MR. KRAMER: Ms. Gonzalez, do you remember being asked
10 by Ms. Davila about how Mr. Wandick was speaking to Ms. Vasquez
11 as -- when you were out of the office?

12 MS. DAVILA: Objection. Can you just clarify that you're
13 talking about when I talked to her today, because I also don't
14 think she understands that.

15 MR. KRAMER: Sure. Sure.

16 JUDGE THOMPSON: And I was going to say you're going to
17 have to ask it in a different way, counsel, because --

18 MR. KRAMER: Okay.

19 JUDGE THOMPSON: -- she's not going to -- I don't think
20 she understands.

21 (Counsel confer)

22 MR. KRAMER: Let me just -- being direct but, hopefully,
23 not leading, Your Honor.

24 Q BY MR. KRAMER: Mr. Wandick was speaking to Ms. Vasquez
25 outside of Ms. Alejandra's office, did you see -- I mean could

1 you tell whether or not he was leaning into her at all or
2 leaning over her?

3 A Yes. He went like this.

4 Q Okay.

5 A I saw it with my own eyes.

6 Q Okay. And just so I -- make sure I'm getting this right.
7 So he kind of leaned to the left and bent his head down a bit?

8 A Yes. He asked her a question. What he said, what he
9 didn't say I couldn't tell.

10 Q Okay. And when you -- when the four of you were in Ms.
11 Magana's office, were you speaking -- was everyone speaking in
12 Spanish or English or some sort of combination?

13 A Combination.

14 Q All right. Did Mr. Wandick speak in Spanish when he spoke
15 in that conversation?

16 A Anthony?

17 Q Yes.

18 A No.

19 Q Okay.

20 MR. KRAMER: I have no further questions, Your Honor.

21 JUDGE THOMPSON: Thank you, Mr. Kramer.

22 Ms. Gonzalez, thank you so very much for your testimony.

23 Please don't discuss it with anyone. We appreciate your time

24 and patience with us today. You are excused, and have a

25 wonderful today.

1 THE WITNESS: Is that it?

2 JUDGE THOMPSON: Yeah, that's it. You survived. Thank
3 you. Let's go -- well, strike that. Let's talk our lunch
4 break in line with some of counsel's additional afternoon
5 witnesses that I am aware of. So let's stop now.

6 MR. DRITSAS: Your Honor, can I ask you --

7 JUDGE THOMPSON: Certainly.

8 MR. DRITSAS: I have one witness here, Christina Keeran,
9 who's going to be like five or 10 minutes. So --

10 JUDGE THOMPSON: That's fine. I can't control the General
11 Counsel, but I can take her if that -- it's your case, counsel.
12 We can take her now --

13 MR. DRITSAS: I didn't understand. Were you suggesting
14 that I was going to take a lunch break now?

15 JUDGE THOMPSON: Yes. Well, I thought we were, because I
16 thought you were talking about the 1:00 person.

17 MR. DRITSAS: We have a -- we do have a 1:00, but I
18 think --

19 JUDGE THOMPSON: You can get in Ms. --

20 MR. DRITSAS: I can get her in, in five or 10 minutes.

21 JUDGE THOMPSON: Okay. Well, then, in that case, let's
22 take -- let's go off the record and get our next witness and
23 take her before lunch.

24 MR. DRITSAS: Thank you, Your Honor.

25 JUDGE THOMPSON: Thank you.

1 MR. DRITSAS: Thank you.

2 JUDGE THOMPSON: Off the record.

3 (Off the record at 11:27 a.m.)

4 JUDGE THOMPSON: We are back on the record, continuing
5 Respondent's case in chief.

6 Mr. Dritisas, would you like to call your next witness?

7 MR. DRITSAS: Yes, Your Honor. I'd like to call Christina
8 Keeran.

9 JUDGE THOMPSON: Hi, Ms. Keeran. I can't even remember
10 when we last met.

11 MS. KEERAN: I don't know. I don't remember the date.

12 JUDGE THOMPSON: But you did testify several days ago, I
13 know, in this case. And I instructed you -- and I'm going to
14 swear you in again, but I do recall instructing you with regard
15 to how to testify in the procedures.

16 MS. KEERAN: And I did that.

17 JUDGE THOMPSON: And do you still remember that?

18 MS. KEERAN: Yeah, I did that.

19 JUDGE THOMPSON: Okay. Let me swear you in again. Would
20 you raise your right hand?

21 Whereupon,

22 **CHRISTINA KEERAN**

23 having been duly sworn, was called as a witness herein and was
24 examined and testified as follows:

25 JUDGE THOMPSON: And I'm going to have you state your name

1 once more for the record, please.

2 THE WITNESS: Christina Keeran.

3 JUDGE THOMPSON: Okay, Ms. Keeran. And again, I'm just
4 going to have you to remember all of those instructions I
5 previously gave you. Mr. Dritsas, your witness.

6 MR. DRITSAS: Thank you, Your Honor.

7 **DIRECT EXAMINATION**

8 Q BY MR. DRITSAS: Christina, what time do you start work as
9 a lead status clerk?

10 A 7 a.m.

11 Q And has that been your start time for all of 2015?

12 A Kind of, because there's been once or twice I've come in
13 like real early for -- to open, to help -- to watch open or
14 something like that. But usually, it's 7.

15 Q Okay. So I want to direct your attention to early 2015.
16 That's where my questions are going here. Do you know who
17 Celia Vargas is?

18 A Yes.

19 Q Okay. Did you have a -- did you ever have a conversation
20 -- or strike that. Did you ever tell Ms. Vargas in the EDR to
21 sit down and tell you why she wanted the Union?

22 A No.

23 Q Did you ever talk to Ms. Vargas about any union related
24 issues in 2015?

25 A No.

1 Q Now employees -- housekeeping employees start -- typically
2 start later than you, correct?

3 A Yeah. They start 7:30, 8:00, and 8:30.

4 Q Okay.

5 A And sometimes 9 on the weekends, but I'm not there on the
6 weekends.

7 Q So do you have reason to be in the EDR even though you've
8 already started work at 7:00?

9 A No, I don't go in the EDR until 7:45 to pass out keys.

10 Q Okay. So when you're in there passing out keys, you may
11 be passing out keys to people who have not yet started work?

12 A Correct.

13 Q But you are on the clock?

14 A Correct.

15 Q And do you understand that there are any restrictions on
16 your ability to discuss any personal issues or union related
17 issues while you're on the clock?

18 A We're not allowed to do that when we're on the clock.

19 Q Okay. Did you ever tell Celia Vargas that you were going
20 to track her down later today to talk about the Union?

21 A No. We're not allowed upstairs.

22 Q Did you ever tell her in the hallway or any other place,
23 in front of other workers, that you wanted to know why she was
24 for the Union?

25 A No.

1 Q Okay. Do you have conversations with Celia Vargas?

2 A Only passing out keys. That's it. Or if she comes and
3 needs points, which is very seldom, because it's only two days
4 a week I do that.

5 Q Okay. I want to talk a bit about your uniforms and things
6 that have come up since your testimony. The uniform that you
7 have on now, is that the status clerk uniform?

8 A Yes, sir.

9 Q Okay. Do you have any other type of uniform you wear?

10 A Some of us have the same shirt, but they're short sleeve,
11 because it's winter time. So we're allowed to use the long
12 sleeved. So we all kind of like change it from short sleeve to
13 long sleeve.

14 Q Okay.

15 JUDGE THOMPSON: Ms. Keeran, for the record, could you
16 tell me what color your shirt is.

17 THE WITNESS: White.

18 JUDGE THOMPSON: And your vest over the shirt?

19 THE WITNESS: I don't know. It's like a grayish-brown. I
20 don't know what --

21 MR. DRITSAS: I'm color blind, so I can't help you.

22 THE WITNESS: Yeah. Some people say it's gray. And I
23 call it like a -- I don't know, like a grayish-green color kind
24 of, but --

25 JUDGE THOMPSON: Okay. And are you wearing pants or a --

1 THE WITNESS: Pants.

2 JUDGE THOMPSON: -- dress? Okay. And what color are your
3 pants?

4 THE WITNESS: The same thing, grayish green color.

5 JUDGE THOMPSON: Okay.

6 Q BY MR. DRITSAS: Are there -- to follow-up on the Judge's
7 questions, are there uniforms for status clerks that have pants
8 and have skirts?

9 A Yeah. Our uniforms were only supposed to be pants, but we
10 have an employee -- or status clerk, for her religion purposes,
11 she can only wear a skirt. So then other status clerks asked
12 for skirts. But I don't wear a skirt. I always wear pants.

13 Q Okay. Are the skirts the same color?

14 A Yes, everything is the same. Yes.

15 Q Okay, thank you.

16 MR. DRITSAS: Let's see. Jacqui, what number am I on?

17 THE COURT REPORTER: 32.

18 MR. DRITSAS: Okay. I'm showing her what we're marking as
19 Exhibit -- Respondent's 32, which is an email dated July 2,
20 2015.

21 **(Respondent Exhibit Number 32 Marked for Identification)**

22 Q BY MR. DRITSAS: Can you tell me, Christina, whether you
23 were copied on this email?

24 A Yes, I was.

25 Q Okay. And what does this represent?

1 A It's telling the opener to do not do a task sheet for her.
2 There's task sheets that we do in the morning for them to
3 assign rooms. And Anthony is telling status do not do a task
4 sheet for her at this time.

5 Q Who's her?

6 A Martha Guzman.

7 Q Okay. And is this something that you received in the
8 regular course of business?

9 A Yes, sometimes.

10 Q And you're copied on this one?

11 A Yes.

12 MR. DRITSAS: Your Honor, move admission of Respondent's
13 32.

14 JUDGE THOMPSON: Ms. Keeran, what is the task sheet?

15 THE WITNESS: Instead of using the iPads that I told
16 previously, we had task sheets this size of a paper. And it
17 had the guest name on it, the room that they were to clean, if
18 it was vacant, dirty, or a stayover clean, or anything like
19 that.

20 JUDGE THOMPSON: So the iPad replaced the task sheet?

21 THE WITNESS: The task sheets replaced the iPads. We use
22 iPads now. Before the iPads, we used the task sheets. So
23 that's --

24 JUDGE THOMPSON: Task sheets. Okay, got it. Thank you.

25 Ms. Davila or Ms. Oviedo, any objection?

1 MS. DAVILA: No objection, Your Honor.

2 JUDGE THOMPSON: Hearing no objection, I'll receive
3 Respondent 32.

4 **(Respondent Exhibit Number 32 Received into Evidence)**

5 MR. DRITSAS: Thank you, Your Honor. I have no further
6 questions.

7 JUDGE THOMPSON: Okay. Ms. Davila or Ms. Oviedo, any
8 cross-exam.

9 MS. DAVILA: Yes, Your Honor.

10 **CROSS-EXAMINATION**

11 Q BY MS. DAVILA: Ms. Keeran, Anthony doesn't speak Spanish,
12 right?

13 A No, I don't think so.

14 Q And Martha Guzman doesn't speak English, right?

15 A No, she speaks English.

16 Q Have you spoken with Ms. Guzman in English?

17 A Yes.

18 Q Okay. And you testified right now that you said you were
19 told that you weren't -- you were told that you weren't allowed
20 to talk to employees about the Union, correct?

21 A Correct.

22 Q Who told you that?

23 A HR.

24 Q Was this during a meeting or an email?

25 A No. I think I went in and asked before. But again, I

1 always go to both Jeff and Gustavo. So again, I can't tell you
2 which one I spoke to.

3 Q Do you know if housekeepers were told that they couldn't
4 talk about the Union on the clock?

5 A I'm sure they were, because in the meeting with the -- I
6 forgot his name. When we went upstairs and had the meeting
7 about what our rights were, they explained to us that you can't
8 do it on the clock. You had to do it on your own time.

9 Q Did you ever tell any employees what your opinion was
10 about the Union?

11 A Friends, yeah.

12 Q And these friends are coworkers?

13 A Uh-huh.

14 JUDGE THOMPSON: Yes.

15 THE WITNESS: Yes, I'm sorry. I forgot you told me that.

16 Q BY MS. DAVILA: And are some of these coworkers employees?
17 I mean are some of these coworkers housekeepers?

18 A Yes.

19 Q And did management at the hotel ask you about your opinion
20 with -- about the Union?

21 A No, not at all.

22 Q Did you ever give management your opinion about the Union?

23 A I --

24 MR. DRITSAS: Objection, relevance, Your Honor. Beyond
25 the scope and relevance.

1 JUDGE THOMPSON: Now this time, counsel, I'm going to have
2 to sustain the objection, because you called this witness in
3 your direct. So I'm going to have to sustain the objection on
4 this witness.

5 MS. DAVILA: Your Honor --

6 JUDGE THOMPSON: On that question.

7 MS. DAVILA: I'm sorry, Your Honor. It goes to her
8 credibility.

9 JUDGE THOMPSON: How?

10 MS. DAVILA: Her --

11 JUDGE THOMPSON: In terms of whether --

12 MS. DAVILA: Your Honor, if I would -- give me a little
13 bit of latitude, and I will -- if I don't -- you keep
14 objecting --

15 JUDGE THOMPSON: I can strike the --

16 MS. DAVILA: Yes.

17 JUDGE THOMPSON: With that being said, I'm going to
18 reverse myself and give you the latitude you're requesting,
19 counsel.

20 Q BY MS. DAVILA: Did you ever tell management your opinion
21 about the Union?

22 A Management meaning the director or management meaning one
23 of the floor managers.

24 Q Anybody who is a supervisor or a manager.

25 A Not them. I usually would try -- like if they were

1 harassing, like trying to find -- passing flyers in the lunch
2 room or something, I would ask Alejandra are they allowed to do
3 this or something. And she would always send me to HR for
4 anything that I had anything to say about the Union. They
5 always sent me to HR.

6 Q Did you ever write down a statement to HR about your
7 opinion about the Union?

8 A I think I did. When they -- we were doing the things for
9 the -- what we thought, why we didn't want the Union in the
10 hotel.

11 Q Okay. I'm going to introduce what's marked as GC-36.
12 (Counsel confer)

13 THE WITNESS: It was on the --

14 JUDGE THOMPSON: Ah-ah.

15 THE WITNESS: Oh, sorry.

16 JUDGE THOMPSON: No question is before you.

17 THE WITNESS: Oh, okay.

18 JUDGE THOMPSON: You have to wait until they ask a
19 question.

20 Q BY MS. DAVILA: I'm handing you what's been marked as GC
21 Exhibit 36.

22 A Uh-huh.

23 Q Is that your name on this form?

24 A Yes, that's the one I was talking about previously that I
25 -- that was --

1 Q Just answer. Wait for my question.

2 A Oh.

3 Q Okay. Is that your name?

4 A Yes.

5 Q And is that a picture of you?

6 A Yes.

7 Q And who's in that picture with you?

8 A Vania Mariscal and Minerva.

9 Q And who's Minerva?

10 A She's works in the uniform.

11 Q With the uniform?

12 A Where we get our uniforms and we put them in to have them

13 cleaned or washed.

14 Q And what are you holding in your hand?

15 A The non-union button.

16 Q And that's the button you were wearing when you first came

17 to testify for us, correct?

18 A No, it's not. It's the same thing but a different button.

19 I had a different. Mine said non-union. This button says

20 union and then it's crossed out. So it's not the same button

21 that I had on, but --

22 Q Okay. If you could read 36 to yourself, that text in

23 quotations.

24 MR. DRITSAS: Your Honor, I'm going to renew my objection.

25 First, it's beyond the scope. Second, I mean there's a

1 campaign going on. We know that. She's already established
2 from this witness -- don't say anything, please. You've
3 already established from this witness that she's not in favor
4 of the Union. Why do we need to go into the campaign issues
5 here? That has nothing -- that does not impeach this witness,
6 in my view, for credibility purposes any more than Ms. Vargas
7 or the other witnesses being for the Union.

8 MS. DAVILA: Your Honor, with all due respect, what
9 Respondent feels impeaches credibility or not is not the issue
10 here. It's what General Counsel feels that they need to make
11 their case. And I would like the opportunity to explore this
12 issue. It's limited, and I won't go beyond the scope. He did
13 ask her about her vocalizing her opinions about the Union in
14 his -- when -- in his direct examination. I am not going far
15 afield from that.

16 MR. DRITSAS: I asked her -- to Ms. Vargas if you recall
17 the question.

18 MS. DAVILA: Your Honor, and I'm not asking her to read it
19 into the record. I haven't even asked a question really.

20 MR. DRITSAS: I mean --

21 JUDGE THOMPSON: Well, he's objecting to the whole line
22 and the introduction of the exhibit. So I get -- I mean I
23 understand your point, but he's like -- he doesn't --
24 Respondent's argument is this whole line of questioning, the
25 exhibit, no matter how far in you're going to go, is irrelevant

1 and beyond the scope.

2 MR. DRITSAS: And --

3 JUDGE THOMPSON: That's part and parcel of Respondent
4 counsel's argument.

5 MR. DRITSAS: And, Your Honor, to further that, that would
6 be like me bringing all of the union campaign literature to Ms.
7 -- that Ms. Vargas has passed around or Ms. Llarul is passing
8 around. And I haven't done that, because I don't think that
9 really is what's important for credibility purposes. There are
10 certain people for one side, certain people for another side.
11 How they express that in a campaign I think is beyond the scope
12 of this hearing.

13 MS. DAVILA: With all due respect, Mr. Dritisas, what your
14 opinion about what goes to credibility or not is Respondent's
15 position not General Counsel's --

16 MR. DRITSAS: Well, let's not argue, counsel.

17 JUDGE THOMPSON: Okay. Okay. Hold it. Let me ask Jackie
18 to take me to a question that you asked Ms. Davila before you
19 went down this line of questioning.

20 (Court and reporter confer)

21 JUDGE THOMPSON: Counsel, what I'm grappling with, you
22 said that this goes to credibility. From what the court
23 reporter has read back to me from the record, I don't see where
24 this witness has denied that she hasn't expressed her opinion
25 such that her credibility would be in question. From what the

1 court reporter has read back to me on the record, she's
2 admitted that she is not for the Union. She's admitted that
3 she's discussed with coworkers/friends that she doesn't support
4 the Union. And she's admitted that she may have written down
5 her opinion that Respondent remain non-union. So I -- what
6 I'm --

7 MS. DAVILA: Your Honor, can I make an offer of proof?

8 JUDGE THOMPSON: Yes.

9 MS. DAVILA: She said that employees were not allowed to
10 talk about the Union on the clock, that -- as I will ask her,
11 if this was something that was shown to employees on the clock.

12 JUDGE THOMPSON: Okay. I'm still not convinced, but I'm
13 going to allow you to proceed.

14 MS. DAVILA: I just want to lay some foundation as to what
15 this is.

16 JUDGE THOMPSON: Gotcha.

17 MS. DAVILA: Okay.

18 Q BY MS. DAVILA: What is this, Ms. Keeran?

19 A This is a thing that was put on the television, like what
20 people thought of the Union.

21 Q On what televisions?

22 A In the lunch room.

23 Q The EDR?

24 A Yes.

25 Q And were the televisions on 24 hours a day -- or all the

1 time when you were at work?

2 A I don't think it was on the whole day. I'm not sure about
3 that. I remember seeing it on the TV, but I don't think it was
4 on the whole day. I can't tell you that, because I only went
5 in there at lunch time.

6 Q Okay. When you went in on lunch time, was the televisions
7 on?

8 A Only one was with that. The other one was on a regular
9 channel.

10 Q And is this something that you've said, what's stated on
11 GC Exhibit 36?

12 A Yes.

13 MS. DAVILA: I'd like to move for GC-36 into evidence.

14 MS. DAVILA: I object, Your Honor, for the grounds I've
15 already stated. It's irrelevant. It brings -- needlessly
16 brings a campaign issue into the case. And frankly, if this
17 comes in, I don't see why I shouldn't bring in 50 things that
18 Ms. Llarul and others have brought in to support their view.

19 MS. DAVILA: Your Honor, what Mr. Dritsas feels -- or
20 Respondent feels that they need to introduce is their case. I
21 renew my desire to move this into evidence. You can give it
22 the weight that you want or --

23 JUDGE THOMPSON: Counsel, you initially said that you were
24 exploring this realm because you wanted to determine whether,
25 in your offer of proof, this was, quote, stated on or off the

1 clock. I'm not certain if you ever got to that question.

2 MS. DAVILA: Okay. Do you want me to continue asking
3 questions? Or may I continue?

4 JUDGE THOMPSON: Yeah. I'm going to hold the objection in
5 abeyance until you finish your questioning. And I'm going to
6 hold the admission of this document in.

7 MR. DRITSAS: Your Honor, I think the witness testified to
8 that already. She said this is a photocopy of it. She said
9 this ran on a TV screen or monitor in the lunch room where
10 people take their breaks. That's the testimony so far.

11 (Court and reporter confer)

12 JUDGE THOMPSON: Mr. Dritsas, I'm going to say this to
13 you. I don't know that Respondent needs to bring in all of
14 what everyone else said during the union campaign or if that
15 opens the door for that. Counsel, or Ms. Davila, was
16 introducing this document for the limited purpose to determine
17 whether this witness spoke on the Union on the clock. And
18 she's offering this exhibit as evidence to determine whether
19 Ms. Keeran's view about --

20 Counsel, I'm going to have to do a little more due
21 diligence on this issue to be honest with you, because I see
22 both sides of the argument. I see your argument as to why you
23 want the evidence, but I also see Mr. Dritsas' argument as to
24 why is it relevant, because the witness has stated in her
25 direct -- or in your direct that she's against the Union. And

1 so, Mr. -- Respondent's argument is what does this do to
2 further anything. I understand why you're offering it, but the
3 Respondent's objection is it isn't relevant since the witness
4 has stated, in direct, that she's against having the Union. So
5 I need to contemplate on this just a bit longer.

6 So I'm going to hold this exhibit in abeyance. I'm going
7 to reserve ruling on the objection. The evidence that you've
8 indicated is going to stand until I can make a decision, which
9 I will after we return from recess after this witness. So
10 continue with your cross. But can we go to something else
11 until I make a decision on this line of questioning? I think
12 that may have been all you were going for on that.

13 MS. DAVILA: Yes, Your Honor.

14 JUDGE THOMPSON: Okay.

15 MS. DAVILA: And I have no further questions.

16 JUDGE THOMPSON: Oh, that was all you had?

17 MS. DAVILA: Yes.

18 JUDGE THOMPSON: Okay. Okay. Mr. Dritsas, any redirect?

19 MR. DRITSAS: Yes, Your Honor.

20 **REDIRECT EXAMINATION**

21 Q BY MR. DRITSAS: Ms. Keeran, just to be clear, I used the
22 term on the clock. I want to just be clear about that.
23 Sometimes the employees are paid for breaks. So I want to be
24 clear. When I'm talking about you were on the clock, you were
25 not on break time when you went into the EDR at 7:45: is that

1 right?

2 A Correct. I have to pass out keys at that time.

3 Q Okay. And when you were on break time but still being
4 paid, do you understand there's any restrictions on your
5 ability to talk?

6 A We have to clock off. We have to sign off when we go on
7 break into the lunch room. But it's so short. I usually don't
8 take a break. I don't --

9 Q Okay. My question is do you think -- were you ever told
10 you have restrictions on your ability to talk when you're on
11 your own break time?

12 A No, we don't. We can talk when we're on our break time.

13 Q Okay. Well, I don't want to ask you any questions in this
14 document, because I don't think it's relevant. So I need to
15 wait for a ruling from the Judge. So I have no further
16 questions at this time.

17 A Okay.

18 JUDGE THOMPSON: Ms. Keeran, thank you so very much for
19 your testimony. I have to reserve ruling on whether to ask you
20 back, depending upon my decision about --

21 THE WITNESS: Okay.

22 JUDGE THOMPSON: -- GC-36. So, but having said that,
23 thank you again.

24 THE WITNESS: Okay.

25 JUDGE THOMPSON: You are excused, and have a great day.

1 Counsel, now let's break and return at 1:00 for the -- and
2 then I'll have a decision regarding --

3 MR. DRITSAS: Christina, one second. One second.

4 MS. OVIEDO: Oh, Christina.

5 MR. DRITSAS: I just want to know whether I should release
6 her. That's what I'm trying to get at. So --

7 JUDGE THOMPSON: Oh.

8 MR. DRITSAS: I don't know whether I can release you yet.
9 So could you just wait outside for me?

10 MS. KEERAN: Yeah, I'll wait outside.

11 JUDGE THOMPSON: We'll return at 1:00. And then I'll have
12 a decision on Ms. Davila's admission of GC-36. And I'm going
13 to rule on Respondent's objection to both the exhibit and the
14 line of questioning. So we'll return at 1:00.

15 Thank you, counsel.

16 MR. DRITSAS: Your Honor, before we go off the record --

17 JUDGE THOMPSON: Oh, okay.

18 MR. DRITSAS: -- you had already ruled on my line of
19 questioning. You were -- the only thing that you indicated to
20 me that you were going to consider was whether to admit the
21 document or not.

22 MR. DRITSAS: I don't agree with that.

23 JUDGE THOMPSON: No. Well, I'm sorry if I -- let me
24 clarify. I allowed you to explore the question, so that I
25 could see where you were headed in terms of a credibility issue

1 and then to offer this exhibit. So the whole line of
2 questioning solely regarding the credibility issue on whether
3 she's made statements about the Union on or off the clock, that
4 whole line of questioning and this exhibit I'm holding in
5 abeyance. I just let you -- because you asked for an offer of
6 proof. You told me what you were offering it for. I said I
7 need to kind of hear where you're going, so that I can make a
8 decision. And so, right now, it's still in abeyance. I let it
9 in. And remember you said you could let it in and then you can
10 strike it if you decide you don't --

11 MS. DAVILA: Right.

12 JUDGE THOMPSON: -- you know, you don't think it's
13 relevant. So it's in for this second, but I'm going to make a
14 decision. So the line of questioning plus the exhibit is still
15 in abeyance. I just need to do just a small amount of due
16 diligence to determine, A, if this is relevant and, B, if this
17 a proper way to impeach credibility. And on that, every -- so
18 I'm just going to leave it at that, counsel. I hope you
19 understand what I'm saying.

20 MS. DAVILA: Yes.

21 JUDGE THOMPSON: Okay. Now recess until 1:00.

22 MR. DRITSAS: Thank you, Your Honor.

23 JUDGE THOMPSON: Thank you. Off the record.

24 (Off the record at 12:04 p.m.)

25 JUDGE THOMPSON: We are back on the record after our lunch

1 recess. I -- before we recessed, I left in abeyance or held in
2 abeyance Respondent's objection to what's been marked as GC
3 Exhibit 36. And the line of questioning that counsel explored
4 on cross with Ms. Keeran concerning questions regarding whether
5 she had written down a statement to human resources about her
6 opinion about the Union and/or -- let me strike that.

7 When we -- before we recessed, I left in -- I held in
8 abeyance Respondent's line of questioning of Ms. Keeran on
9 cross regarding testimony concerning whether Ms. Keeran wrote
10 down any statements to HR about her opinion about the Union.

11 MR. DRITSAS: Your Honor, did you mean General Counsel's
12 line of questioning?

13 JUDGE THOMPSON: And -- oh, I'm sorry. General Counsel.
14 Thank you. And General Counsel's Exhibit 36. While we were
15 off the record, General Counsel wanted to make a further offer
16 of proof before I ruled on Respondent's objection and ruled on
17 the admission of GC Exhibit 36. Ms. Davila, would you care to
18 make that offer at this time?

19 MS. DAVILA: Yes, Your Honor. The General Counsel would
20 also point to testimony earlier in this case about Trump talks
21 held in the EDR on the clock, which further goes to the weight
22 of this issue in regards to the witness' testimony and
23 credibility.

24 JUDGE THOMPSON: Mr. Dritsas, would you like to make any
25 response to Ms. Davila's statement or just stand on your

1 original --

2 MR. DRITSAS: No, I --

3 JUDGE THOMPSON: -- objection that you made?

4 MR. DRITSAS: -- frankly don't think it adds anything, so
5 I don't, Your Honor.

6 JUDGE THOMPSON: Okay. Mr. Dritisas, I researched this
7 issue during the lunch hour and I actually went back into the
8 record to review General Counsel's question and Ms. Keeran's
9 answer -- answers. And particularly with respect to Ms.
10 Davila's question, "Did you ask -- did management ask you your
11 opinion about the Union?" And, "Did you ever write down a
12 statement to human resources about your opinion about the
13 Union?"

14 And in Ms. Davila's argument in response to your objection
15 to relevance, she argued that it went toward credibility vis a
16 vis Ms. Keeran's testimony in response to your direct that
17 employees are not allowed to discuss the Union during work
18 hours or during work time. And Ms. Davila offered General
19 Counsel Exhibit 36 solely for the basis to challenge Ms.
20 Keeran's statement that employees discussed -- or whether
21 employees discussed the Union on or off the clock.

22 Now while I agree that in the scope of things that isn't
23 necessarily relevant. However, because of the very limited
24 purpose for which the General Counsel is seeking to admit this
25 document and this statement, in an attempt to try to argue that

1 in fact, employees may very well be discussing the Union on the
2 clock, I don't know that she's nec -- I can't state whether
3 she's made that, but that's her -- that's the effort that she's
4 trying to make.

5 For that very, very limited purpose, I have to overrule
6 the objection, allow GC Exhibit 36 to come in and allow the
7 testimony that was elicited on cross to stand.

8 **(General Counsel Exhibit Number 36 Received into Evidence)**

9 JUDGE THOMPSON: Mr. Dritsas, if you want to recall Ms.
10 Keeran, so that you can explore on redirect whatever you'd like
11 to explore regarding this exhibit, I will allow you, obviously,
12 to do that.

13 MR. DRITSAS: So just so I'm clear, Your Honor. So your
14 ruling is the testimonial that was running in the employee
15 cafeteria -- or EDR, that that goes to the credibility about
16 whether employees could talk about the Union during working
17 time?

18 JUDGE THOMPSON: It goes to Ms. -- it goes to the General
19 Counsel's attempt to impeach Ms. Keeran's testimony that
20 employees were instructed that they cannot speak about the
21 Union outsi -- on company time. And she is trying to offer
22 evidence that -- to impeach that testimony. It very well may
23 be tenuous, but I am allowing the General Counsel to try to
24 make that connection. And I have to accord, again, the
25 testimony and the document sufficient weight.

1 MR. DRITSAS: Okay.

2 JUDGE THOMPSON: It's extremely limited, counsel --

3 MR. DRITSAS: Okay.

4 JUDGE THOMPSON: -- but I got to let it in.

5 MR. DRITSAS: That's understood, Your Honor.

6 JUDGE THOMPSON: Would you care to recall Ms. Keeran?

7 MR. DRITSAS: Yeah, I think I have to ask her a couple
8 questions. But just to be clear --

9 JUDGE THOMPSON: Certainly.

10 MR. DRITSAS: -- and I think Ms. Keeran -- I made the
11 mistake of using imprecise language. On redirect, she made
12 clear that the on the clock was non-break time.

13 JUDGE THOMPSON: Correct.

14 MR. DRITSAS: Okay.

15 JUDGE THOMPSON: But I understand where you're headed.

16 MR. DRITSAS: Okay. So let me --

17 JUDGE THOMPSON: Recall Ms. Keeran?

18 MR. DRITSAS: Yeah. I want to talk to my colleague for a
19 minute and then --

20 JUDGE THOMPSON: Certainly. Let's take a break.

21 MR. DRITSAS: Thank you. Just be one minute.

22 JUDGE THOMPSON: Off the record.

23 (Off the record at 1:15 p.m.)

24 JUDGE THOMPSON: We are back on the record after a short
25 recess. And for the record, just to make certain that it's

1 clear, I overruled counsel's objection and I will receive GC
2 Exhibit 36 into the record. Based upon my ruling, Respondent
3 has recalled Ms. Keeran, who is sitting in the witness stand.
4 Ms. Keeran, even though I excused you from the stand, I'm going
5 to again swear you in, just because I excused you. I want to
6 make certain that you understand that you're still under oath.
7 So let me swear you in. Would you raise your right hand?

8 Whereupon,

9 **CHRISTINA KEERAN**

10 having been duly sworn, was called as a witness herein and was
11 examined and testified as follows:

12 JUDGE THOMPSON: Great. Thank you. You're being recalled
13 by Respondent to explore just a few more questions regarding
14 the testimony you gave earlier today. Mr. Dritsas, your
15 witness.

16 MR. DRITSAS: Thank you, Your Honor.

17 **DIRECT EXAMINATION**

18 Q BY MR. DRITSAS: Christina, can you pull in front of you
19 the exhibit marked General Counsel 36?

20 A Yes, I have it.

21 Q Okay. Thanks. So this was a testimonial that you gave?

22 A Yes.

23 Q Okay. And did you do it of your own voluntary nature or
24 did someone force you to do it?

25 A No, I did it on my own voluntary.

1 Q Okay. And I think you testified earlier that this ran on
2 a TV monitor, at least one of the TV screens in the EDR?

3 A Yes.

4 Q Okay. So when you were on paid working time -- so by
5 that, I mean, when you were not on lunch time or break time,
6 okay? When you were on paid working time, did you engage in
7 any solicitation for or against the Union?

8 A No.

9 Q Okay.

10 MR. DRITSAS: I have nothing further, Your Honor.

11 JUDGE THOMPSON: Thank you. Ms. Keeran -- and -- I --
12 because it's on redirect. That's the only reason I allowed the
13 witness to come back. Ms. Keeran, that's all we needed.

14 THE WITNESS: Oh, okay.

15 JUDGE THOMPSON: Thank you, so --

16 THE WITNESS: Thank god.

17 JUDGE THOMPSON: -- very much. Don't we all feel that
18 way?

19 THE WITNESS: If it's off the record, you guys are
20 stressing me.

21 JUDGE THOMPSON: I'm sorry about that. That you for your
22 patience.

23 THE WITNESS: I've never been through this.

24 JUDGE THOMPSON: And don't discuss it with --

25 THE WITNESS: Oh, I know --

1 JUDGE THOMPSON: -- any --

2 THE WITNESS: I already know that. But anyway --

3 JUDGE THOMPSON: But I have to say it. You're excused.

4 THE WITNESS: Oh my god.

5 JUDGE THOMPSON: Have a great day.

6 THE WITNESS: Let's hope for the next 30 years I don't
7 have to go through this --

8 MR. DRITSAS: Thank you for --

9 JUDGE THOMPSON: Thank you.

10 MR. DRITSAS: Thank you for coming.

11 THE WITNESS: Bye, you guys.

12 JUDGE THOMPSON: Counsel, do you want a minute to get the
13 next witness or --

14 MR. KRAMER: We'll call --

15 JUDGE THOMPSON: Because we're still on the record.

16 MR. KRAMER: Yeah, we're planning to call --

17 MR. DRITSAS: James Doucette.

18 MR. KRAMER: Thank you. James Doucette.

19 JUDGE THOMPSON: Okay. I'll go off the record, until
20 you --

21 MS. KEERAN: Also, I can leave the building now, right?

22 JUDGE THOMPSON: Yes.

23 MS. KEERAN: Okay. Thank you.

24 JUDGE THOMPSON: We'll go off the record, until you
25 return.

1 (Off the record at 1:21 p.m.)

2 JUDGE THOMPSON: We are back on the record continuing
3 Respondent's case in chief. Mr. Kramer, would you like to call
4 your next witness?

5 MR. KRAMER: Yes. Respondent calls James Doucette to the
6 stand.

7 JUDGE THOMPSON: Hi, good afternoon, Mr. Doucette.

8 MR. DOUCETTE: Hi.

9 JUDGE THOMPSON: My name is Judge Thompson. I'm an
10 administrative law Judge with the National Labor relations
11 Board. I've been assigned to preside over the trial in this
12 case. You have been called as a witness to testify on behalf
13 of the Respondent on this case, which is the Trump Hotel. But
14 before you provide your testimony, I need to swear you in.
15 Would you please raise your right hand?
16 Whereupon,

17 **JAMES DOUCETTE**

18 having been first duly sworn, was called as a witness herein
19 and was examined and testified as follows:

20 JUDGE THOMPSON: Great. Thank you. Could you please
21 state your name for the record?

22 THE WITNESS: James Doucette.

23 JUDGE THOMPSON: Mr. Doucette, how do you spell your last
24 name?

25 THE WITNESS: D as in dog, O-U-C as in cat, E-T as in Tom,

1 T as in Tom, E.

2 JUDGE THOMPSON: Okay. Thank you.

3 THE WITNESS: You're welcome.

4 JUDGE THOMPSON: Mr. Doucette, let me give you just a few
5 instructions regarding the procedures that we're employing for
6 when you give your testimony. And I'd like for you to keep
7 this in mind as the attorneys ask you questions. There's a
8 microphone to your left that we're using to record the
9 proceedings.

10 You don't have to lean in. You can sit comfortably in
11 your chair. You have a nice, strong voice, so I don't
12 necessarily have to tell you to speak up. But what I would
13 like to ask is if you will give us a verbal response. Yes, no
14 or --

15 THE WITNESS: Yes.

16 JUDGE THOMPSON: -- answer the question, as opposed to
17 saying huh-uh or uh-huh, because our court reporter can't
18 distinguish between the two. Second, if either of the
19 attorneys asks you a question that you don't understand, would
20 you make sure to tell us, "I don't understand," so that way
21 they can repeat or rephrase the question as often as necessary,
22 until you understand it.

23 THE WITNESS: Okay.

24 JUDGE THOMPSON: If you answer the question, we'll assume
25 that you understood what they were asking. Third, if either of

1 the attorneys at the table object, they're going to say,
2 "Objection." Would you hold your response, because they have a
3 problem with how the question is being asked. And I want to
4 address that concern before you answer.

5 THE WITNESS: Okay.

6 JUDGE THOMPSON: And finally, like in grade school. One
7 person talking at a time.

8 THE WITNESS: Raise my hand first.

9 JUDGE THOMPSON: If you could remember to allow the
10 attorneys to finish their question before you answer, it just
11 helps with our transcript. Would you do that for us, please?

12 THE WITNESS: Absolutely.

13 JUDGE THOMPSON: Great. Thank you. Mr. Kramer, your
14 witness.

15 MR. KRAMER: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 Q BY MR. KRAMER: Mr. Doucette, where do you work?

18 A Currently I work for a company called Fred's Tavern, which
19 is local bars here in town, as a bartender and I run the
20 basically the marketing promotions aspect as well.

21 Q And prior to that, where did you work?

22 A Most recent I was at Primm Valley Resorts as hotel
23 operations manager for all three resorts.

24 Q Prior to that?

25 A Trump Hotel.

1 Q Can you tell us the -- what period of time you worked at
2 the Trump Hotel?

3 A I actually don't remember exactly when. I would say in
4 left in April of this year, I believe. And I believe I started
5 the summer before, so about a year, I believe.

6 Q Okay. Could it be possible your last date of employment
7 been early June?

8 A Could have been. Yeah, could have been. Yeah.

9 Q Okay. What position did you hold at the Trump when you
10 worked there?

11 A I was a food and beverage manager, was the title.

12 Q All right. And could you like in two or three sentences
13 or less tell us basically what you did as the food and beverage
14 manager?

15 A Responsible for overseeing the restaurants. Mostly DJT
16 Restaurant operationally. Scheduling, payroll, policies,
17 procedures, night to night operations.

18 Q Okay. Now, were you aware that there was Union organizing
19 going on at the hotel during the period that you were employed?

20 A Yes.

21 Q And at some point in March, do you recall having an
22 interaction with someone who was soliciting outside by the
23 parking lot?

24 A It's been refreshed to my memory, yes. I don't remember.

25 Q Okay. And do you remember what you were doing at the

1 time?

2 A Of the time that this incident occurred?

3 Q Yes.

4 A I was coming into work.

5 Q Okay. And what time were you working that day?

6 A That day was probably afternoon shift, so it was probably
7 3:00 or 4:00 in the afternoon, maybe.

8 Q Okay.

9 A In times kind of varied.

10 Q Do you recall specifically the date this occurred?

11 A No.

12 Q Do you recall specifically the date this occurred?

13 A No.

14 Q Do you recall approximately what month?

15 A No.

16 Q Okay. Obviously before you ceased being employed there?

17 A Yeah.

18 Q All right. Was it in this year?

19 A I believe it was, yeah.

20 Q Okay.

21 A Same year.

22 Q And what is it that you -- and where were you at the time
23 you saw this occurring?

24 A Behind the property. So it was -- basically there was a
25 parking lot lower than the property. And then you walk in to

1 the back entrance of the property. So it was -- there's like a
2 ramp that goes up a little bit before you walk into the
3 property. And if I remember right, it was like right around
4 where that ramp is before you kind of get to the property
5 itself.

6 Q Okay.

7 A It's still the property, but it's --

8 Q So more --

9 A -- kind of --

10 Q -- like adjacent to the parking lot?

11 A Yeah. Yeah. Like between where the parking lot meets the
12 property itself, so --

13 Q And is this a parking lot open to the public?

14 A No, no. It's -- well, it's not restricted, but it's
15 employees only.

16 Q Okay.

17 A So I don't think they own a card to get in there or
18 anything, but it's not intended for public use.

19 Q Got it. And could you tell us -- so you were coming into
20 the property at that point?

21 A Coming into work, yes.

22 Q And could you describe for us what you saw?

23 A I saw one of my bussers talking to a woman. And it looked
24 like she was handing out flyers or something. I wasn't quite
25 sure what it was.

1 Q Okay. And you -- how could you identify -- you identified
2 the person that was being spoken to as a busser?

3 A One of my bussers, yeah. I can't remember -- I tried to
4 remember who it was, but I couldn't remember specifically who
5 it was.

6 Q Okay. But you recognized the person?

7 A Right. Oh, he was my employee, yeah.

8 Q Okay. And the woman that was talking to him, did you
9 recognize her?

10 A I did not recognize her, actually.

11 Q Okay. Was she wearing any uniform?

12 A No. She -- there wasn't an uniform.

13 Q Could you describe her for us?

14 A All I can really remember is that she was a little heavier
15 set, a little bit older.

16 Q All right. Was she tall?

17 A Well, I'm six-six, so nobody's really tall, but no, she
18 didn't strike me as tall.

19 Q Okay. Could you say approximately how tall you thought
20 she was?

21 A Maybe five-five, five-six or so.

22 Q Okay. So approximately a foot shorter than you?

23 A Probably -- about a foot shorter, yeah.

24 Q Okay. And so you saw this happening. What did you do?

25 A I asked her if she worked here.

1 Q Okay.

2 A And --

3 Q Could --

4 A Sorry.

5 Q Yeah. If you could just wait for me to ask the questions
6 it makes things easier for the court reporter.

7 A Okay.

8 Q So I take it you must have approached her then, to do
9 that?

10 A Yes, yeah.

11 Q Okay. And why were you asking what she was doing there?

12 A Because it didn't look like she worked there and it looked
13 like she might have been bugging one of my employees.

14 Q Okay. And when you approached her, was she facing towards
15 you or was she --

16 A I don't really re -- I just remember the two of them were
17 talking. So I recognized my guy. So maybe he was facing me,
18 so then maybe she wasn't facing me. Like maybe she was
19 sideways. They were more towards the building.

20 Q Okay.

21 A So they were probably both kind of facing me, but I don't
22 -- honestly, I don't recall who was facing me in what way.

23 Q Fair enough. And how close would you say you got to her
24 before you started asking her questions?

25 A Maybe five, six feet.

1 Q Okay. And as best as you can recall, can you tell us
2 first what you initially said to her and then what, if
3 anything, either she or the busser said in response?

4 A I saw the two of them and I said hey to the busser. And
5 then I asked her -- I said, "Everything all right? I asked her
6 if she worked here. And she said no.

7 Q Okay. And when you asked her those questions, what was
8 your tone of voice?

9 A Just how it normally is. Calm, pretty cool, collective.

10 Q Like the way you're talking now?

11 A Like the way I am now. Yeah, I'm pretty laid back, so.

12 Q You weren't angry or anything?

13 A No. No, of course not.

14 Q And her response was what?

15 A She said that she didn't work here.

16 Q Okay. And I apologize, did she say -- did you ask her --
17 what did you ask her?

18 A I asked her if she worked here.

19 Q And what was her response?

20 A No.

21 Q Okay. So she didn't say -- she just said no?

22 A She just said no, yeah.

23 Q All right. And was she doing anything at the time?

24 A I -- it was like a -- I don't remember the color of it,
25 but it seemed like it was like she was trying to hand him a

1 flyer or something.

2 Q Okay. All right. And do you recall when she responded,
3 was she looking at you or was she --

4 A I -- like by this point, I don't remember specifically,
5 but I'd assume that I'm -- you know, it's from me to them
6 distance wise. And they're bo -- you know, if the two of them
7 are talking, that's about, you know, what was happening, so --

8 Q All right.

9 A -- I would say --

10 JUDGE THOMPSON: Well, you have to kind of describe the --

11 THE WITNESS: Like if I -- like when you walk up the
12 walkway, it's where the cars drive down. That's where you walk
13 into work. So it's like a mini driveway. And they were
14 probably kind of closer to the building. And then you walk up
15 on the street thing. So it was probably, you know, four or
16 five feet's distance.

17 Q BY MR. KRAMER: Okay.

18 A But the building's behind them, so it wasn't like I would
19 have been walking up behind them, because they were like using
20 the building as a backdrop kind of thing.

21 Q Got it.

22 A Yeah. So like approaching the conversation basically is --

23 Q All right.

24 A -- the easiest way to describe it, I guess.

25 MR. KRAMER: All right. And let the record reflect

1 earlier when he was pointing, the distance was from him
2 approximately to the General Counsel's desk.

3 Q BY MR. KRAMER: And I think you indicated -- how far away
4 did you say you were?

5 A Five or six feet, I guess that would be.

6 Q Okay. And after she said no, did she do anything?

7 A No. She stopped talking to him. And then I asked her if
8 she would have minded coming inside. And then she walked with
9 me.

10 Q Okay. Did she say anything in response when you asked her
11 that?

12 A When I asked her if she'd come inside?

13 Q Yeah.

14 A She said she would, yeah.

15 Q Okay. And did you ask her to go anywhere in particular
16 inside?

17 A To security, yeah.

18 Q Why did you ask that?

19 A Because I didn't know if she was supposed to be there. So
20 if she's not supposed to be there --

21 Q Okay.

22 A -- security would be able to --

23 Q Now --

24 A -- take her to --

25 Q -- at any point, did you see anything on her that would

1 identify her as an employee of the hotel?

2 A No.

3 Q All right.

4 A No uniform. No nametag.

5 Q Did she at any point identify herself to you as an
6 employee of the hotel?

7 A No. When I asked her, she said she wasn't, so --

8 Q Okay.

9 A -- kind of led me to believe she didn't work there.

10 Q Did she say anything to identify her as being a -- someone
11 with the Union?

12 A No.

13 Q What about the busser that was there? Do you recall what
14 he did?

15 A He -- as soon as we started engaging in talking, he kind
16 of stopped talking. And then when I asked her to walk inside,
17 he went quickly to the parking lot.

18 Q Okay.

19 A Yeah.

20 Q And can you describe what you mean by quickly to the
21 parking lot?

22 A To me, like my impression was he was happy to be done with
23 the conversation so, "Thank god I get out of here now," --

24 Q All right.

25 A -- is what it struck me as.

1 Q Was he running towards the parking lot?

2 A No, but it was quicker than -- he wasn't running, but it
3 wasn't the normal walk.

4 Q Okay.

5 A It was a little faster than normal.

6 Q And --

7 A He just seemed like he wanted to go home.

8 Q Okay. And was she wearing any sort of company nametag on
9 her clothing?

10 A There was -- no, there was no uniform, no name badge.
11 There wasn't anything that would have -- if I had seen that, I
12 would know she worked there.

13 Q Okay. Did -- and did you have to -- I mean -- strike
14 that. In the course of your conversation, how close did you
15 get to this woman?

16 A Closest, maybe three, four feet. I mean, not much closer
17 than when we were talking. I asked her to walk inside with me
18 and she walked with me.

19 Q Okay. At any time, did you ever come into physical
20 contact with this woman?

21 A No. No, I didn't know her. There was no -- yeah, would
22 be --

23 Q Did you ever bump her with your shoulder?

24 A No.

25 Q With --

1 A The closest we probably came is when I held the door open
2 for her to get inside.

3 Q Okay. Did -- by the way, when you approached her, what
4 language -- did you hear her talking to the other employee?

5 A No.

6 Q Okay. Did she ask you any questions as to who -- outside
7 in the parking lot, did she ask you any questions as to who you
8 were?

9 A No.

10 Q Did you ever identify yourself as security?

11 A No.

12 Q Okay. Did you ever tell her that she couldn't talk to the
13 employee that she'd been talking to?

14 A No.

15 Q All right. And so after she agreed to go with you, where
16 did you two go?

17 A We walked up the rest of the driveway. I opened the door
18 for her. When you first walk into secure -- into the back
19 entrance to the hotel, the right side -- excuse me -- is like a
20 glassed up window that has a security officer in there. To the
21 left is Clyde Turner's office, who's the director of security.
22 So I looked over to the right real quick. Then I looked to the
23 left.

24 And Clyde's office door was open. So I poked my head in
25 Clyde's office door to see if he was in there. And he was. So

1 then we walked into the -- into his office.

2 Q Okay. And if you can just -- let me stop here. So the
3 entrance you went into, is that the public entrance?

4 A No, it's the back entrance into the property.

5 Q Okay. Is that where the employees --

6 A The employee entrance to the property, yes.

7 Q Okay. And when you enter that property -- so immediately
8 to the right there's a glassed window where --

9 A Yeah, it's like your normal standard window where the --
10 you have to swipe your badge to the right of the window to get
11 in, but then there's a security officer sitting like right
12 there at that window.

13 Q Okay. And to the left, there's a room with Mr. Turner in
14 it?

15 A Uh-huh. That's his office and there -- the security
16 conference room, I guess, is like the first little half room
17 that's in there.

18 Q Okay. Yeah. So can you describe that? So when you go
19 into the security -- Mr. Turner's office when you first walk
20 in, are you in Mr. Turner's office?

21 A No, there's a -- like a little central meeting room, where
22 I guess security probably has their pre-shifts or something.
23 It's like a five by ten room or whatever. And that -- so just
24 inside that room, there's like a door that's pretty much kitty
25 corner to the main room. And that's Clyde's door. So you open

1 up Clyde's door and it's like literally you poke your head in
2 and his office is right there.

3 Q So there's kind of like an office within an office.

4 A Yeah. Yeah.

5 Q Okay.

6 A It's like a -- his office is like a little five by five
7 thing.

8 Q So what is it when you -- so what is it exactly you did?
9 You and Ms. -- and this woman enter the employee entrance.

10 A Uh-huh.

11 Q You said you held the door for her?

12 A Yeah.

13 Q Okay.

14 A So she went in first.

15 Q And then did -- then what did you do and what did she do
16 at that point in time?

17 A She came in and as I opened the door, she walked in. I
18 looked over to the right and saw the security guy. But I saw
19 Clyde's thing. So she was kind of in front of me. I went this
20 way and just poked my head and saw Clyde. So I said, "Oh hey,
21 Clyde's here." And she walked into Clyde's office with me.

22 Q Okay. And how long did it take for you to poke your head
23 in and find that Clyde was there?

24 A Oh, half a second. It's three, four feet.

25 Q Okay. And then --

- 1 A It's pretty quick.
- 2 Q And then you went into Mr. Turner's office?
- 3 A We both went in, yeah, at the same time.
- 4 Q Okay. And Mr. Turner, was he there?
- 5 A He was -- yeah, he was sitting at his desk doing --
- 6 Q Okay. Was there --
- 7 A -- whatever he does?
- 8 Q -- anyone else there?
- 9 A No. Just Clyde.
- 10 Q All right. And as best as you can recall, can you tell us
- 11 what you said, what she said, what Mr. Turner said?
- 12 A Uh-huh. We went in there. I said, "Hey Clyde, this woman
- 13 was outside talking to one of my bussers. I didn't know if it
- 14 was supposed to be going on or not."
- 15 And he goes, "Oh no, that's okay."
- 16 And I go, "Okay, cool."
- 17 And then -- and he go -- he apologized to her, if I
- 18 remember right and said, "I'm sorry. You know, you can do
- 19 whatever you want to do outside there. That was fine. And I
- 20 apologize, you know. We didn't need to bring you inside." And
- 21 he said, "Have a good day."
- 22 And then she asked for my name.
- 23 Q Who did she ask?
- 24 A She didn't ask anybody specifically. She just kind of
- 25 generally asked like both of us. It wasn't like address to

1 Clyde or whoever. Clyde then said, "You don't need his name.
2 Everything's fine." And then I just gave her my name.

3 Q So you gave --

4 A So --

5 Q -- her your name?

6 A -- I gave it to her, spelled it out for her, yeah.

7 Q Okay. And after you gave her your name, then what
8 happened?

9 A Then I went into work.

10 Q Okay. Did you see what this woman did?

11 A I assumed she left right behind me. I don't -- or went
12 out the back door. Or maybe she talked to Clyde. I wasn't
13 there.

14 Q Okay.

15 A So I just went into work, so --

16 Q Got it. At any point in Clyde's office, did she identify
17 herself as an employee?

18 A I don't remember. I don't think she did. After Clyde
19 said it was okay, I just -- it -- pretty much, you know, okay.
20 That was fine.

21 Q Okay.

22 A And I went to work.

23 Q All right. Did Clyde say she was an employee?

24 A I didn't -- I don't remember if he said he di -- she was
25 or not. But he acted like it wasn't an issue whether she was

1 an employee or not, so --

2 Q Okay. When you and this woman entered the -- through the
3 employee entrance, did you -- were there any employees there
4 that greeted this woman? Do you recall?

5 A I don't know. I don't think -- I think it was just us. I
6 mean, I don't recall for sure, but I don't recall anyone else
7 being there.

8 Q All right. And how long would you say that your
9 conversation with Mr. Turner and this woman took?

10 A Less than a minute.

11 Q Okay.

12 A It was pretty quick.

13 Q And at any point, did you force her to wait outside in the
14 hallway while you were talking to Mr. Turner?

15 A No. I mean, you know, the half second while I poked my
16 head in there, but I didn't really leave the room either, so --

17 Q Okay. At any time, did you tell this person that she
18 couldn't solicit in the parking area?

19 A No. I may have something like I wasn't sure if she could
20 or not. But I don't remember saying that.

21 Q Okay.

22 A That's why I wanted her to talk to security, because
23 security would know better than me.

24 Q Did she ever accuse you of preventing her from hand
25 billing?

1 A No, not at all.

2 Q Did you have any occasion to talk to this person again
3 about what happened?

4 A To talk to --

5 Q The woman.

6 A -- the person I walked inside?

7 Q Yeah.

8 A No, I didn't even know who she was, no.

9 Q Okay.

10 MR. KRAMER: No further questions, Your Honor.

11 JUDGE THOMPSON: Thank you, Mr. Kramer. Just give me one
12 second, counsel. Okay. Cross-examine, Ms. Davila or Ms.
13 Oviedo.

14 MS. DAVILA: Yes, Your Honor. One minute.

15 JUDGE THOMPSON: Certainly.

16 **CROSS-EXAMINATION**

17 Q BY MS. DAVILA: Hi, Mr. Doucette.

18 A Hi.

19 Q My name is Judy Davila. I'm an attorney with the
20 government. This is my co-counsel, Elise Oviedo. I'm sorry
21 you have to repeat yourself, but when did you stop working at
22 the hotel?

23 A I want to say it was like March or April, but it may have
24 been June.

25 Q Okay. So you're unsure?

1 A Yeah. I -- yeah.

2 Q And you've worked at two places since?

3 A Well, I'm at my second place since, yeah.

4 Q Okay.

5 JUDGE THOMPSON: What was the place after Trump that you
6 worked?

7 THE WITNESS: Primm Valley Resorts. I went to work for a
8 friend of my mine to handle their customer service department.

9 JUDGE THOMPSON: Got it.

10 THE WITNESS: And hotel operations.

11 JUDGE THOMPSON: Thanks.

12 Q BY MS. DAVILA: And you testified that this incident
13 happened in March, correct?

14 A I was told it did, yeah. I -- yeah.

15 Q Okay. And you remember a lot of details for it being
16 something that was a long time ago, correct?

17 A (No verbal response).

18 Q And was your memory refreshed --

19 JUDGE THOMPSON: Wait, wait, wait --

20 MR. KRAMER: Whoa.

21 JUDGE THOMPSON: You didn't --

22 MS. DAVILA: Oh, I'm sorry.

23 JUDGE THOMPSON: -- let him answer.

24 MS. DAVILA: Oh.

25 JUDGE THOMPSON: Could you remember the question, counsel.

1 Q BY MS. DAVILA: So you remember a lot of details for
2 something that happened in March, correct?

3 A I don't think I remembered a lot of details, no.

4 Q You stated in your testimony approximately how far -- how
5 many feet people are away from each other, correct?

6 A That's generally how far away I am from everybody.

7 Q Okay.

8 A So -- yeah.

9 Q That's fair. You said that your memory was refreshed
10 regarding this incident, correct?

11 A Yes.

12 Q And who refreshed your memory?

13 A That was --

14 MR. KRAMER: I'm going to object to the extent it calls
15 for attorney client privilege.

16 MS. DAVILA: I'm not going to go into it, I just --

17 JUDGE THOMPSON: I'll sustain the objection to the extent
18 it calls for attorney client privilege, but counsel's assured
19 me she won't go into that, so continue.

20 MS. DAVILA: Okay.

21 JUDGE THOMPSON: Repeat the question, counsel.

22 MS. DAVILA: Oh, I'm sorry.

23 Q BY MS. DAVILA: Who refreshed your memory about this
24 incident?

25 A Ron, after I was --

1 Q Go ahead. Sorry.

2 A Yeah, after I was subpoenaed. So I called back and then I
3 went down Trump to meet with him.

4 Q Okay.

5 MS. DAVILA: Let the record reflect that the witness
6 pointed to Respondent's table.

7 THE WITNESS: Sorry.

8 Q BY MS. DAVILA: Did you review any documents in
9 preparation for your testimony today?

10 A No.

11 Q How many times did you meet with Mr. Kramer before?

12 A Just once.

13 Q And how long was that meeting?

14 A Thirty minutes, I think it may have been. Maybe. Yeah,
15 maybe 30 minutes.

16 Q Okay. And my next group of questions isn't to offend. I
17 just want to put that out there. You're a big guy, right?

18 A I'm a tall person, yes.

19 Q Okay. And you testified that you were six foot six?

20 A Yes, ma'am.

21 Q And could you state your weight for the record?

22 A Two-sixty pounds, if it matters.

23 Q That helps. Thanks. Okay. And now I just want to talk
24 about the parking lot. So the parking lot isn't -- doesn't
25 have restricted access, correct?

1 A It's fenced off from the far side, but there -- it's not
2 like you have to swipe a badge to get into it or anything, so
3 no.

4 Q Is there a security officer on duty there, as far as you
5 know?

6 A I have no idea. I have never seen anybody like walking
7 through it or anything. I know there's security inside and
8 that they probably patrol, but I don't work in security, so I'm
9 not sure what the routine --

10 Q And why were you there that day?

11 A To work.

12 Q Do you park your car there?

13 A Yeah.

14 Q Okay. And you said that you saw an employee that you
15 recognized as one of your bussers, correct?

16 A My busser, yeah, correct.

17 Q About how many bussers did you oversee at Trump?

18 A All shifts, probably between the outlets, maybe 17 -- 15
19 to 20 probably would be a good guess.

20 Q And you approached them, because you recognized him,
21 correct?

22 A I saw him, yes. Yeah.

23 Q And did you approach him, because you thought something
24 was going on?

25 A I just didn't know what was going on, so I said, "Hey,"

1 you know, like you'd greet anybody that works with you.

2 Q So were you approaching him to say hi or to see what was
3 happening?

4 A I was just going to say hi.

5 Q Okay.

6 A Yeah.

7 Q And you said you didn't recognize the woman who he was
8 talking to, correct?

9 A No, I did not.

10 Q I don't know if you already described this, but did you
11 describe what she was wearing?

12 A No, I didn't.

13 Q Did you see a badge on her?

14 A I did not see -- I didn't see anything that identified her
15 as an employee.

16 Q And just for the record, do Trump employees have badges?

17 A Yes.

18 Q What do they look like?

19 A Well, the name badge is just a regular name plate that's
20 gold with a silver rim --

21 Q Uh-huh.

22 A -- and then an employee ID badge is usually worn by a
23 little clip-on that goes on a hip or two and it's a white badge
24 with a small picture. And then the Trump name and the employee
25 name underneath it.

1 Q And some employees wear that badge and a lanyard on their
2 chest, correct?

3 A I have no idea. The ones in my department don't.

4 Q Okay. But have you ever seen an employee where a badge
5 with a lanyard on their chest?

6 A With a lanyard?

7 Q A --

8 A Not --

9 Q -- necklace?

10 A -- really, no. It's not -- I work in food and beverage,
11 so that's a -- it's not a health code violation, but your
12 lanyard would get in the food all the time. The cooks can't do
13 it, so no, I don't.

14 Q Got it.

15 A Yeah.

16 Q And you described this woman as five feet fi -- about --
17 approximately --

18 A I -- if I --

19 Q -- five feet five, correct?

20 A -- had to say --

21 JUDGE THOMPSON: Wait. Let her finish --

22 THE WITNESS: Okay.

23 JUDGE THOMPSON: -- the question.

24 THE WITNESS: Sorry.

25 JUDGE THOMPSON: That's okay. Go ahead, Ms. Davila.

1 Q BY MS. DAVILA: I'm sorry. And you described for us five
2 feet five, correct?

3 A If I had to assign a height to it, I would say she was
4 around five and a half foot tall, yeah.

5 Q And could you describe her demeanor when you approached
6 her?

7 A My normal demeanor is just --

8 Q No. No.

9 A -- happy.

10 Q Her demeanor. I'm sorry.

11 A Her demeanor?

12 Q Yes.

13 A I -- she appeared to be talking to one of my employees.
14 She didn't seem upset or anything like that.

15 Q Was she shouting at your busser?

16 A No.

17 Q Was she threatening your busser?

18 A No.

19 Q Did you have any reason to believe that something bad was
20 happening?

21 A Not something bad, but that one of my employees was
22 talking to somebody that might not work there and be in the
23 wrong place.

24 Q And employees are not allowed to talk to people who don't
25 work there?

1 A Not in employee areas, no. I don't believe so.

2 Q So as far as you know, there's no restriction on employees
3 talking to non-employees, correct?

4 A As far as I know, correct, yeah.

5 Q Okay. And do you usually approach everyone you see in the
6 employee parking lot who's not an employee?

7 A Yes. If I see somebody, but it's usually all employees,
8 so --

9 Q So you've done it before. You've approached somebody
10 who's not an employee in the parking lot?

11 A I've never seen a nonemployee in the parking lot. But I
12 say hi to everybody, so --

13 Q Okay. So she would be the only nonemployee that you've
14 seen in the parking lot as far as you can remember.

15 A Well no, there's -- sometimes people hop the fence when
16 valet's full. So there's nonemployees that park that on the --
17 because the far side closest to Fashion Show Mall is also
18 employee parking. But sometimes valet is full. So people
19 sneak around the backside and park. But you always -- like if
20 you see them and they're trying to jump, you always say
21 something.

22 Q Okay.

23 A Plus there's a dumpster in the back part of the garage, so
24 there's homeless people you got to kick out of there sometimes
25 and -- it's not -- that's what I was saying before. It's not

1 restricted so there's -- you don't have to swipe your badge to
2 get into the parking lot.

3 Q And these people that jump the fence when the valet is
4 full, would these be guests?

5 A Sometimes, they're guests. Sometimes it's overflow
6 parking from Fashion Show. You know, every time I've asked or
7 I've seen something like that, it's been -- anything random.
8 From them just finding a parking spot, so they can get on the
9 strip.

10 Q Okay. And do you normally take these people to security
11 when you spot them?

12 A If -- yeah, if they walk with me. I'm not going to chase
13 somebody down or grab them.

14 Q Can you recall a time other than this, where you've walked
15 a nonemployee to security from the parking lot?

16 A No, I can't. No.

17 Q Do you escort people to security often when you worked at
18 Trump?

19 A When I worked at Trump, yes, if they were in a place where
20 I thought they shouldn't have been or something might have been
21 going on, absolutely.

22 Q Have you ever escorted a guest to security?

23 A Guests, multiple times, yeah.

24 Q Okay. Do you use the employee entrance when you escort a
25 guest?

1 A No. It usually happens on property, so you walk back
2 through the corridors of the property. You wouldn't walk out
3 of the hotel and then back around to the employee entrance.

4 Q Have you ever escorted a nonemployee through the employee
5 entrance into the security from the parking lot?

6 A Well, they don't have to be escorted to security. It's
7 before the employee entrance.

8 Q But I'm talking about instances where you've escorted
9 people from the parking lot to security.

10 A I haven't really had a reason to, so no.

11 Q So this would be one reason. This would be the one reas
12 -- the one incident, where you escorted a non-employee to the
13 security office from the parking lot.

14 A Yes. I guess, yes.

15 Q Okay. Is there any reason you used the employee entrance
16 and not the -- another entrance when you went to sec -- when
17 you took her to security?

18 A She was back by the employee entrance, so it wouldn't kind
19 of make sense to escort her to security by going in the front
20 entrance and then walking all the way through the property.

21 Q And you said that you didn't hear what they were --
22 what --

23 A What they --

24 Q -- the busser and --

25 A -- were talking about?

- 1 Q -- this person were talking about, correct?
- 2 A No, I did not hear what they were talking about.
- 3 Q Okay. And do you speak Spanish?
- 4 A No. I wish. Make life a lot easier. Sorry.
- 5 Q And when you spoke to her, you spoke in English, correct?
- 6 A Yes, of course.
- 7 Q And when she responded, did she respond in English or in
- 8 Spanish?
- 9 A Yes, English.
- 10 Q And what did she respond?
- 11 A She said no, when I asked her if she worked here.
- 12 Q At what point did you ask her to follow you to security?
- 13 A Right after she said no, she doesn't work here. I asked
- 14 her if she'd mind coming to security.
- 15 Q And what did she say?
- 16 A She said sure. And we walked.
- 17 Q Did she shrug and say sure?
- 18 A I don't recall, but she didn't object to walking to
- 19 security, so we walked together to security.
- 20 Q And what was her demeanor when she was walking with you?
- 21 A I was walking in front of her, so I don't really -- I
- 22 wasn't looking at her.
- 23 Q Okay. You didn't have any conversation on your way from
- 24 the --
- 25 A No --

1 Q -- security to the --

2 A -- we didn't talk at all. I didn't know her, so there was
3 really --

4 Q Okay. Was your demeanor friendly? Were you smiling?

5 A Yeah.

6 Q Okay. Was there anybody else around besides the busser,
7 her and you?

8 A No. It was just -- yeah, just the three of us.

9 Q Do employees ever hang out in that parking lot?

10 A There's a smoking area outside of the entrance, but I
11 don't remember if anybody was there or not.

12 Q So it's possible somebody could have been smoking there?

13 A Somebody could have been smoking there.

14 Q Okay.

15 MS. DAVILA: Excuse me one minute.

16 Q BY MS. DAVILA: If she was walking in front of you, then
17 how do you -- how did she know where to go?

18 A I was walking in front of her. That's why I didn't see
19 what her demeanor was.

20 Q Okay. And did you ever look back to make sure she was
21 following you?

22 A No.

23 Q And you said you opened the door for her, correct?

24 A Yeah, so then she got in front of me, yes.

25 Q And she never spoke to you again after she followed you

1 in?

2 A Well, she spoke like in general, when she was asking for
3 my name in the office, but that's the only time she really
4 engaged me after that.

5 Q When she asked for your name, she didn't ask you directly?

6 A No, it was like -- she didn't say, "Can I have your name?"
7 because obviously she didn't know my name. She could address
8 me. But she asked -- Clyde and I were both there. So she
9 asked for my name like generally is how I took it. She just
10 said --

11 Q And you responded? You gave your name?

12 A Of course, yeah.

13 Q Did Clyde say anything?

14 A Yeah. Clyde said that I didn't have to give my name and
15 it wasn't a big deal, don't worry about it, is the way he
16 presented it. Like Clyde presented it. And then I had no
17 problem giving my name, so of course, I gave her my name.

18 Q When you said that he was presenting that it wasn't a big
19 deal, who was he trying to present that to you? To you or to
20 her?

21 A It seemed like to her, yeah.

22 Q Why would he feel the need to present that to her?

23 MR. KRAMER: Objection, Your Honor. Calls for
24 speculation.

25 Q BY MS. DAVILA: Do you --

1 JUDGE THOMPSON: He -- re -- sustained.

2 Q BY MS. DAVILA: Do you know why he was trying to make it
3 seem like it wasn't a big deal?

4 A I have no idea, no.

5 Q Did she seem upset?

6 A Not at all, no.

7 Q Did you at ever -- any point think that you were
8 intimidating her?

9 A No. No. Of course not.

10 Q Have you ever been in a Union?

11 A Have -- yes, actually, I have.

12 Q Okay. Do you know that employees have rights to Union
13 activities at the workplace?

14 A I -- yes, I do know that.

15 Q And you know that at Trump there was an organizing
16 campaign going on?

17 A Yes, there was.

18 Q And that's some of --

19 A Or is.

20 Q -- some of those employees were food and beverage
21 employees, correct?

22 A Yes.

23 Q Did you ever see any of your food and beverage employees
24 doing Union activity?

25 A No.

1 MR. KRAMER: Object, Your Honor. It's outside the scope.

2 MS. DAVILA: I'm just trying to get to if he knew that
3 Union activity was allowed.

4 JUDGE THOMPSON: I'll allow the question. Could you
5 repeat it, Ms. Davila?

6 Q BY MS. DAVILA: Some of your -- you saw some of your
7 employees in food and beverage --

8 A Yes.

9 Q -- participating in Union activity, correct?

10 A Yes.

11 Q And you were told by the hotel that you were to allow
12 employees to do their Union activities, correct?

13 A That we were to allow them? Yes --

14 Q Yes.

15 A -- of course.

16 Q And the Trump Hotel is opposed to the unionization,
17 correct?

18 A I don't know. They never stated that at all, so --

19 Q You have no idea about the hotel's opinion regarding the
20 Union?

21 A Well, I read it -- you know, the internet like anybody
22 else and see Trump, but -- so I know that he doesn't want it,
23 but that's about the extent of it.

24 MR. KRAMER: Objection, Your Honor. It's -- there's no
25 foundation for that.

1 JUDGE THOMPSON: I'm going to strike the witness' answer,
2 but I think he answered the question originally. But repeat
3 your question, counsel.

4 Q BY MS. DAVILA: The hotel never made their opinion known
5 while you were working there?

6 A Not while I was working there, no.

7 Q And were -- when -- did you still work there when there
8 was an election scheduled?

9 A I don't think I did. I think I was gone before the
10 election was scheduled.

11 Q Were you ever given any directions from management about
12 what to do when you saw employees doing Union activity?

13 A No.

14 Q And how did you know what to do if you encountered this
15 activity?

16 A I -- prior to Trump Hotel, I worked at MGM Grand Resorts
17 for five years, so --

18 Q So it's your personal knowledge of Union activity --

19 A Of course.

20 Q -- the legality of Union activity?

21 A Oh of course, yeah.

22 Q Okay.

23 MS. DAVILA: No further questions, Your Honor.

24 JUDGE THOMPSON: Thank you, Ms. Davila. Mr. Kramer, any
25 redirect?

1 MR. KRAMER: A few questions, Your Honor.

2 **REDIRECT EXAMINATION**

3 Q BY MR. KRAMER: What Union were you a member of, sir?

4 A Bartenders Union?

5 Q Is is Culinary --

6 A No, it's been 22 years, so -- but yeah, it was a
7 bartenders Union.

8 Q Affiliated with Unite Here?

9 A Yep.

10 Q For the -- just for the clarity of the record, where is
11 the employee entrance located at the hotel?

12 A On the backside of the property.

13 Q And where is the public entrance to the hotel located?

14 A On the front side of the property.

15 Q All right. So in the security office, where is it in
16 relationship to those entrances?

17 A By the back entrance.

18 Q Okay. Right next to the back entrance?

19 A Literally inside the door.

20 Q Okay. And that was another question, because you -- I
21 think you indicated on cross that it was -- security was before
22 the employee entrance. So I'm a little bit confused.

23 A There --

24 Q Can you explain?

25 A -- well, when you walk into the backdoor, where the

1 employee entrance is, there's like a central -- like a staging
2 area almost, where the security window is. Then there's
3 another set of double doors. And that's technically the
4 employee entrance. So Clyde's door is before that employee
5 entrance. Then there's the double sided doors. So when an
6 employee comes in, you have to take your badge out, swipe the
7 badge, which unlocks those doors, to then get into the
8 property.

9 Q Okay. So you can walk into the staging areas, you said --

10 A Uh-huh.

11 Q -- the doors are open.

12 A Those -- oh, those doors are --

13 Q Okay --

14 A -- yeah, those are open.

15 Q -- but in order to get in beyond that, there's a
16 separate --

17 A You have to --

18 Q -- separate set of doors.

19 A -- swipe your badge.

20 JUDGE THOMPSON: Wait, wait, wait.

21 THE WITNESS: Oh, I'm sorry.

22 JUDGE THOMPSON: You got to wait for the question.

23 Q BY MR. KRAMER: There's a separate set of doors. Is that
24 right?

25 A Yes. There's a separate set of doors.

1 Q And are those open?

2 A No. Those are under like -- I don't know what you would
3 call it, but that's swipe access or --

4 Q Okay.

5 A Yeah.

6 Q All right. Okay, so you never actually took her into the
7 building beyond the actual employee entrance with the lot
8 doors. Is that correct?

9 A We never went through the double -- the second set of
10 doors, no.

11 Q Okay. Because you can access Mr. Turner's office before
12 you get to that --

13 A Correct.

14 Q -- double set of doors.

15 A Yeah, it's right there on the left.

16 Q Now, the other thing is is you kept on -- you've mentioned
17 a couple times now that the parking is not restricted. What do
18 you mean by that?

19 A To use as a basic example, like when I was at Aria and
20 MGM, there -- an employee parking lot is a restricted access
21 lot, which was generally a parking garage, where you'd have to
22 either pass a security guard and/or swipe your badge to get
23 into where your car is then secure and safe.

24 Q Okay.

25 A Trump doesn't like that. It's --

1 Q So in other words, in the Trump parking lot, there's no --
2 there's nothing to prevent anyone from just driving into the
3 lot.

4 A Correct.

5 Q To your knowledge, is the lot open to anyone just to park
6 there?

7 A It -- there are signs that say employees only, but the
8 access is the same way the delivery trucks come. If you're --
9 the way valet is so mess up there is when you come in and you
10 try to park, if there's no valet parking, you have to go out
11 and then drive around the backside of the property sometimes,
12 just to get back out on the street.

13 Q Okay.

14 A It's not the most efficient, so --

15 Q But there are signs that say it's --

16 A There are signs --

17 Q -- employee only.

18 A Yes.

19 Q Okay.

20 A All the way through, it says you know, employees only or
21 delivery access only. Not for public access.

22 Q All right. So would you then expect to see someone who's
23 not an employee out there on the employee only parking lot?

24 A I would not expect to see a non-employee there.

25 Q Okay. Although I think as you indicated, sometimes people

1 do --

2 A Yeah, there's --

3 Q -- park there.

4 A Yeah, there's time's people --

5 Q You mentioned that all of the employees that you
6 supervised carried an identification for the hotel?

7 A Yeah. You either have name badge and your employee badge
8 or you know --

9 Q And --

10 A -- part of the uniform is both, so --

11 Q -- and can you describe the employee badges that you and
12 your employees were wearing at that time?

13 A When they start working there, they get the regular badge.
14 And we have a -- like a hole punch that puts like a little
15 rectangular size thing at the top that you can then clip --
16 plastic with a little tiny metal clip, that you can then clip
17 to your waist --

18 Q Okay.

19 A -- so then it's visible, and go from there.

20 Q And what is on that badge?

21 A The ba -- I can't remember exactly, but from what I
22 remember of mine, it's -- your face is on the top and then it
23 says like Trump Hotel or Trump International Hotel. Then it
24 has your name. I want to say it has your title, but I can't
25 remember exactly. Then on the back, it's got the barcode, so

1 you can swipe to get into work and --

2 Q So it had your photo and a bar -- photo on one side and --

3 A Yeah.

4 Q -- barcode on the other?

5 A Yeah. Yes.

6 Q All right. I'm going to ask you to turn to General

7 Counsel --

8 MS. OVIEDO: It's Respondent 17.

9 Q BY MR. KRAMER: Respondent's Exhibit 17.

10 THE WITNESS: Could you help me out?

11 JUDGE THOMPSON: Yes.

12 THE WITNESS: Something I can help you with?

13 JUDGE THOMPSON: No.

14 THE WITNESS: No?

15 JUDGE THOMPSON: It -- it's -- it'll take a second.

16 Counsel, can you give me a copy here? I don't know if I have

17 it. It's probably in here somewhere. I just can't find it.

18 THE WITNESS: Is this water here?

19 JUDGE THOMPSON: Thank you. Yes.

20 THE WITNESS: Sorry. Bad timing.

21 JUDGE THOMPSON: Let the record reflect I'm handing what's

22 been marked as Respondent's Exhibit 7. Thank you, Ms. Oviedo.

23 MR. KRAMER: 17.

24 JUDGE THOMPSON: 17. Thank you.

25 Q BY MR. KRAMER: Mr. Doucette, can you identify this for

1 us?

2 A This, the name badge?

3 Q No. Can you identify the -- I real -- I mean, have you
4 ever met a person named -- to your knowledge, have you ever met
5 anyone named Eleuteria Blanco?

6 A Not that I know of, no.

7 Q Okay. But the format of this. Do you recognize --
8 there's two pictures here. There's one that has the word Trump
9 on it. Do you see that?

10 A I'm not looking -- I -- am I not looking at the same -- I
11 only see one picture. There's one name badge?

12 Q Do you see something to the left there?

13 A Yeah, there's a picture.

14 Q Okay. And on the right there's a picture that says Trump.
15 Is that correct?

16 A Yes.

17 Q And then do you see to the left of that, there's something
18 that also has a circle on it, but there's no writing?

19 A Correct. Yes.

20 Q Okay. The one on the right that says trump, do you --

21 A Yes.

22 Q Can you -- when you were asking -- when you were saying
23 that your badge had the name and stuff on it, is that what your
24 badge had on it?

25 A That's what -- yeah, the badges are all the same.

1 Q Okay. Where was your -- but you had a photo on yours. Is
2 that right?

3 A Photo, yes.

4 Q And where would that have been?

5 A Same place that this one is.

6 Q Okay. Is there --

7 A There's a picture on this one.

8 Q -- on that little thing?

9 A Yeah.

10 Q Okay.

11 A Yes.

12 Q And then on the other side, it's blank?

13 A Yeah, the other side is blank.

14 Q Okay. Got it.

15 A Yeah.

16 Q Thank you.

17 MR. KRAMER: No further questions, Your Honor.

18 JUDGE THOMPSON: Mr. Doucette, that so much for your
19 testimony.

20 THE WITNESS: Not a problem.

21 JUDGE THOMPSON: Please don't discuss it with anyone.

22 Have a fantastic day.

23 THE WITNESS: You as well.

24 JUDGE THOMPSON: You are excused.

25 THE WITNESS: Happy Thanksgiving.

1 JUDGE THOMPSON: Thank you.

2 THE WITNESS: Merry Christmas.

3 JUDGE THOMPSON: You too. Happy New Year. Thank you.

4 THE WITNESS: You're welcome.

5 MR. KRAMER: Thank you for coming.

6 THE WITNESS: Anytime.

7 JUDGE THOMPSON: Mr. Kramer, would you like to call your
8 next witness? Or Mr. Dritsas.

9 MR. KRAMER: All right. Yes, Your Honor. Going to call
10 Gustavo Acosta.

11 JUDGE THOMPSON: Off the record just a second.

12 (Off the record at 2:05 p.m.)

13 JUDGE THOMPSON: We are back on the record with the
14 Respondent's case in chief. Mr. Kramer, would you like to call
15 your next witness?

16 MR. KRAMER: Thank you. Respondent calls Antonio Gustavo
17 -- Gustavo Acosta.

18 JUDGE THOMPSON: Take two.

19 MR. KRAMER: Respondent would like to call Gustavo Acosta
20 back to the stand, Your Honor.

21 JUDGE THOMPSON: Thank you. Good afternoon, Mr. Acosta.

22 MR. ACOSTA: Good afternoon.

23 JUDGE THOMPSON: I remember -- I don't know if you
24 remember me, but I remember you when you testified during the
25 first part of our trial. I'm Judge Thompson. I'm going to

1 swear you in again, because it's been a sufficient amount of
2 time. But I want to swear you in again. So let -- raise your
3 right hand, please.

4 Whereupon,

5 **GUSTAVO ACOSTA**

6 having been duly sworn, was called as a witness herein and was
7 examined and testified as follows:

8 JUDGE THOMPSON: Thank you. And for the record, could you
9 just restate your name again.

10 THE WITNESS: Gustavo Acosta.

11 JUDGE THOMPSON: Mr. Acosta, do you recall the
12 instructions that I gave you with regard to your testimony to
13 speak -- give us a verbal response, speak as loud as you can,
14 try to wait, if a party -- counsel objects, et cetera?

15 THE WITNESS: Yes, I do.

16 JUDGE THOMPSON: Okay. Good. Those instructions still
17 apply. Mr. Kramer, your witness.

18 MR. KRAMER: Thank you, Your Honor.

19 **DIRECT EXAMINATION**

20 Q BY MR. KRAMER: Mr. Acosta, earlier, when you testified --
21 strike that. As part of your investigation of the suspension
22 pending investigation involving Ms. Guzman, did you have any
23 discussions with Ms. Guzman to find out her side of the story?

24 A Yes, I did.

25 Q And when was that?

1 A It would be approximately the middle of July, because she
2 got suspended, I believe July 15 over the phone.

3 Q You had a conversation with her over the phone?

4 A Correct.

5 Q All right. And in that conversation, did Ms. Guzman ever
6 tell you that she was excused from work for five days?

7 A No.

8 Q Did she ever tell you that she had a doctor's note that
9 excused her from work for five days?

10 A She just stated that she had a doctor note that she gave
11 to Alejandra.

12 Q Okay. Did she give any indication of what the doctor's
13 note said?

14 A No.

15 MS. DAVILA: Objection. Leading. Can you just ask more
16 open ended questions?

17 JUDGE THOMPSON: I don't know that that was leading,
18 counsel. So I'm going to have to overrule the objection. But
19 I'll just restate again, Mr. Kramer, for the record, if
20 Respondent should try to ask open, if not direct questions on
21 direct.

22 MR. KRAMER: I am --

23 JUDGE THOMPSON: Just for the record.

24 MR. KRAMER: I -- thank you, Your Honor and I'm -- I take
25 it you'll all keep me honest. I'm just trying to keep this

1 focused to avoid --

2 JUDGE THOMPSON: Certainly.

3 MR. KRAMER: -- rehashing old territory.

4 JUDGE THOMPSON: Certainly.

5 MR. KRAMER: All right.

6 Q BY MR. KRAMER: And did -- you've -- your familiar with
7 the process of what happens when an employee is placed on
8 suspen -- strike that. Are you familiar with what happens when
9 an employee is placed on suspension pending investigation?

10 A Yes, I do.

11 Q Okay. And when an employee is placed on suspension
12 pending investigation, what happens -- strike that. Are there
13 occasions when an employee is placed on suspension pending
14 investigation in person?

15 A Well, when you get SPI, yes, the employee has to be
16 present.

17 Q Okay. And after the employee is placed on suspension
18 pending investigation, what happens to the employee?

19 A They get -- they remove their badge, their name badge.
20 And they get -- they take them to the employee exit --

21 Q Who ta --

22 A -- escort them out.

23 Q Who take -- who escorts them out?

24 A Whoever delivered the SPI.

25 Q Okay. And is that the practice for all employees placed

1 on SPI?

2 A Correct.

3 Q Now, were you present on July 22nd, when Ms. Guzman was
4 notified that she was terminated?

5 A Yes, I was present.

6 Q Okay. Could you tell us what you said to her and what any
7 -- first of all -- strike that. Just what, if any discussion
8 was had in that meeting regarding any doctor's note that Ms.
9 Guzman had?

10 A Repeat that question again. I'm sorry.

11 Q Sure. What, if any, discussion was had in that meeting
12 regarding any doctor's note --

13 A Yes.

14 Q -- that Ms. Guzman may have had?

15 A Yes. She said that she had the doctor's note that she
16 gave to Alejandra.

17 Q Okay. And did you or Ms. Magana say anything in response?

18 A I told her yes. And I told her that I had the doctor
19 note. I reviewed it. And the doctor said that she was off
20 from July -- she was excused from July 3rd through the 5th, I
21 believe. And I told her that those points did not count
22 towards her the date that she was off. And she was scheduled
23 to return to work July 5th.

24 Q All right. So you indicated to her that the -- you -- the
25 hotel hadn't given her points for the day, so the doctor had

1 said she was off?

2 A That's correct.

3 Q At any point in that discussion, did she indicate to you
4 that the doctor had given her five days off?

5 A No. It was just from July 3rd through the 5th.

6 Q All right.

7 A To which -- and she returned to work July 7th.

8 Q All right. Mr. Acosta, we're going to be handing you
9 what's been marked as Respondent's Exhibit 33 for
10 identification. All right. Mr. Acosta, can you tell us what
11 this document is?

12 A It's a document that -- of associates that receive
13 disciplines. And those were -- associates that were suspended,
14 because they were wearing Union buttons.

15 Q Okay. All right. And was this summary prepared under
16 your direction?

17 A Yes.

18 Q All right. And where is the -- from the -- where was the
19 information that's on this summary gathered from?

20 A From the personnel file --

21 Q Of each of these of these employees?

22 A As an individual, yes.

23 Q All right. And where is discipline kept?

24 A In the personnel file, in the HR department.

25 Q Okay. And what period of time does the discipline of time

1 for these employees cover?

2 A From the beginning of the employment --

3 Q From the beginning --

4 A -- till present.

5 MS. DAVILA: Objection. Relevance. The other
6 disciplinary orders -- of these other employees, there's no
7 weight to this case. There's no allegations regarding any of
8 these disciplines in the complaint. Why are we talking about
9 this?

10 JUDGE THOMPSON: Mr. Kramer?

11 MR. KRAMER: Your Honor, the General Counsel is alleging
12 that the hotel's discriminating against Union employees. I
13 think it's highly relevant to show the discipline histories of
14 the people that General Counsel are basically saying are the
15 lead or -- Union organizers in this campaign.

16 MS. DAVILA: We're alleging against very specific
17 employees. Gisella Happe, I've never met her. I don't know
18 who she is. I don't know why she's included. And we're not in
19 -- and show me the parts in the complaint where I talk about
20 these people being unfairly -- an 83 allegation against of
21 these employees. There's 81 allegations, but not 83. And
22 that's where these disciplines would come into play.

23 MR. KRAMER: You said the General Counsel's positions that
24 they are not alleging an 80 --

25 MS. DAVILA: We are alleging one 83 --

1 MR. KRAMER: Yes.

2 MS. DAVILA: -- which is discrimination against Martha
3 Guzman. And these are not Martha Guzman.

4 JUDGE THOMPSON: But they are her comparators. Are they
5 not?

6 MR. KRAMER: They're other Union -- they're the active
7 Union organizers. And I believe that the General Counsel put
8 in 115 pages of attendance records.

9 MS. DAVILA: Which I am not -- this is prepared for this -
10 - these purposes.

11 JUDGE THOMPSON: Well, I don't know yet, counsel, but go
12 ahead.

13 MS. DAVILA: But my point is, this is irrelevant. If
14 we're going to bring up things that are irrelevant, if they're
15 allowed to go beyond the scope of the complaint -- I have been
16 tied to the complaint this whole hearing and I ask that they be
17 tied to as well.

18 JUDGE THOMPSON: Okay.

19 MS. DAVILA: I've never -- I'm not alleging Ofelia Diaz
20 was given a verbal coaching discriminatorily ever. Or Carmen
21 Llarul. Or Celia Vargas.

22 JUDGE THOMPSON: Okay. Counsel. What's -- can you tell
23 me where -- without revealing all of your theory or strategy,
24 why are we introducing this document?

25 MR. KRAMER: General Counsel's case is that the hotel, you

1 know, was motivated by Union activity for purposes of
2 disciplining Ms. Guzman. I think it's highly relevant to see
3 that you know -- that the hotel has not been heavy handed at
4 all with regards to discipline of the Union organizers, to
5 demonstrate that there is no anti-Union animus, or more
6 importantly, Your Honor, motivation.

7 MS. DAVILA: Your Honor, if I could respond. As they had
8 the opportunity to comment on my case, I will comment on
9 theirs. I don't think that showing that employees that they've
10 already been sanctioned for disciplining for Union activity
11 bears any weight to whether they discriminated this year.
12 Obviously the hotel is not going to discriminate against
13 employees they've already got sanctioned for discriminating
14 against.

15 Also, this is hearsay and it's not a document that's
16 regularly produced by the Employer for purposes of their
17 business. They did it for this.

18 MR. KRAMER: I'm sorry. I didn't hear that last part.

19 JUDGE THOMPSON: She said that she also objects that this
20 isn't a business record. That this was produced solely for the
21 purposes of this hearing --

22 MR. KRAMER: Your Honor --

23 JUDGE THOMPSON: -- to summarize.

24 MR. KRAMER: -- it's a summary of voluminous records. I
25 actually have with me the underlying discipline for each of the

1 five employees, which was already produced to the General
2 Counsel in a production request. I'm more than happy to share
3 that with them now, and/or introduce it into the record, if
4 they would prefer to have the underlying documents as well part
5 of the record.

6 MS. DAVILA: Your Honor, the General Counsel maintains its
7 relevance objection. This is completely irrelevant. And I
8 think that if the General Counsel was told to point out
9 throughout their case what part of the complaint they were
10 addressing, then Respondent should have to do that as well.

11 MR. KRAMER: Your Honor, it goes to motive.

12 MS. DAVILA: And I will then recall -- we'll have a
13 rebuttal case and I will call all these witnesses and we'll
14 talk about all these disciplines. And who's Gisella Happe?

15 JUDGE THOMPSON: I'm sorry?

16 MS. DAVILA: Who's Gisella Happe, the Employee on this
17 witness list?

18 MR. KRAMER: Well, if you do a search of the trans -- I
19 was getting there.

20 MS. DAVILA: It's a hypothetical. I know who she is. But
21 you know, I haven't brought her up here.

22 MR. KRAMER: You have brought her up, because you've
23 listed her name every time you've asked the employees to read
24 from a list of which employees wore a button that day, which
25 employees were suspended, which employees were returned to

1 work.

2 MS. DAVILA: And I haven't called her. And I haven't
3 asked the circumstances of her departure or her Union activity.
4 She just happens to be part of a sentence, that had I read it,
5 you know --

6 JUDGE THOMPSON: No, I get it, counsel. I'm trying to
7 determine -- okay. I understand why the attendance records of
8 the various and the sundry employees that are similarly
9 situated with Ms. Guzman would be relevant. What I'm trying to
10 determine is whether the disciplinary records of five
11 individuals are relevant to this particular situation. I --
12 while Respo -- General Counsel named off, I believe, these five
13 employees as part of, I believe it was Exhibit --

14 MR. KRAMER: Six.

15 JUDGE THOMPSON: -- I prevented her from going into the
16 issue of what that cause of action or charge was about. So I
17 don't know that I want to go into the discipline of all of
18 these individuals either. Go ahead Mr. --

19 MR. KRAMER: Your Honor --

20 JUDGE THOMPSON: -- Mr. Kramer.

21 MR. KRAMER: -- I mean, again, it goes to motive. And the
22 key thing here is not the discipline itself but the lack of
23 discipline and the lack of people getting suspended for
24 attendance issues and the lack of them being disciplined during
25 this timeframe, you know, for suspensions or anything else. I

1 mean, here are the quote, unquote, Union committee leaders, the
2 ones that step out first wearing their Union buttons. And
3 look, nothing's happening to them.

4 MS. DAVILA: The ones that they got sanctions for by a
5 federal agency and had to give back pay wages. Oh, they didn't
6 take any other actions against them this year? What weight
7 does that carry? And why is that relevant? My point in this
8 whole case has not been that they're taking actions against
9 these committee leaders.

10 These committee leaders are involved in these 81s, which
11 is why I bring them up. I asked them about their Union
12 activities. That happens to have been tied to something that
13 happened last year. I'm not going into detail about anything.

14 MS. OVIEDO: It's hearsay.

15 JUDGE THOMPSON: I guess I -- she already brought that up,
16 counsel. I heard what you said. She already raised the issue
17 of hearsay. I -- counsel, I know where you're going with this
18 document, but I'm trying to keep out information about these
19 five individuals. Let me ask you this. Is this discipline in
20 relation to attendance --

21 MR. KRAMER: The --

22 JUDGE THOMPSON: -- for these five individuals?

23 MR. KRAMER: It includes all discipline, including
24 attendance discipline.

25 MS. DAVILA: And --

1 JUDGE THOMPSON: Do I have that information in General
2 Counsel's Exhibit 34? Is that part of --

3 MS. DAVILA: No, Your Honor.

4 JUDGE THOMPSON: I --

5 MS. DAVILA: As someone who created it, no.

6 JUDGE THOMPSON: No, no. I said, is the various and the
7 sundry individuals listed in Respondent's 33, is there
8 attendance and/or discipline for attendance part of GC 34?

9 MS. DAVILA: I can tell Your Honor that those names are
10 not part of that packet. None of these names are in that
11 packet. And --

12 JUDGE THOMPSON: Are these individuals housekeepers?

13 MS. DAVILA: Yes, Your Honor. I don't -- I really don't
14 know about Happe, but I assume she was housekeeping.

15 MS. DAVILA: She's a housekeeper.

16 JUDGE THOMPSON: Okay. So in this whole list of
17 attendance calendars, you did not include Ms. Vargas, Ms.
18 Llarull, Ms. Diaz and --

19 MS. DAVILA: And Mr. Aleman.

20 JUDGE THOMPSON: -- Mr. Aleman?

21 MS. DAVILA: No. And I will stipulate to not every
22 briefing that issue, because these names are not in that
23 packet.

24 JUDGE THOMPSON: Okay. Well, to the extent, counsel, that
25 you would be bringing in any evidence regarding discipline, I

1 would want to know what the discipline -- if they were disci --
2 strike that.

3 MR. KRAMER: Your --

4 JUDGE THOMPSON: Go ahead, Mr. Kramer, because I know
5 you're about to say something.

6 MR. KRAMER: Yes. Would the General Counsel, in lieu of
7 this exhibit, be willing to admit -- stipulate that the two
8 Union organizers at the hotel, Celia Vargas and Carmen Llarull
9 had no discipline at all in 2015?

10 MS. DAVILA: If we take a recess and I research that. I
11 will look into it. I mean, I don't know off the top of my
12 head. And I don't understand how that, again, has anything to
13 do with the complaint. Is there something in the complaint
14 that I missed where Celia Vargas' discipline is in question?

15 JUDGE THOMPSON: It go -- what the Respondent is arguing
16 is in this -- throughout this entire case, is based upon anti-
17 Union animus, both with regard to the allegations that
18 Respondent surveilled and/or created or surveillanced amongst
19 its housekeeping employees. And that Ms. Guzman was
20 disciplined for her Union activity. And so the issue of
21 whether Respondent in its actions were motivated by anti-Union
22 animus is sort of a general theme in the case that you are
23 alleging?

24 MS. DAVILA: I have stated that, yes. That is --

25 JUDGE THOMPSON: Okay.

1 MS. DAVILA: -- I agree.

2 JUDGE THOMPSON: So what Respondent is attempting to show
3 with this document is they're attempting to argue that the --
4 that these individuals, who may support the Union and/or may be
5 Union committee members and/or may be passionate about the
6 Union, have not been disciplined. And that, according to
7 Respondent, counsel, goes to their lack of anti-union animus.
8 And that's why they're offering this document.

9 MS. DAVILA: Well again, they were allowed to comment on
10 my case. I'm going to comment on theirs. I don't think that
11 this shows -- this isn't probative, because they've been
12 already sanctioned by the National Labor Relations Board for
13 taking actions against these employees.

14 MR. KRAMER: Your Honor --

15 JUDGE THOMPSON: But that doesn't have --

16 MR. KRAMER: -- there's a settlement.

17 JUDGE THOMPSON: -- anything to do with it. It -- they're
18 saying that they -- I mean, I get what you're saying. You're
19 saying well of course they haven't taken any actions, because
20 there was a settlement that said they couldn't.

21 MS. DAVILA: Right.

22 JUDGE THOMPSON: So it isn't probative of their anti-Union
23 -- I'm sorry -- lack of anti-Union animus.

24 MS. DAVILA: Which is why I say it's not relevant. I'm
25 sorry to --

1 JUDGE THOMPSON: No. No, I got -- I'm following you. But
2 I'm just trying to explain their -- what their argument is.
3 Counsel, I tend to agree with the General Counsel on this one.
4 I know where you're headed with this. I probably would be more
5 inclined to admit documents that talked about their discipline
6 -- I'm sorry -- their attendance record and/or lack thereof. I
7 mean, I know that that isn't nec -- that's just one piece of
8 the case.

9 But I don't know that the probative value of this -- I
10 don't know that it's relevant to get you where you need to go
11 with this document. And I certainly can make whatever
12 determinations about your lack of anti-Union animus, based upon
13 all of the other evidence that has been presented in the case.
14 I just don't know that this document will get you where you
15 need to go. But I don't think you've offered it, so --

16 MS. DAVILA: I'm objecting to the line of questioning, as
17 I think it's wasting our time. So my objection -- my official
18 objection is relevance to the line of questioning. I also --
19 and since he hasn't introduced the document, I can't object to
20 that, but I will.

21 JUDGE THOMPSON: Well, I can't rule on your objection yet,
22 counsel, because I don't know where he was headed with this
23 line of --

24 MR. KRAMER: Well, I was moving --

25 JUDGE THOMPSON: -- questioning.

1 MR. KRAMER: -- towards admitting the document, Your
2 Honor, so --

3 JUDGE THOMPSON: Oh, well since he's --

4 MR. KRAMER: I mean I --

5 JUDGE THOMPSON: -- admitting -- moving toward admitting
6 the document, now I can -- and I'll just take that as he was
7 moving toward admitting the document --

8 MR. KRAMER: As a summary of voluminous records. And if I
9 needed more foundation as to that, I would, but it sounds like
10 we're getting an objection on a different grounds, so --

11 JUDGE THOMPSON: I just don't think it's relevant,
12 counsel. I think that the probative -- I just agree with the
13 General Counsel on this one. So I'm not going to admit. I'm
14 going to sustain the objection and not admit this document.
15 But I will put it in the rejection file. I hate that term.
16 For purposes of the record. But continue, Mr. Kramer.

17 **(Respondent Exhibit Number 33 Rejected)**

18 MS. DAVILA: Can we have five minutes, Your Honor?

19 JUDGE THOMPSON: No. Not this -- wait --

20 MS. OVIEDO: Just like -- just quick --

21 JUDGE THOMPSON: Okay.

22 MS. OVIEDO: -- two to three minutes.

23 JUDGE THOMPSON: We're in the middle of testimony. I --

24 MS. DAVILA: After he finishes, we'll --

25 JUDGE THOMPSON: I can't let you break now, but --

1 MR. KRAMER: Your Honor --

2 JUDGE THOMPSON: -- Mr. Kramer go ahead.

3 MR. KRAMER: -- two things. One, can I make an offer of
4 proof?

5 JUDGE THOMPSON: Yes.

6 MR. KRAMER: That the summary presented and that the
7 testimony allowed would demonstrate that the hotel has not
8 engaged in any sort of discriminatory discipline against active
9 -- known active Union supporters in -- who are exigently
10 identified as committee leaders during basically the past two
11 years. So that would be the offer of proof.

12 In addition, Your Honor, I'm going to ask this question,
13 if I may, which is would the Judge be open to the submission of
14 a similar document for these folks? Okay. Never mind. That's
15 my offer of proof, Your Honor.

16 JUDGE THOMPSON: Okay. So noted for the record, counsel.
17 Please continue.

18 Q BY MR. KRAMER: Mr. Acosta, how would you describe your
19 relationship with the associates at the hotel?

20 A They love me.

21 Q And Mr. Acosta, how do you know that?

22 A Whenever they have any concerns or issues, either Union or
23 non-Union, they come and talk to me.

24 Q Okay.

25 A And they have -- also thank me. Union people who are

1 wearing the buttons, they have told me, you know, what you're
2 awesome, you're great, you know, we never had a director --
3 assistant director of HR that listened to us.

4 Q Okay. And do you know an employee by the name of Carmen
5 Llarull?

6 A I do.

7 Q Okay. Do you know what her opinion is of you?

8 A She loves me. She comes and communicates with me anything
9 she does.

10 Q Okay.

11 A If she has any concerns, questions about Union, she'll
12 come and talk to me.

13 Q Has she ever given you any sort of demonstration of her
14 appreciation of you?

15 A She has gave me flyers that she hands out. She talks to
16 me. She says hi to me. She stopped me in the hallways to tell
17 me what she's doing.

18 Q Okay. Has she ever invited you to a Union rally?

19 A Not particular her. But I know that Pedro has invited me.
20 Eleuteria. What was her name, other name? Maria, I believe.
21 It was the first rally. They -- of leaving the building and
22 asked me if I wanted to attend to support them. And I said,
23 no, I'm sorry, I have an appointment, but thank you. That's
24 the money when they told me, you know what, you're awesome,
25 you're great, you know, whenever we have a concern we'll go to

1 you.

2 Q All right. And just for the record, Eleuteria who?

3 A Eleuteria. I don't know her last name.

4 Q Might it be Blanco?

5 A Blanco, yeah. Blanco.

6 Q Okay. And you said Pedro. Do you know his last name?

7 A Pedro? I don't. He works public attendant.

8 Q Okay. Is that part of -- one of the housekeepers?

9 A Yes.

10 Q Okay. And then you mentioned another name, I think.

11 A I think her -- Maria.

12 Q Do you remember her last name?

13 A No, I don't.

14 Q All right. Do you remember what department she works --

15 A Even Carla. Carla Majar (phonetic).

16 Q Okay.

17 A She also -- she communicates with me. She invited me, I
18 believe, to the rally.

19 Q Okay. What position was she?

20 A She's a GRA.

21 Q Okay. And Maria, what position is she?

22 A She's a GRA.

23 Q Was it Maria Jamarillo (sic)? Or was it a different
24 Maria?

25 A No, no. A different Maria.

1 MR. KRAMER: Okay. No further questions, Your Honor.

2 JUDGE THOMPSON: Thank you, Mr. Kramer.

3 Ms. Davila or Ms. Oviedo?

4 (Counsel confer)

5 MS. DAVILA: Sorry.

6 **CROSS-EXAMINATION**

7 Q BY MS. DAVILA: Mr. Acosta, can you remind us of your job
8 title again, please?

9 A Assistant HR director.

10 Q Thank you. And you were the one that issued the
11 termination to Martha Guzman, correct?

12 A Correct.

13 Q And so you have the authority to fire employees, correct?

14 A Correct.

15 Q So you have the authority to fire Carmen Llarul, right?

16 A Uh-huh.

17 Q And you --

18 JUDGE THOMPSON: Yes?

19 THE WITNESS: Yes.

20 Q BY MS. DAVILA: And you have the authority to fire
21 Eleuteria Blanco, correct?

22 A Correct.

23 MS. DAVILA: Okay. No further questions, Your Honor.

24 JUDGE THOMPSON: Mr. Kramer, any redirect?

25 MR. KRAMER: No, Your Honor.

1 JUDGE THOMPSON: Mr. Acosta, thank you so much for the
2 wonderful laugh.

3 THE WITNESS: I know.

4 JUDGE THOMPSON: And thank you for your testimony. Please
5 don't discuss it with anyone.

6 THE WITNESS: I won't.

7 JUDGE THOMPSON: You are excused. Have a great day.

8 THE WITNESS: Thank you.

9 MS. DAVILA: Can we take five?

10 JUDGE THOMPSON: Yes.

11 MS. DAVILA: Thank you.

12 JUDGE THOMPSON: Off the record.

13 (Off the record at 2:38 p.m.)

14 JUDGE THOMPSON: We are back on the record continuing with
15 Respondent's case. Mr. Dritsas, would you like to call your
16 next witness?

17 MR. DRITSAS: I would. I'd like to recall Ms. Alejandra
18 Magana.

19 JUDGE THOMPSON: Hi, Ms. Magana.

20 MS. MAGANA: Hi.

21 JUDGE THOMPSON: I'm Judge Thompson. And we met when you
22 provided your testimony a few days ago. I'm going to swear you
23 in again. So would you raise your right hand?
24 Whereupon,

25 **ALEJANDRA MAGANA**

1 having been duly sworn, was called as a witness herein and was
2 examined and testified as follows:

3 JUDGE THOMPSON: Great. Thank you. Although I know that
4 you stated your name when you provided your testimony
5 previously, but just for the record could you state your name
6 again?

7 THE WITNESS: Yes. My name is Alejandra. My last name,
8 Magana.

9 JUDGE THOMPSON: Ms. Magana, do you recall all of the
10 instructions I gave you with regard to testifying, i.e. to
11 speak up, to -- if you don't understand a question, to tell
12 counsel you don't understand, et cetera?

13 THE WITNESS: I do remember.

14 JUDGE THOMPSON: Okay. Great. All those instructions
15 still apply, particularly the uh-huh or huh-uh instruction.

16 THE WITNESS: I know. Yes.

17 JUDGE THOMPSON: But having said that, Mr. Dritisas, your
18 witness.

19 MR. DRITSAS: Thank you, Your Honor.

20 **DIRECT EXAMINATION**

21 Q BY MR. DRITSAS: Welcome back.

22 A Thank you.

23 Q Can you tell me, Alejandra -- I think you testified before
24 you worked at the Four Seasons. Were you -- did you ever serve
25 as a member -- a representative member at the Four Seasons?

1 A Yes.

2 Q Okay. And was that a Unite Here Union?

3 A It is, yes.

4 Q Okay. And then you worked at that hotel as the -- at
5 various management positions, including the director of
6 housekeeping?

7 A Yes.

8 Q Okay. How long were you a Union-represented employee at
9 that hotel?

10 A Nine months.

11 Q Okay. And then you worked there in management for how
12 long?

13 A Twelve years.

14 Q And throughout the time that you were there was the hotel
15 still organized by Unite Here Local?

16 A Yes.

17 Q Okay. So you have experience in dealing with unions and
18 union rights employees have?

19 A Yes, I do.

20 Q Okay. And you understand employees have certain rights to
21 engage in protected activities?

22 A Yes.

23 Q Okay. I'm going to be skipping around a little bit
24 because I don't want to go over things that I covered with you
25 before. So just bear with me for a second.

1 A Okay.

2 Q Well, let's -- I can start with this one. Do you know who
3 Rodolfo Aleman is?

4 A Yes.

5 (Counsel confer)

6 Q BY MR. DRITSAS: Okay. I'm showing you what's been marked
7 as Exhibit 34, which is a disciplinary -- associate
8 disciplinary record for Rodolfo Aleman. Can you identify your
9 signature on the this document?

10 A Yes, it's my signature.

11 Q Okay. And was this discipline issued to Mr. Aleman on or
12 about the date indicated?

13 A Yes.

14 MR. DRITSAS: Okay. I'd move admission, Your Honor,
15 Respondent's 34.

16 MS. DAVILA: I object as to relevance.

17 MR. DRITSAS: Okay.

18 JUDGE THOMPSON: There was a whole host of testimony that
19 Mr. Aleman may not have been --

20 MS. DAVILA: The -- oh, I'm sorry.

21 JUDGE THOMPSON: -- given training or promoted because
22 either of his Union activity or discipline.

23 MS. DAVILA: Your Honor?

24 JUDGE THOMPSON: So --

25 MS. DAVILA: Sorry.

1 JUDGE THOMPSON: Okay. Got it.

2 MS. DAVILA: The complaint -- we -- the -- there was a
3 file charge -- a charge filed regarding the failure to promote
4 him because of his Union activities. We did not issue a
5 complaint on that issue, which is why I haven't put on evidence
6 regarding that issue. What had been put into -- in the
7 complaint is the allegation that another employee was told that
8 it was his Union activity. The fact that it was or it wasn't
9 or why he wasn't really promoted wasn't -- it was the fact that
10 it was said to this employee and it created the impression to
11 this employee that Union activity would stop them from being
12 promoted.

13 MR. DRITSAS: Your Honor?

14 MS. DAVILA: It's what was said, not the actual whether he
15 was promoted or whether he wasn't. It was just the fact that
16 it was said from one supervisor to an employee.

17 JUDGE THOMPSON: Got you.

18 MR. DRITSAS: And Your Honor, we visited this same
19 objection early on in the case. And my position still remains
20 I agree they didn't go to complaint because there was nothing
21 wrong there. But that the fact that we can demonstrate that he
22 had discipline and that he had a transfer that was denied goes
23 towards the argument that the statement would not have been
24 made because it never was going to reach that level.

25 JUDGE THOMPSON: Counsel, I've got to let this in.

1 Because it's relevant to the -- strike that. It's relevant to
2 Respondent's defense. And I understand that you didn't put it
3 into evidence. It's not at issue. But it goes toward the
4 statement that his promotion or lack thereof may have been
5 based upon him wearing a Union button or supporting a Union
6 button -- supporting the Union or wearing a --- wear --
7 supporting the Union or wearing a Union button in support of
8 the Union. And so as such, the Respondent has to put on
9 evidence to show that it could have been something else.

10 I'm not saying anything about the weight of the evidence.
11 But just as you put on evidence regarding the credibility of a
12 witness and limited to that, I'm going to limit this coming in
13 to -- for the purpose of Respondent being able to show that it
14 may not have been because of Union activity.

15 I know that's not a issue that's alleged. But it is a
16 statement that was made by a witness. And so Respondent has to
17 try to rebut that statement. So I got to let it in, counsel.
18 So I have to overrule the objection. And I'm going to have to
19 receive Respondent 34 into evidence.

20 **(Respondent Exhibit Number 34 Received into Evidence)**

21 MR. DRITSAS: Thank you, Your Honor.

22 MS. OVIEDO: Your Honor, may I just note for the record
23 that Respondent doesn't need to justify its reasons to not
24 promote this individual. The question is whether the statement
25 was made or not. And this doesn't prove that the statement

1 wasn't made.

2 JUDGE THOMPSON: You've made your point, counsel. I've
3 ruled.

4 MS. OVIEDO: Okay.

5 JUDGE THOMPSON: Let's move on.

6 MS. DAVILA: And, Your Honor --

7 JUDGE THOMPSON: Ms. Davila?

8 MS. DAVILA: Sorry.

9 JUDGE THOMPSON: We're done talking about it.

10 MS. OVIEDO: There's just another document. Actually, I
11 think she was going to say something about the new document.

12 JUDGE THOMPSON: Okay. If you're going to say something
13 about the new document --

14 MS. DAVILA: Which is again about Rodolfo Aleman. And
15 Your Honor, I'd really hate to -- I don't -- again, I -- to be
16 fair, I don't know where Respondent is going with this or how
17 in depth. But if we're going to get into any of my witnesses'
18 disciplinary records, I am going to have to recall them.

19 MR. DRITSAS: I'm not, Your Honor. I have one or two
20 questions just to authenticate this. And then I'm going to
21 move on.

22 JUDGE THOMPSON: Based on that, I'm going to allow you to
23 proceed.

24 But counsel, if you need to object to the document, do so.

25 MR. DRITSAS: Okay. Did I give you one?

1 MS. DAVILA: Yes.

2 MR. DRITSAS: Okay. Thanks. I'm losing track here.

3 Q BY MR. DRITSAS: Alejandra, so I've given you a document
4 that says, "Internal transfer request form." So as a director
5 of housekeeping, are you the custodian of the records for your
6 housekeeping associates?

7 A Yes.

8 Q And would that include maintaining internal transfer
9 request forms for associates?

10 A Yes.

11 Q And is this an internal transfer request form that was
12 presented by Mr. Aleman? Is this a form -- just where it says
13 name, is that Rodolfo Aleman's request?

14 A That's him.

15 Q Okay. And this was kept in the housekeeping records?

16 A Yes.

17 Q Okay. And was Mr. Aleman given the promotion?

18 A No.

19 MR. DRITSAS: Your Honor, I'd move admission of
20 Respondent's 35.

21 JUDGE THOMPSON: Ms. Davila, any objection? Or General
22 Counsel --

23 MS. DAVILA: Well, I have a relevance objection. But
24 you've heard me on that.

25 JUDGE THOMPSON: I did. And counsel, I respect what

1 you're saying and I do understand what you're saying. But for
2 the purposes of refuting statements made, that's the only
3 purpose that I'm receiving this information. Counsel is not
4 going into it. And --

5 MS. DAVILA: I just don't want to be put in the position
6 where we're going to go into the facts of whether it was true
7 or not, whether he was promoted or not, and whether it's --

8 JUDGE THOMPSON: I'm not --

9 MS. DAVILA: -- justified and --

10 JUDGE THOMPSON: And I'm not going to allow that to occur,
11 counsel.

12 MS. DAVILA: Okay. Got it.

13 JUDGE THOMPSON: But I'm going to note that you are still
14 objecting to relevance. Is that correct, counsel?

15 MS. DAVILA: Yes, Your Honor.

16 JUDGE THOMPSON: Okay. I note counsel's objection for the
17 record. I'm going to overrule the objection and admit and
18 receive Respondent 35 into evidence.

19 **(Respondent Exhibit Number 35 Received into Evidence)**

20 MR. DRITSAS: 36, Your Honor?

21 MR. KRAMER: No, no. It's 35.

22 JUDGE THOMPSON: 35.

23 MR. DRITSAS: 35? Sorry.

24 JUDGE THOMPSON: Jacqui, are we on 35?

25 MR. DRITSAS: Yeah. I apologize, Your Honor.

1 JUDGE THOMPSON: Yes. Okay. 35.

2 Mr. Dritsas?

3 MR. DRITSAS: Thank you.

4 (Counsel confer)

5 Q BY MR. DRITSAS: Alejandra, I want to move you in time to
6 sometime around -- sometime around May 2015. Do you know who
7 an employee by the name of Janet Vasquez is?

8 A Yes, I know who she is.

9 Q And do you know an employee by the name of Iresyane
10 Gonzalez, I think?

11 A Yes.

12 Q Okay. I have a hard time with that name. So did you have
13 a meeting -- or strike that. Was there any time that those two
14 women came into your office around the time period that I
15 mentioned to have a conversation with you?

16 A Yes.

17 Q Okay. And can you tell me what happened? If it goes too
18 long, I'll stop you. But just -- start with the start.

19 A Janet and Iresyane came to the office. They had questions
20 about promises from the Union activity ladies.

21 Q Okay. At the time that they had questions were -- who was
22 in the office? Just tell us who was there.

23 A When they arrived and they started asking me that
24 question, Anthony came along.

25 Q Okay. So there were -- were there just the four of you in

1 the office?

2 A Yes.

3 Q Okay. And tell me who started the conversation. Who said
4 what?

5 A Janet Vasquez started the conversation. She was in fact
6 upset.

7 Q What did she say?

8 A She said that she was being harassed by the ladies.

9 Q Did she say what ladies or --

10 A By -- to be specific, by Carmen Llarull.

11 Q Okay. And go ahead.

12 A And she said that I have a question. And I said, yes.

13 And they said -- the two of them kind of at the same time. And

14 I said, wait, wait, one at a time. Is it true that they're

15 going to -- if the Union comes they're going to give us raises

16 and better insurance? And I said, I'm sorry, I can't tell you

17 either promise is right. I said, I can say that you can ask

18 them to sign the guarantees. And that's all I said.

19 Q Okay. What else do you recall being said at that meeting,
20 if anything?

21 A I remember taking -- they took the guaranty and they said,
22 okay, we can do that. And they left.

23 Q Okay. So did Mister -- well, let me ask you, did you ask
24 either of those ladies who they were going to vote for?

25 A Never.

1 Q Did Mr. Wandick in that meeting with you ask either of
2 those ladies who they were going to vote for?

3 A No, he didn't.

4 MR. DRITSAS: Okay.

5 (Counsel confer)

6 Q BY MR. DRITSAS: Just a brief question here. The uniforms
7 for the status clerks, are they all the same color?

8 A Yes.

9 Q And does that include Christina Keeran?

10 A Yes.

11 MR. DRITSAS: Okay.

12 (Counsel confer)

13 Q BY MR. DRITSAS: Now, I think you testified before that
14 you were aware that there were some classes that were being
15 done for employees at the hotel that addressed Union issues,
16 Union rights the employees had or what the consequences of the
17 Union were?

18 A Yes, I was aware.

19 Q Okay. And were employees from your department, were they
20 allowed to go to those classes during paid time?

21 A Yes.

22 Q Okay. Now, they have 13 credits, I think you said before;
23 is that right?

24 A They do.

25 Q So if an employee wanted to go to a class, what did you

1 do, if anything, relative to the credits?

2 A In order to give them an opportunity to go, I reduced the
3 credits by two. We gave them 11 credits.

4 Q Okay. And did you schedule the employees for the class so
5 you could understand where -- how to adjust the credits to make
6 sure all the rooms were cleaned?

7 A I had to schedule them to figure it out how many people I
8 needed every day. Yes.

9 MR. DRITSAS: Okay. Oh, gosh. I should know this. We're
10 on 36?

11 MR. KRAMER: 6.

12 MR. DRITSAS: 36?

13 JUDGE THOMPSON: 36.

14 **(Respondent Exhibit Number 36 Marked for Identification)**

15 MR. DRITSAS: I'll give this to you first, Judge.

16 JUDGE THOMPSON: Okay. Okay.

17 Q BY MR. DRITSAS: Okay. Can you identify what Exhibit 36
18 is?

19 A Session one, Friday 19, I scheduled a 12 to 1:30 p.m. --

20 Q Okay. So --

21 A -- class.

22 Q -- what is this? This is a schedule for what?

23 A To attend to the Cruz & Associates class.

24 Q Okay. And who are the employees that you were scheduling?

25 A Raul Sanchez and Antonia Garcia.

1 Q Okay. And Antonio (sic) is a housekeeper in your
2 department?

3 A Yes.

4 Q And so is Raul?

5 A Yes. Yes, the two of them.

6 Q Okay. Now, on the 19th did you -- at any time during the
7 day did you have a conversation with Antonia Garcia?

8 A I did.

9 Q Okay.

10 A I did.

11 Q And was that at the beginning of the day, end of the day?
12 When was that?

13 A It was at the end of the day.

14 Q Okay. And tell me, how did that conversation come about?
15 Well, I guess we'll say where did the conversation take place?

16 A It took place in my office.

17 Q Okay.

18 A I saw her and I called her in. I said --

19 Q Let me stop you first. Do you know when you called her in
20 had she already turned in her keys and the other things that
21 the ladies turn in?

22 A Yeah. She had checked out with the manager.

23 Q Okay. Was it before she punched out or was it -- do you
24 know?

25 A Before she clock in -- she clock out.

1 Q Okay. So you called her into your office?

2 A I did. I called her. I asked her: "How are you? How was
3 your day?" And I asked her: "Did you go to the class today?"

4 Q Okay. Now, why did you do that?

5 A To ensure that she had -- I mean, I reduced the credits
6 for her. I wanted to make sure that it was okay or if I have
7 to do any more adjustments or something.

8 Q Okay. So you reduced two credits. And you called her in.
9 And what else was said in that conversation?

10 A When I asked her if she went to the class, she said, "What
11 class? Oh, the Union class?" And I said, "Wait, wait, wait."
12 I said, "That's not a Union class, Antonia. That is a class
13 about the employee rights, about your rights." She seemed very
14 confused.

15 Q Okay. What else was said during that meeting?

16 A And she said, "Oh, yes, yes. I went."

17 Q Okay. So you satisfied yourself that she deserved the
18 reduction of credits?

19 A I did.

20 Q Okay. Anything else said during that meeting?

21 A No.

22 Q Okay. Approximately how long was she in your office?

23 A Less than five minutes, I want to say.

24 Q Okay. And where was she sitting?

25 A She was sitting right in front of me.

1 Q We've seen a picture. You've got two chairs with a table
2 in between. Where was she sitting?

3 A The chair closer to my chest --

4 Q Okay.

5 A -- that I --

6 Q Let's identify it this way. There's a -- there are two
7 chairs at the table. Was she sitting in the chair closest to
8 the doorway or the other side?

9 A Closer to the wall.

10 Q Okay.

11 A Which is the second chair, I guess.

12 Q Okay. And so do you remember anything else that was said
13 in that conversation?

14 A No.

15 Q Okay. Well, let me ask you directly, did you tell Antonia
16 that you thought that she was a traitor?

17 A No, no. Never.

18 Q Did you say that you were disappointed in her because
19 she --

20 A No.

21 Q -- because she wore a Union button?

22 A No.

23 Q Did you say anything about what's this, pointing to her
24 button?

25 A Never.

1 Q Did you say that you thought she was on your side?

2 A No.

3 Q Did you say, now I see you are the one who attends Union
4 meetings?

5 A No, no. Did not happen.

6 Q Okay. Now, let me show you something else here.

7 MR. DRITSAS: I'd like to move admission of 36, Your
8 Honor.

9 JUDGE THOMPSON: Any objection?

10 MS. OVIEDO: Your Honor, do you mind if we just voir dire
11 a little bit?

12 JUDGE THOMPSON: Proceed.

13 **VOIR DIRE EXAMINATION**

14 Q BY MS. OVIEDO: Ms. Magana, have you seen this document
15 before?

16 A Yes.

17 Q Where have you seen it?

18 A In the schedule of my -- the schedule for the classes for
19 all the people I have.

20 Q Is it kept in like -- is this, like, a smaller portion of
21 an Excel spreadsheet? Or is this --

22 A Yes.

23 Q -- the complete document?

24 A Yes. Yes. This is only one time, one session.

25 Q Okay. So it's -- it is -- this is just like a screenshot

1 of this portion? Is there part of a larger document?

2 A Yes.

3 Q Okay. Did you help produce this document?

4 A Yes.

5 Q When did you produce this document?

6 A I don't remember.

7 Q Did --

8 A Oh.

9 Q -- Respondent's counsel ask you to print this out?

10 A He -- yes, he did.

11 Q Who asked you?

12 A Who asked me?

13 Q Which one?

14 A Bill.

15 Q Okay. And when did he ask you to do that?

16 MR. DRITSAS: Objection. Relevance. It doesn't matter.

17 MS. OVIEDO: I'm just trying to figure out if this is an
18 accurate --

19 JUDGE THOMPSON: But when he asked --

20 MR. DRITSAS: Well, we can ask her.

21 JUDGE THOMPSON: -- when he asked her to print this out
22 doesn't go to that, but. So I'm going to --

23 MR. DRITSAS: I mean, I can ask, Your Honor, when it was
24 prepared.

25 That's -- if that's what you're getting at.

1 MS. OVIEDO: Sure. When --

2 MR. DRITSAS: Okay.

3 **DIRECT EXAMINATION (CONTINUED)**

4 Q BY MR. DRITSAS: When was --

5 JUDGE THOMPSON: Okay. That's a fair question.

6 THE WITNESS: Yes.

7 JUDGE THOMPSON: So proceed, counsel.

8 MR. DRITSAS: Thank you, Your Honor.

9 Q BY MR. DRITSAS: When was this document prepared? Was
10 it --

11 A This document was prepared in June.

12 JUDGE THOMPSON: Okay. Now, Ms. Oviedo, please continue.

13 MS. OVIEDO: Okay.

14 **VOIR DIRE EXAMINATION**

15 Q BY MS. OVIEDO: And what does the full document look like?

16 A It looks like a week. It's by week, different sessions by
17 day.

18 Q All right. Is there a program -- is there a name of the
19 program? It is Excel? Or is it something else?

20 A It was shared in the Google Drive.

21 Q Google. Okay.

22 A Yeah. With me, yes.

23 Q And is this an accurate representation to your knowledge
24 of Friday, June 19th of -- is it -- I'm guessing it's 2015. It
25 doesn't specifically say.

1 MR. DRITSAS: Yes.

2 Q BY MS. OVIEDO: 2015?

3 A Yes.

4 MS. OVIEDO: Okay. No further questions.

5 MR. DRITSAS: So I --

6 JUDGE THOMPSON: Counsel, any objection?

7 MS. OVIEDO: No, Your Honor.

8 MS. DAVILA: No objection.

9 JUDGE THOMPSON: Hearing no objection, I'll receive
10 Respondent 36.

11 **(Respondent Exhibit Number 36 Received into Evidence)**

12 MR. DRISTAS: Thank you, Your Honor.

13 MR. KRAMER: I'm sorry. I just didn't know what the
14 exhibits were going to be in advance and I apologize.

15 MS. OVIEDO: Ours says -- well, this one says R-30, and it
16 was supposed to be 36.

17 JUDGE THOMPSON: Mine says 36.

18 MR. DRISTAS: No, that's --

19 JUDGE THOMPSON: Maybe coun- --

20 MR. DRISTAS: That's just my writing.

21 MS. OVIEDO: Okay.

22 JUDGE THOMPSON: -- counsel --

23 MS. OVIEDO: Okay.

24 JUDGE THOMPSON: -- has problems with 6's.

25 MR. DRISTAS: I have slop- -- it's the only class I

1 failed; penmanship. I apologize, Your Honor, for that. Even
2 with a tutor I couldn't get any better.

3 Q BY MR. DRISTAS: Okay. I'm showing you Respondent's 37.
4 Can you identify this?

5 A This is a schedule.

6 Q All right. And does this schedule cover Friday, June 19,
7 2015, among other days?

8 A The schedule covers from June 14th through June 20th.

9 Q Okay. And just for sake of the hearing, we highlighted
10 the two particular names. But were these names highlighted on
11 the schedule when it was produced?

12 A No.

13 Q Okay. So can you tell me if -- let's start with
14 Ms. Antonia Garcia. Did Ms. Garcia work on -- was she
15 scheduled and did she work on June 19th?

16 A Yes, she did.

17 Q What was her shift?

18 A 8:30 to 5:00.

19 Q And did Maria Jaramillo work, was she scheduled and did
20 she work on June 19th, Friday?

21 A No.

22 MR. DRISTAS: I move admission, Your Honor, for
23 Respondent's 37.

24 MS. DAVILA: No objection.

25 JUDGE THOMPSON: Hearing no objections I will receive

1 Respondent 37.

2 **(Respondent Exhibit Number 37 Received into Evidence)**

3 Q BY MR. DRISTAS: Okay. So let's -- different angle now.

4 Let's get the picture of the office.

5 (Counsel confer)

6 JUDGE THOMPSON: Respondent 18?

7 MR. DRISTAS: Yes, Your Honor. Thank you.

8 JUDGE THOMPSON: Let the record reflect I'm handing the
9 witness what's been marked as Respondent 18.

10 MR. DRISTAS: We measured all those distances last night,
11 but I don't think we brought the measurements. So you're going
12 to have to -- we're going to have to use your memory on this,
13 Ms. Magana.

14 THE WITNESS: Yes. I --

15 Q BY MR. DRISTAS: But last night, did you -- please leave
16 me out of it. But did you measure the distance from your chair
17 to certain points in your housekeeping office?

18 A Yes, I did.

19 Q Okay. So let's start with the approximate distance from
20 your chair to the doorway. What's your best recollection of
21 that? I'm sorry. Where the 6 is marked.

22 A Nine feet.

23 Q Okay. And then what's the approximate distance to the
24 end -- did -- let me ask you. Did you bring it with you, the
25 chart?

1 A I did not.

2 Q With the marking?

3 A No.

4 Q Okay. Fine. So what's the approximate distance from the
5 door to the first computer, just to the left of the first
6 computer screen? So if you take a look, you can kind of go
7 back and forth between Exhibit 18-A and 18-E.

8 A From the door to the front desk first computer --

9 Q Yeah.

10 A -- station, it was four feet.

11 Q Okay. Good. And what about from the door to all the way
12 to where Imelda Cretin would sit on the far left-hand side?
13 What's your recollection of that?

14 JUDGE THOMPSON: Far left-hand side of the --

15 MR. DRISTAS: I'm sorry.

16 Q BY MR. DRISTAS: If you'll take a look at Exhibit 18-E,
17 that would be the computer terminal to the far left. And on
18 18-A, it would be the left of the manager floor table.

19 JUDGE THOMPSON: Thank you.

20 THE WITNESS: From the door to the last station computer,
21 22 feet.

22 Q BY MR. DRISTAS: Okay. So I can't remember. From your
23 door -- from your seat to the door was what?

24 A Nine.

25 Q Nine. Okay. So it's about 30 feet from your chair to the

1 last station?

2 A Yes, that's correct.

3 Q Okay. And how did -- did you measure that with a tape
4 measure?

5 A Yes.

6 Q Okay. Now, let me show you something else.

7 (Counsel confer)

8 Q BY MR. DRISTAS: Did you also measure the distance from
9 the second chair, where you said Antonia was seated, to the
10 first computer station?

11 A I measure from the second chair to the doorway.

12 Q Okay.

13 JUDGE THOMPSON: Okay. I'm sorry. Can you --

14 MR. DRISTAS: I'll show --

15 JUDGE THOMPSON: Can you --

16 MR. DRISTAS: I'll show the picture, yes.

17 Q BY MR. DRISTAS: So take --

18 JUDGE THOMPSON: -- tell --

19 Q BY MR. DRISTAS: Take a look at --

20 JUDGE THOMPSON: -- tell --

21 MR. DRISTAS: Thank you, Your Honor. Sorry.

22 Q BY MR. DRISTAS: Take a look at 18-A, and the second chair
23 I'm referring to, the chair on the left, looking at this
24 picture with Alejandra at the top. So from that chair to the
25 doorway is -- was approximately how far?

1 MS. DAVILA: You may want to show --

2 JUDGE THOMPSON: No. I'm sorry, counsel. She indicated
3 that -- I was trying to get what your last question, just to
4 give me sort of the points, and I don't remember what your last
5 question was.

6 MR. DRISTAS: I think we got -- well --

7 JUDGE THOMPSON: We got from the chair to her doorway.

8 MR. DRISTAS: Yes. That was --

9 JUDGE THOMPSON: The doorway to Ms. Cretin's chair.

10 MR. DRISTAS: Right.

11 JUDGE THOMPSON: And from Ms. Magana's chair to
12 Ms. Cretin's chair. We got all --

13 MR. DRISTAS: Right.

14 JUDGE THOMPSON: -- of that.

15 MR. DRISTAS: Okay.

16 JUDGE THOMPSON: Then you asked another question, that
17 that was what I wanted you --

18 MR. DRISTAS: Okay.

19 JUDGE THOMPSON: -- to kind of pinpoint.

20 MR. DRISTAS: Yeah. So I'll start it again.

21 Q BY MR. DRISTAS: The chair in your office, Alejandra,
22 that's on the left that, looking at the exhibit with your
23 office on the top, so it would be the chair to the wall. From
24 that chair to the doorway was approximately how far?

25 A I remember 59 inches. Sorry, I'm not --

1 Q Yep. That's all right.

2 A -- sure of --

3 Q Close enough.

4 A -- feet.

5 Q I've got six foot two; is that about right or?

6 A About right.

7 Q Okay. And then from that chair to -- excuse me. From the
8 doorway to where Ms. Cretin was or her station, do you recall
9 approximately how long that was? Well, it would be the same
10 distance as you've already said.

11 MS. DAVILA: Objection. Leading.

12 MR. DRISTAS: All right. I -- I don't --

13 JUDGE THOMPSON: I don't know if that was leading, but can
14 you rephrase the question --

15 MR. DRISTAS: Sure.

16 JUDGE THOMPSON: -- counsel and let her tell you --

17 MR. DRISTAS: Okay.

18 JUDGE THOMPSON: -- the answer.

19 Q BY MR. DRISTAS: Do you recall how far it was from your
20 doorway to Ms. Cretin's station?

21 A Twenty-two feet.

22 Q Okay. Thanks. Now, I'm going to show you a couple of
23 pictures. So we'll have this marked.

24 (Counsel confer)

25 MR. DRISTAS: Now, don't look at my notes.

1 (Counsel confer)

2 Q BY MR. DRISTAS: All right. Can you identify, Alejandra,
3 what's been marked at Respondent's 38?

4 A This is my office.

5 Q And what is the view that we're looking at?

6 A A wall.

7 Q I mean, from what -- where was the picture taken?

8 A From my desk. From my desk chair.

9 Q Okay. And we talked about two chairs and a table. Can
10 you identify those in this picture?

11 A Yes.

12 Q They're the ones straight ahead of your desk?

13 A Yes.

14 Q Okay.

15 (Counsel confer)

16 Q BY MR. DRISTAS: Okay. So I'm showing you another photo,
17 which we've marked as Respondent's 39. What does this picture
18 show?

19 A This picture shows the front of my office where the floor
20 manager sits.

21 Q Where was this picture taken? What -- where in your
22 office was the picture taken from?

23 A Three feet away from my chair.

24 Q Okay. So it was not at your desk. It was to the left of
25 your desk and immediately in front of the doorway?

1 A Yes.

2 Q So if we put the two pictures together, you can get some
3 semblance of how far it is away from your desk; is that right?

4 A That's right.

5 Q Okay. And what you're looking at then in the second
6 exhibit, 39, is what you can see at least is you're looking at
7 the floor manager area, but you can't see any of the computers
8 from that position, can you?

9 A Yes, that's correct.

10 Q Okay.

11 MR. DRISTAS: I move admission, Your Honor, Respondent's
12 38 and 39.

13 JUDGE THOMPSON: Any objection?

14 MS. DAVILA: No objection, Your Honor.

15 JUDGE THOMPSON: Hearing no objection, I'll receive
16 Respondent 38 and 39.

17 **(Respondent Exhibit Number 38 and 39 Received into Evidence)**

18 MR. DRISTAS: Since we put it in the picture, we might as
19 well make it into an exhibit. So let's go to Respondent's 40.

20 Q BY MR. DRISTAS: Okay. So, Ms. Magana, you have -- strike
21 that. Do you have access to employee punch-in and punch-out
22 data?

23 A I do.

24 Q And what's the system that you have? What's the program
25 or system is it called?

1 A The system is called UniFocus.

2 Q Okay. And so let's take a look at Exhibit 40. Can you
3 just identify what we're looking at here? Let's start at the
4 top; date?

5 A Shift details from June 11, '15 to 6/16/15.

6 Q Okay. So that's the window of time that we're looking at;
7 is that right?

8 A Yes.

9 Q Okay. And then, and the date's pretty self-explanatory.
10 So tell me there's one that says "original in and out" and one
11 that says "rounded in and out;" what does that reflect?

12 A The original punch of the associate, and the system rounds
13 the time.

14 Q Okay. So if you wanted to know the accurate time that
15 someone actually punched in and punched out, that would under
16 the original; is that right?

17 A That's correct.

18 Q Okay. And did you run -- does this report show all the
19 working time for Ms. Garcia, Antonia Garcia, and Mario -- Maria
20 Jaramillo between June 11 and June 16?

21 A Yes.

22 Q Okay. So let me ask this. So if we take a look at
23 Antonia Garcia, we see time for the 11th, the 12th, and the
24 13th, and then there is a blank for the 14th and 15th. What
25 does that mean? There's no time issue --

1 A That means she did not work.

2 Q Okay. And let's take a look at Maria Jaramillo. She had
3 worked -- it looks like she worked the 13th, 14th, 15th, and
4 16th, right?

5 A That's right.

6 Q So let's try to identify certain things here. So if we go
7 to Antonia on June 11, what time did she leave according to
8 this? What time did she punch out, I should say?

9 A She punch out at 5:02.

10 Q Okay. And if we drop down to Maria Jaramillo, what time
11 did she punch out?

12 A She didn't work on the 11 (sic).

13 Q Oh, that's right. So then we'll have to drop down to the
14 13th is the first common time; is that right?

15 A That's right.

16 Q Okay. What time did Ms. Garcia clock out on the 13th?

17 A She clock out at 3:06.

18 Q And what time did Ms. Jamarillo -- or Jaramillo clock out
19 on the 13th?

20 A At 5:37.

21 Q Okay. So the only other common day is the 16th. Let's go
22 to that. What time did Ms. Garcia clock out on the 16th?

23 A 5:12.

24 Q And what time did Ms. Jaramillo clock out?

25 A 5:07.

1 Q Okay.

2 MR. DRISTAS: I'd move admission, Your Honor, of
3 Respondent's 40.

4 JUDGE THOMPSON: Any objection?

5 MS. DAVILA: No objection, Your Honor.

6 JUDGE THOMPSON: Hearing no objection, I'll receive
7 Respondent 40.

8 **(Respondent Exhibit Number 40 Received into Evidence)**

9 Q BY MR. DRISTAS: Okay. So...
10 (Counsel confer)

11 Q BY MR. DRISTAS: Okay. So I'm showing you Respondent's
12 41. Can you tell us what this is?

13 Q The manager's schedule.

14 A Okay. So let's look at the manager's schedule and try to
15 see on the common dates that we just looked at for Maria and
16 Antonia. Okay. So I think we identified the 13th and the 16th
17 so let's just focus on that. Can you tell us on this document
18 who were the floor managers that were working at -- it's a dark
19 copy so just -- when you see it, tell us the time associated
20 with those people working?

21 A Imelda Cretin. She --

22 Q What time -- do you see that?

23 A 7:00 a.m.

24 Q Okay.

25 A Sherry Gallagher, 2:00 p.m.; Anthony Wandick, 8 -- 8:00

1 a.m.; Neda Elkurdi (phonetic), 8:00 a.m. -- Hilton she opened;
2 Tom Stede, 9:00 a.m.

3 Q Okay. Let's go to the 16th, which is the second page.

4 And identify for us, please, who were the four managers working
5 that day?

6 A Imelda Cretin, 7:00 a.m.; Sherry Gallagher, 2:00 p.m.; Tom
7 Stede, 8:00 a.m.; Krystyna Stills, 7:00 a.m.

8 Q Okay. So let's talk first about Sherry Gallagher. Sherry
9 starts at 2:00; where is Ms. Gallagher working around, you
10 know, between the time of 5:00 and 5:30 in her regular course
11 of events?

12 A She conducts the Trump talk at 5:00 p.m. for the swing
13 shift.

14 Q Okay. And how about Tom Stede? How's it pronounced, the
15 last name?

16 A It's Stende (phonetic).

17 Q Okay.

18 A I think it's missing an "N".

19 Q Where does -- where would Tom be around 5:00 and --
20 between 5:00 and 5:30 on a regular day?

21 A Sitting in (sic) the computer.

22 Q Okay. So which computer did Tom sit at? If we take a
23 look -- I guess we should have you point to a picture, so I'll
24 set you up with that.

25 (Counsel confer)

1 JUDGE THOMPSON: We're back to 18.

2 MR. DRISTAS: Thank you.

3 JUDGE THOMPSON: Respondent 18.

4 MR. DRISTAS: Yeah. So if it's the one that's the most
5 representative of what we're looking at would be 18-E.

6 Q BY MR. DRISTAS: So you see there are four computer
7 terminals. Where did Tom sit in the June 2015 time period?

8 A (No verbal response).

9 JUDGE THOMPSON: Could you ask the question again,
10 counsel?

11 MR. DRISTAS: Yeah. Sure.

12 Q BY MR. DRISTAS: So are you -- have page 18-E open?

13 A Yes, I do.

14 Q Okay. So there are four computer screens we see there.
15 Where did -- where was Tom's regular station if he was involved
16 in checking out housekeepers?

17 A He didn't have a regular station.

18 Q Okay. So where did he sit, did he sit at all the stations
19 or where did he sit?

20 A He would sit on the second --

21 Q Well, tell -- point out on this exhibit where it would be.

22 A Next to Imelda Cretin.

23 Q Okay. So it's the one immediately to the --

24 A The third --

25 Q -- right of Imelda?

1 A The third -- the --

2 JUDGE THOMPSON: The third --

3 MS. DAVILA: Do you want to describe what she --

4 MR. DRISTAS: Well, I think I've got --

5 MS. DAVILA: The one --

6 JUDGE THOMPSON: No. Let her do it.

7 Okay. Ms. -- you counted the third from where,

8 Ms. Magana?

9 THE WITNESS: The third from my office.

10 JUDGE THOMPSON: Okay.

11 MS. DAVILA: Just where -- okay.

12 Q BY MR. DRISTAS: And where did -- let's see who's left
13 here on the 16th. Where did Krystyna -- well, was Krystyna
14 Stills -- where would she typically be at 5:00 if she started
15 her shift -- between 5:00 and 5:30, if she started at 7:00
16 a.m.?

17 A Probably sitting in the same area.

18 Q Okay. And so where was her -- in the June time period
19 where did she tend to sit?

20 A The two of them used to share desks.

21 Q The two being who?

22 A Krystyna Stills and Tom.

23 Q Okay. Go ahead.

24 A They -- if Neda was off, Krystyna will use Neda's desk,
25 which is the third desk from my office. And Tom used the first

1 computer next to my office most of the time.

2 Q Okay. So how about that lonely station or the second from
3 your office, who sat there?

4 A Anthony Wandick.

5 Q Okay.

6 MR. DRISTAS: Okay. I'd move admission, Your Honor,
7 Respondent's 41.

8 JUDGE THOMPSON: Any objection?

9 MS. DAVILA: No objection, Your Honor.

10 JUDGE THOMPSON: Hearing no objection, I'll receive
11 Respondent 31 (sic).

12 MS. DAVILA: 40 --

13 MR. DRISTAS: 41.

14 JUDGE THOMPSON: 41. Thank you.

15 **(Respondent Exhibit Number 41 Received into Evidence)**

16 Q BY MR. DRISTAS: Okay. I think I'm done with one. Okay.
17 Let's go back to your conversation with Antonia in your office,
18 which you testified occurred the 19th. Did you have any other
19 conversations with her that week in your office?

20 A No.

21 Q Okay. Okay. Now, let's see. Okay. Training. Let's
22 talk about training a little bit, Alejandra. So did you have a
23 training manager who went to security at some point?

24 A Yes.

25 Q And who was that?

1 A Blanca Alegret.

2 Q And when did she -- approximately when did she leave your
3 department to go to the security department?

4 A Her last day in my department was the 31st of December.

5 Q Of what year?

6 A 2014.

7 Q Okay. And then who assumed -- well, I should say this.

8 Did someone take over responsibility or leave responsibility
9 for training after Blanca left?

10 A I asked Anthony to help me while I hire a training
11 manager.

12 Q Okay. And he provided assistance in that topic until he
13 left the employment?

14 A That's correct.

15 Q Okay. Just a second.

16 (Counsel confer)

17 Q BY MR. DRISTAS: Okay. Now, at some point did you
18 authorize a dual rate for a trainer for employees in your
19 department?

20 A Yes, I did.

21 Q Okay.

22 (Counsel confer)

23 Q BY MR. DRISTAS: I'm going to show you what we marked as
24 Respondent's 42. Can you identify this?

25 A Yes.

1 Q What is this?

2 A Personnel action form. We call it PAF.

3 Q Okay. And did you sign this document?

4 A I did.

5 Q Okay. And are you the custodian of the personnel action
6 forms or do you at least keep a copy of the personnel action
7 forms for the people in your department?

8 A Yes.

9 Q And are those forms prepared, issued, and maintained in
10 the regular course of business?

11 A Yes.

12 Q Okay. So when did you sign this document?

13 A June 24, 2014.

14 Q Okay. Where's the --

15 MS. DAVILA: Objection. Relevance.

16 MR. DRISTAS: I'll get there, Your Honor.

17 (Counsel confer)

18 Q BY MR. DRISTAS: Can you take a look at General Counsel 6?

19 JUDGE THOMPSON: I'm going to give him just a little
20 latitude to connect the dots, counsel. So I'm going to hold
21 your objection in abeyance.

22 MS. DAVILA: Okay.

23 MR. DRISTAS: Let's see.

24 MS. DAVILA: General Counsel 6?

25 JUDGE THOMPSON: 6?

1 MR. DRISTAS: Yes.

2 JUDGE THOMPSON: Okay.

3 MR. DRISTAS: Isn't that the famed settlement agreement?

4 MS. OVIEDO: No.

5 MR. DRISTAS: Okay. Sorry.

6 MS. OVIEDO: No. That's Respondent's -- oh, no, I mean --

7 (Counsel confer)

8 MR. DRISTAS: That is General Counsel 6.

9 MS. OVIEDO: Yeah. We're looking at --

10 MS. DAVILA: Sorry. Sorry.

11 MS. OVIEDO: -- Respondent's -- sorry.

12 JUDGE THOMPSON: Let the record reflect I'm handing the

13 witness what's marked as GC-6.

14 MR. DRISTAS: And actually I think I'd rather have the

15 witness look at GC-5.

16 JUDGE THOMPSON: Let the record reflect I've handed the

17 witness what's been marked as GC-5.

18 Q BY MR. DRISTAS: So let me ask this in a different way.

19 Are you aware, Ms. Magana, that there were employees that --

20 five employees in particular that were suspended on June 8,

21 2014 for wearing a button that was deemed to be a violation of

22 uniform policy?

23 A Yes.

24 Q Okay. And was one of those people Carmen Llarull?

25 A Yes.

1 Q Okay. And after -- shortly after Ms. Llarull was
2 suspended, she was reinstated and all the discipline was taken
3 away for that incident?

4 JUDGE THOMPSON: Counsel, I'm sorry. Where -- where are we
5 headed? Because --

6 MR. DRITSAS: Okay.

7 JUDGE THOMPSON: -- I -- I feel an objection coming on from
8 General Counsel, and the reason I'm feeling it is because I
9 admonished her not to go into any of the specifics of the
10 settlement of that case.

11 MR. DRITSAS: Okay.

12 JUDGE THOMPSON: And I don't want you to get there because
13 I don't want to -- it's not relevant to the case. But I know
14 you're getting ready to try to tie --

15 MR. DRITSAS: Yes.

16 JUDGE THOMPSON: -- Respondent 42 to something. So --

17 MR. DRITSAS: Okay. So I'll just do it directly then.

18 Q BY MR. DRITSAS: After Ms. Llarull came to the property
19 wearing a Union button, within a couple of weeks thereafter you
20 authorized her to get a dual rate as a trainer at a higher rate
21 of pay; is that right?

22 A That's right.

23 MS. DAVILA: Objection; relevance. Imagine that. But I
24 still object that it's not relevant to this case. There's no -
25 - there's nowhere in the complaint where we allege that Carmen

1 Llarull was not promoted or -- we're not even talking about
2 2014. We just talked about the fact that she was named in the
3 settlement agreement.

4 JUDGE THOMPSON: Okay. Counsel, where -- why --

5 MR. DRITSAS: Yeah. Okay.

6 JUDGE THOMPSON: Why are we -- where are we headed?

7 MR. DRITSAS: Let's kind of go back and remember, the
8 testimony of Ofelia Diaz was, "Oh, I didn't get training or
9 become a trainer because of my Union activities." And she
10 said, "Neither did Carmen Llarull." But we see this document
11 shows right away that Carmen Llarull actually did get a
12 promotion or a wage increase for training. That took place
13 well before Ms. Ofelia Diaz said anything about training, and
14 close in time to when she became one of the lead Union
15 organizers.

16 So I think it -- it at least goes to part of the argument
17 that we have that there was no -- no motivation to deprive
18 Ms. Diaz, who was also involved in the initial button incident,
19 with training opportunities because she was a Union organizer
20 because we've got the lead organizer, number one. And, number
21 two, it contrasts with Ms. Diaz' situation, who said she wasn't
22 given training. And you'll see from the next few exhibits that
23 Ms. Llarull was given plenty of opportunities.

24 So my argument is is that it's not -- there may be
25 something going on -- and we won't say what it is -- but it's

1 not Union leadership because the primary Union leader had
2 plenty of training opportunities and Ms. Diaz did not for other
3 reasons.

4 MS. DAVILA: Your Honor, if I --

5 JUDGE THOMPSON: Counsel --

6 MS. DAVILA: -- may respond briefly?

7 JUDGE THOMPSON: Yeah. And then I'm going to rule on the
8 -- on the objection.

9 MS. DAVILA: Despite who Respondent identifies as leaders
10 or not, again, I don't think it's relevant unless we're looking
11 at Ofelia Diaz' documents. And even then, again, I'm not
12 getting into whether a promotion happened or didn't happen; I'm
13 saying that the statement was made that -- to Union chill --
14 Union activity chill, the fact that the statement was made.
15 Not whether or not the statement was true or accurate, it's
16 whether it was made.

17 MR. DRITSAS: Right.

18 JUDGE THOMPSON: Got it. And --

19 MR. DRITSAS: But the --

20 JUDGE THOMPSON: -- I don't -- okay. It's relevant,
21 counsel, not for, in my opinion, the reasons that were
22 expressed by Mr. Dritsas, but where he originally, it's
23 relevant to rebut, for lack of a better word, Ms. Diaz'
24 testimony that the reason they weren't trained was because they
25 participated in the Union.

1 But, counsel, I don't -- I'm not -- I'm not going to let
2 you just bring in all these documents about Ms. Llarull and how
3 much training she got because I agree with counsel, Ms. -- I'm
4 sorry -- I agree with Ms. Davila that that's going off into
5 something that's not even a part of this case.

6 I am going to let you -- I am going to receive Respondent
7 42 because I think it's relevant to go to refute testimony that
8 has been admitted into evidence. But outside of just this
9 document, I -- I don't think that the probative value of any
10 other documents that discuss Ms. Llarull's training would be
11 relevant.

12 So I'm going to overrule Ms. Davila's objection with
13 respect to R-42. You haven't introduced anything else, so I
14 can't really say anything about that. Because I do think it's
15 relevant for the limited purpose of rebutting evidence that's
16 in the record. So I will allow Respondent and receive
17 Respondent 42.

18 **(Respondent Exhibit Number 42 Received into Evidence)**

19 MR. DRITSAS: Okay. Thank you, Your Honor.

20 Q BY MR. DRITSAS: I'd like to show you that. And I think
21 I'd like to show another one too. So that was 43. So I need
22 44.

23 Okay. Let's --

24 MS. OVIEDO: Do you want to do A, B, C?

25 MR. DRITSAS: I don't really think I need to. But if you

1 think we need to, we can always do that.

2 Q BY MR. DRITSAS: Let's start with 44. Can you identify
3 this, Alejandra?

4 A 44? This is the hours worked --

5 Q For who?

6 A -- in union focus.

7 Q For whom?

8 A For Ofelia Diaz.

9 Q Okay. And what we see -- it's -- it's cut off. At the
10 bottom we wrote in a month. What -- what's the actually month
11 that's starts to the bottom?

12 A That is January 11 through January 24. And it's a full
13 pay period.

14 Q Okay. So let's take a look from January 23. Did Ms. Diaz
15 work that day?

16 A No.

17 Q Okay. So go through -- this document covers what period
18 of time?

19 A The first page covers two weeks.

20 Q No. The whole document. Go to the --

21 A The whole document?

22 Q -- end.

23 A It covers about three months.

24 Q Okay. So what's the -- on the front page, what's the --
25 was the last day worked?

1 A The 22nd, January 22nd, '15.

2 Q And when is the next time that Ms. Diaz worked at the
3 Hotel?

4 A I'm sorry?

5 Q When's the next date that Ms. Diaz worked at the Hotel?

6 A April 18, 2015.

7 Q Okay. Do you know why she wasn't working?

8 A She had a personal injury and she had to stay home.

9 Q Okay. And can you identify what Respondent's 43 is, the
10 PAF?

11 A PAF, to pay her the training rate.

12 Q Okay.

13 A Signed on August 28, 2015.

14 Q Okay. And this is a document you said you maintained in
15 your office for, among other people, Ms. Cardenas?

16 A Yes.

17 Q Okay.

18 MR. DRITSAS: Your Honor, I'd move admission of
19 Respondent's 43 and 44.

20 JUDGE THOMPSON: Any objection?

21 MS. DAVILA: No objection, Your Honor.

22 JUDGE THOMPSON: Counsel, let me ask you a question. With
23 regard to Respondent 44, is there any way that we can get the
24 full date of the first page? Like --

25 MR. DRITSAS: Oh.

1 JUDGE THOMPSON: Like page 2 through the remainder of the
2 exhibit, as opposed to the writing of the month?

3 MR. DRITSAS: It is just cut off in the photocopy. But,
4 yeah, we -- we can do that, Your Honor. I can't do that today.
5 It's -- I have to go back to the Hotel and I'm --

6 JUDGE THOMPSON: No, no. I don't mean today. I mean can
7 we --

8 MR. DRITSAS: I'm happy to supplement the record with that
9 page.

10 JUDGE THOMPSON: Please. Having said that, I will receive
11 respondent 43 and 44 into the record.

12 **(Respondent Exhibit Number 43 and 44 Received into Evidence)**

13 MR. DRITSAS: Since Her Honor's leading, I have to remember
14 that now, so --

15 Q BY MR. DRITSAS: Do you know who signed under the
16 manager's signature?

17 A I'm sorry. I don't know who could it have been.

18 Q Let's kind of go through the possibilities. There's
19 Kelvin. Does it look like Kelvin?

20 A No.

21 Q Does it look like Morgan?

22 A It looks more like Anthony.

23 Q Anthony Wandick?

24 A Wandick.

25 Q Okay. Okay. But you don't really know for sure?

1 A I'm not sure.

2 Q But -- but it is a document that you maintain in your
3 office, so you -- to reflect that she has a dual training rate?

4 A I'm sorry. I -- yeah, this is Morgan's signature. Morgan
5 Engle.

6 Q Okay. Okay. So that's that. Now, let's look at this.
7 Now, I think you said that -- or maybe I didn't ask. When did
8 Mr. Wandick leave the Hotel? Approximately. Or -- or I'll ask
9 you another way. Was there a change in the leadership of
10 training in 2015?

11 A Yes.

12 Q Okay. And when did that change occur; before or after
13 Mr. Wandick left?

14 A After he left.

15 Q Okay. And how was that changed? How was the training
16 responsibility for -- strike that. How were the responsibility
17 for assigning trainers and making sure people were trained, how
18 did that change?

19 A The organization of a group coming to my department to get
20 training changed. We started scheduling them, printing a copy
21 for each associate so they know what to follow, who they were
22 supposed to be training with and when they're supposed to be
23 starting based on who was in the Hotel working for five
24 consecutive days, because I didn't want the training to break
25 in the middle.

1 Q So the five consecutive days, the -- the trainee, you
2 wanted to have a consistent trainer for five consecutive days?

3 A That's correct.

4 Q Okay. And did you ever have a conversation with Ofelia
5 and Carmen, either individually or jointly, about training
6 opportunities?

7 A They -- they did bring it to my attention once.

8 Q Do you remember when it was?

9 A I don't remember exactly the month.

10 Q Was it before or after Ofelia came back from her medical
11 leave of absence?

12 A After she came back.

13 Q Okay. And where was -- where did the conversation take
14 place?

15 A It was a casual conversation. I don't think that happened
16 in that my office. It might have happened on the -- the entry
17 of the housekeeping department.

18 Q Okay. And tell us what you recall of the conversation.

19 A I recall them saying, "Why we don't train anymore?" And I
20 said, "Were you a trainer?" And they go, "Yes. We used to
21 train with Blanca." And I said, "Okay. Let me look into it
22 and I'll get back to you." That's all I said.

23 Q Okay. Now, after -- did -- after Mr. Wandick left, who
24 was the one who was leading the training afterward, including
25 the training schedule?

1 A That was me.

2 Q Okay. And then did you have -- did you organize
3 training -- did you organize the use of trainers with any
4 particular criteria besides people having a continuous five
5 days? Was there anything else that you looked at to see who
6 was going to get the opportunity?

7 A All my trainers were scheduled based on hire date and it
8 was going to be in a rotation based on who was available to
9 train and how many people I had to train. So I decided the
10 best place was in our rotation system.

11 Q Okay. Okay. I'm showing you what's been marked as
12 Exhibit 45. There are multiple pages. And I -- I don't think
13 I need to go through them. But let's first start with, can you
14 tell us what we're looking at here?

15 A This is a one-week schedule that covers July 19 to
16 July 25th, 2015.

17 Q Okay. So what's the -- the entire collection of
18 documents? What -- what period of time does this training
19 schedule cover?

20 A One week.

21 Q No, no. The start -- okay. Let's go at it this way: The
22 training schedule starts on July 19, 2015, right?

23 A The week starts in there.

24 Q Okay. Right. Your -- your week for this training
25 schedule started on July 19, 2015?

1 A Yes.

2 Q Okay. Let's go to the last page. So the last page ends
3 with October 3, 2015; is that right?

4 A Yes.

5 Q Okay. And in between are the other days that were
6 scheduled for training, the other weeks?

7 A Yes.

8 Q Okay. And if there's no schedule there, is that because
9 there was no training going on that week?

10 A That could be.

11 Q Okay. And there are a variety of comments made. Were you
12 the one that made the determinations as to who would be doing
13 training or you gave direction for people who would be doing
14 training?

15 A Yes.

16 Q Okay. Let me -- the document will speak for itself. Let
17 me just ask a couple of questions. What does OC stand for?

18 A On call.

19 Q Okay. And where it says training, does not mean they were
20 assigned as a trainer that day?

21 A They had a trainee that day.

22 Q Okay. And then the front page, we free -- let's take a --
23 well, I don't want get into that. So one of the trainers, at
24 least starting as of July 19, when you took more
25 responsibility, was Carmen Llarull.

1 A Yes.

2 Q And at least on the schedule for potential trainers, it
3 included Ofelia Diaz; is that right?

4 A That's correct.

5 Q Now, on the list, she's number 13 at the bottom. What
6 does that reflect relative to the other people identified?

7 A She's the last on seniority.

8 Q Okay. Now, when we go to -- let me ask about a couple of
9 other things here. If we looked at -- let's take a look at the
10 third page of this document. Under Ofelia Diaz it says, "Only
11 needed two to train." What does that reflect?

12 A That I had only two trainees.

13 Q Okay. Got it. And then if you turn to the week of August
14 16 --

15 MS. DAVILA: Your Honor, just if I could object on
16 relevance as far as the dates, like 2012, 2013, '09.

17 MR. DRITSAS: Oh, no. Those are -- those are the hire
18 dates.

19 MS. DAVILA: Oh, okay.

20 JUDGE THOMPSON: So --

21 MS. DAVILA: Oh, okay. I'm sorry.

22 JUDGE THOMPSON: Go ahead, counsel.

23 MR. DRITSAS: Thank you.

24 Q BY MR. DRITSAS: If you'd turn to the page for the -- or
25 the -- the week starting August 16, 2015 --

1 A Yes.

2 Q Do you see that? Was Ofelia assigned training that week?

3 A Yes.

4 Q Okay. And then a couple more questions. Turn to the

5 calendar marked September 13, 2015. There's an entry,

6 "Requested extra days off." What's the significance of that

7 relative to any training opportunities?

8 A Less opportunity as she was going to be off four days that

9 week.

10 Q So you couldn't give a continuous five? Is that the idea?

11 A I couldn't give her somebody.

12 Q Okay. And then lastly, turn to the last page. Ms. Diaz

13 was listed as a -- for training that week?

14 A Yes.

15 Q Now, did something happen that week that caused her not to

16 finish the full week of training?

17 A Yes.

18 Q What happened?

19 A She got injured.

20 Q Okay.

21 A She fell in the bathroom.

22 Q Okay. And then after that, was Ms. Diaz -- was she able

23 to come back to full-time work?

24 A No.

25 Q What did she have after that?

1 A She is out at home.

2 MS. DAVILA: Objection; relevance to her current condition.

3 MR. DRITSAS: Well, I don't really know her current
4 condition.

5 Q BY MR. DRITSAS: Let's try to bracket it a little bit.

6 After she injured herself, did she return to the Hotel at some
7 point in some less than full-time capacity?

8 A She came back for a few days.

9 Q Okay. And did she have any light duty work?

10 A I was able to accommodate a few days.

11 Q Okay.

12 MR. DRITSAS: That's enough for me. I move admission, Your
13 Honor, of Respondent's 45.

14 JUDGE THOMPSON: Mr. Draitsas, I don't know if you asked
15 this witness with respect to whether this document is a
16 document that's kept --

17 MR. DRITSAS: Okay. I can do that, Your Honor.

18 Q BY MR. DRITSAS: So Alejandra, I think you testified that
19 you are responsible for the input into in training schedule?

20 A Yes, I am responsible.

21 Q And was the training schedule something that you prepared
22 in the order -- ordinary course of business?

23 A Yes.

24 Q And you did it at least starting July 19, 2015 on a
25 regular basis?

1 A Yes.

2 Q And you were personally responsible for the selection, at
3 least either that or directing who the trainers would be?

4 A Exactly.

5 MR. DRITSAS: Okay. Your Honor --

6 JUDGE THOMPSON: Any objection, counsel?

7 MS. DAVILA: No objection, Your Honor.

8 JUDGE THOMPSON: Hearing no objection, I'll receive
9 Respondent 45.

10 **(Respondent Exhibit Number 45 Received into Evidence)**

11 MR. DRITSAS: Thank you, Your Honor.

12 MS. DAVILA: If this is going to a little longer, can I
13 just ask for a five-minute break?

14 MR. DRITSAS: It's going to go longer.

15 JUDGE THOMPSON: Okay. Let's take a break. In five
16 minutes we'll come back. Off the record.

17 (Off the record at 4:17 p.m.)

18 JUDGE THOMPSON: We are back on the record.

19 Mr. Draitsas, please proceed.

20 MR. DRITSAS: Thank you, Your Honor.

21 Q BY MR. DRITSAS: I have just a very -- one or two
22 questions on the discipline issued for -- in 2014 for the
23 buttons. It's been established through testimony already that
24 employees -- five employees showed up at work on June 8,
25 Sunday, June 8, 2014 wearing buttons that the Hotel considered

1 to be a violation of the uniform policy. Were you aware of
2 that?

3 A Yes.

4 Q Okay. Did you work that Sunday?

5 A No.

6 Q Okay. Did you speak on that Sunday with Rodolfo Aleman in
7 your office and say, "Take the button off or you'll be fired,"
8 or anything -- any conversation with him that day?

9 A No.

10 Q Did you speak with any of those five employees on that day
11 about the -- the uniform infraction?

12 A No.

13 Q Okay. Let's see. Can we look at General Counsel 30? I
14 don't know -- oh, sorry.

15 JUDGE THOMPSON: Let the record reflect that I've handed
16 the witness what's been marked as GC-30.

17 MR. DRITSAS: Okay.

18 Q BY MR. DRITSAS: And can you also take a look at General
19 Counsel 13? I think I -- yeah, I think I just want to ask you
20 about 13. It's the -- it's a -- are you ready, Alejandra?

21 A Yes.

22 JUDGE THOMPSON: Oh, I'm sorry. Let the record reflect
23 that I've handed the witness what's been marked as GC-13.

24 MR. DRITSAS: Okay. Thank you, Your Honor.

25 Q BY MR. DRITSAS: And before I do that, Giselle Happe or

1 Happe, was she one of your GRAs when she worked at the Hotel in
2 2014?

3 A Yes.

4 Q Okay. So I'm showing you General Counsel 13, which is
5 document that says, "Date created December 27th, 2013. Status
6 clerk lead hourly position." Were you working for the Hotel at
7 that time?

8 A No.

9 Q Have you ever seen -- prior to this case, prior to
10 bringing it to your attention for purposes of testimony, had
11 you ever seen this document before?

12 A No.

13 Q Did you ever tell anyone that they have a status clerk
14 lead hourly job description that they needed to follow?

15 A No.

16 Q Have you ever used this document in any fashion with
17 respect to Christina Keeran?

18 A No.

19 Q Okay. Thank you.

20 JUDGE THOMPSON: Did you still need the GC-30, counsel?

21 MR. DRITSAS: No. I decided --

22 JUDGE THOMPSON: Okay.

23 MR. DRITSAS: -- I didn't, Your Honor. Thank you.

24 JUDGE THOMPSON: Sure.

25 MR. DRITSAS: I apologize, Your Honor.

1 Ah, okay, here it is. This is what I wanted. Okay. What
2 are we on?

3 MR. KRAMER: 46.

4 Q BY MR. DRITSAS: Okay. So take a look please -- also, you
5 must grab in front of you Respondent's 2?

6 JUDGE THOMPSON: Let the record reflect I've handed the
7 witness what's marked as Respondent 2.

8 MR. DRITSAS: Thank you, Your Honor.

9 Q BY MR. DRITSAS: Okay. So let's first see if we can
10 identify these documents. Respondent 46, can you identify
11 this?

12 A It's the schedule for status.

13 Q Okay. And for what -- for what period of time?

14 A From March 29, 2015 to April 4, 2015, the first page.

15 Q Okay.

16 A Second page, April 5th, 2015 through April 11, 2015.

17 Q Okay. And how about Exhibit 47?

18 A That will be the managers' schedule.

19 Q For what period of time?

20 A From March 29 through April 4, 2015. Second week,
21 April 5th, 2015 through April 11, 2015.

22 Q Okay. So let's -- let me ask you some background
23 questions here. Well, I guess we should go back to the
24 schedule. So let's take a look at Exhibit 46. And I want to
25 focus on Vania Mariscal -- well, first, let's -- these are

1 schedules. Are these documents that you have prepared on a
2 weekly basis for the status and other people listed on
3 Exhibit 46?

4 A Yes.

5 Q Okay. And are you the one that provides the input for
6 these schedules?

7 A Yes.

8 Q And then do you maintain these either in the hard copy or
9 on your computer?

10 A Yes.

11 Q Okay. And Exhibit 47, is it the same thing except for
12 the -- the management?

13 A Yes, that's correct.

14 Q And that also has -- lists occupancy and other things; is
15 that right?

16 A Yes.

17 Q Okay. So let's go back to 46. On April 1, was Vania
18 Mariscal scheduled to work?

19 A She was off.

20 Q Is that her regular -- are those her regular days off,
21 Tuesday, Wednesday?

22 A Yes.

23 Q Okay. And let's go to Exhibit 47. Let's focus on you and
24 Kelvin. So April 1, you both were working; is that right?

25 A Yes, that's right.

1 Q April 2, you both were working?

2 A Yes.

3 Q And then what happened on April 3?

4 A Kelvin was off.

5 Q And --

6 MS. DAVILA: Objection; relevance.

7 JUDGE THOMPSON: I'm going to give counsel some latitude to
8 get there. So hold -- hold on, counsel.

9 MR. DRITSAS: I'll lay the foundation here, Your Honor.

10 Q BY MR. DRITSAS: When did Kelvin return to work?

11 A On April 6.

12 Q Okay. And when -- is there -- do you have a procedure --
13 I mean Kelvin was your number one, your assistant director?

14 A Yes.

15 Q So if he's -- if he's off, are you on?

16 A Yes.

17 Q Okay. So normally you are -- you know, normally you don't
18 work Sundays, right?

19 A No, not normally. No.

20 Q But this week you did?

21 A Yes.

22 Q Okay. So you testified before concerning Respondent's 2.
23 Do you have that in front of you? That's the April --

24 A Yes.

25 Q -- discipline. Okay. So you testified before that you

1 wanted Kelvin to handle this; is that right?

2 A That's right.

3 Q Okay. So when -- or we see that the discipline was
4 written on April 6, at least it's dated that. And the incident
5 took place on April 1. Now, on April 6, you were not working.
6 When did you make the determination that you were going to go
7 forward with the suspension of Martha Guzman for the April 1
8 infraction?

9 A April 2nd.

10 Q Okay. And was that -- was that the only time that you and
11 Vania and Kelvin worked together during that week?

12 A Yes.

13 Q Okay. And the next time that Kelvin returned was
14 Tuesday -- maybe we can go back to Monday. He came back -- no.
15 He came back Tuesday, the 6th, right?

16 A Monday the 6th.

17 Q Yes. Sorry. Monday the 6th. And that was the date,
18 according to this business record, that the document was
19 prepared; is that right?

20 A That's right.

21 Q Okay. And I think you testified that Kelvin -- this is
22 Kelvin's signature showing the discipline was issued on the 7th
23 of April?

24 A Yes.

25 MR. DRITSAS: Okay. Your Honor, I'd move admission of

1 Respondent's 46 and 47.

2 MS. DAVILA: No objection.

3 JUDGE THOMPSON: Okay. Hearing no objection, I'll receive
4 Respondent 46 and 47.

5 **(Respondent Exhibit Numbers 46 and 47 Received into Evidence)**

6 MR. DRITSAS: Thank you.

7 Q BY MR. DRITSAS: Since you first testified, Ms. Guzman
8 testified, so I want to go back to one thing you said to see if
9 I can get some more detail.

10 You testified that Ms. Guzman gave you a variety of
11 different excuses for her attendance issue. But one of the
12 things you said was that she told you that she was hit or
13 struck by a boyfriend or husband or something like that. Do
14 you remember that testimony.

15 A Yes, I do.

16 Q Okay. So I just want to get a little more detail. Did
17 you actually see her face when she came in?

18 A Yes.

19 Q Okay. And what did you observe? And try to tell us on
20 what part of her body you observed it.

21 A I noticed the left side cheekbone swollen.

22 Q Okay. And did she tell you how that happened?

23 A Yes.

24 Q What did she say?

25 A She said that she was -- that the boyfriend hit her, or

1 the husband.

2 Q Okay. Okay. Now let me ask you a couple of new things
3 that came up since you last were here. When you were with
4 Mr. Acosta in the termination meeting, did -- did Martha Guzman
5 say anything about having a doctor's note that excused her for
6 five days?

7 A No.

8 Q Okay. Did she ever say that the doctor told her that she
9 was excused for five days?

10 A No.

11 Q Did she ever tell you that she didn't know that she was
12 supposed to work on July 7?

13 A No.

14 Q Did she ever tell you that she never called off on July 7?

15 A No.

16 Q Okay. The day that she was given the SPI, as I recall,
17 that was July 15, Ms. Guzman testified that she came in to the
18 office and gave you the SPI -- excuse me, strike that -- she
19 came into the office and gave you the doctor's note that day.
20 Did she do that?

21 A No.

22 Q Did you tell Ms. Guzman on the day that the SPI was issued
23 to her by Mr. Wandick that, "Everything's okay, don't worry
24 about it?"

25 A No.

1 Q Now -- okay. I'm showing you a document, a pretty multi-
2 colored document, Respondent's 48, and it has reference to July
3 on it. Can you tell us what this is, Ms. Magana?

4 A This is my vacation matrix form that I have where I keep
5 all my managers' time off.

6 Q Okay. And is this a document that you maintain in the
7 normal course of business?

8 A Yes.

9 Q And is it kept on your -- among other places, is it kept
10 on your computer?

11 A Yes.

12 Q And is this the schedule that was in place and followed in
13 July of 2015?

14 A Yes.

15 Q Now, let's see if you can explain what we're looking at
16 here. Let's take your name at the top. And I want to focus on
17 the color. So let's say starting -- starting I guess red. Was
18 red mean?

19 A Vacation.

20 Q Okay. And what's the next color? Taking a look at
21 July 4, what's that little color mean?

22 A It's purple and it's holiday.

23 Q Okay. And then what's yellow represent?

24 A Days off.

25 Q Okay. And then on the 9th, it says RTW. What's that

1 represent?

2 A It means return to work.

3 Q Okay. So tell me then, from July 1 through July 8, did
4 you work at the Hotel?

5 A No.

6 Q Okay. Your first day back then was the 9th?

7 A Yes.

8 Q Okay. Did you meet with Ms. Guzman on July 8?

9 A No.

10 Q Okay. You were on vacation, right?

11 A I was out.

12 Q Did she give you any doctor's note on July 8?

13 A No.

14 Q Did you tell her on July 8, "Just go back to your work.
15 Everything's okay?"

16 A No.

17 Q Did you direct anyone to do those things? Did you call
18 anyone from vacation and say, "Tell Martha everything's okay?"

19 A No.

20 Q Okay. Let's -- okay. Now, before you had given Kelvin
21 the responsibility to issue the two -- well, strike that. You
22 testified that you gave Kelvin the responsible to issue the
23 April and May suspensions, 2015, to Ms. Guzman; is that right?

24 A That's right.

25 Q On June 15, was Kelvin working? If you take a look at

1 Respondent's 48.

2 A He was on vacations (sic).

3 Q Okay. So --

4 JUDGE THOMPSON: I'm sorry, counsel. The --

5 MR. DRITSAS: Excuse me. I meant --

6 JUDGE THOMPSON: This is July.

7 MR. DRITSAS: -- July. I meant July 15. Sorry.

8 JUDGE THOMPSON: Okay.

9 Q BY MR. DRITSAS: On July 15, was Kelvin working?

10 A No.

11 Q Okay. And did you assign the responsibility to give the
12 SPI to somebody else?

13 A Yes.

14 Q And who was that?

15 A Anthony.

16 Q Why didn't you do it yourself?

17 A I didn't want to deal with her.

18 Q Okay. Did you meet with Ms. Guzman on July 15, the day
19 the SPI was issued?

20 A No.

21 Q Okay. Between the time the SPI was issued on the 17th --
22 the 15th and the termination on the 22nd, did you talk to Vania
23 about anything related to Ms. Guzman?

24 A I asked her if she provided information to Martha seven
25 points, about her having seven points.

1 Q Okay. And what did -- what did Vania tell you?

2 A Vania said, "Yes, I did say she had seven points, but it
3 was back in May."

4 Q Okay. And did you report that information to Mr. Acosta?

5 A Yes.

6 JUDGE THOMPSON: Counsel --

7 MR. DRITSAS: Yes, Your Honor.

8 JUDGE THOMPSON: -- you want to move this into --

9 MR. DRITSAS: Oh, yes. Yes. I'd like to move admission of
10 Respondent's 48.

11 JUDGE THOMPSON: Any objection?

12 MS. DAVILA: No objection.

13 JUDGE THOMPSON: Hearing no objection, I'll receive
14 Respondent 48.

15 **(Respondent Exhibit Number 48 Received into Evidence)**

16 MR. DRITSAS: Thank you, Your Honor. All right. One
17 second. Sorry. You think I would have memorized this thing by
18 now. Okay. Here we go.

19 Q BY MR. DRITSAS: Can you take a look at Respondent --
20 excuse me -- General Counsel's 11? It's the personnel -- the
21 associate handbook.

22 JUDGE THOMPSON: Let the record reflect I've hand what's
23 been marked -- handed the witness what's been marked as GC-11.

24 MR. DRITSAS: Thank you.

25 Q BY MR. DRITSAS: Can you turn to page 36, please?

1 Now, do you have that in front you have?

2 A Yes.

3 Q Okay. During Ms. Davila's case, whenever that was -- it
4 was like a long time ago -- she asked you about some point
5 reduction. And you testified about a one point if someone
6 doesn't have an absence or tardiness. Is this the section of
7 the handbook that you were relying on?

8 A Yes.

9 Q Okay.

10 MR. DRITSAS: Okay. Let's go to this paper here. So I
11 have, counsel, a summary of voluminous documents. You have all
12 of these. I have an extra copy if you want them to review or
13 to have. We can put them in the record, if that's what you
14 want. I don't think we need to, but we can.

15 But I'm going to start by at least giving you a copy of
16 some voluminous documents to lay the foundation for this next
17 exhibit, which is --

18 MR. KRAMER: 49.

19 MR. DRITSAS: Thank you.

20 THE COURT REPORTER: 49.

21 MR. DRITSAS: Thank you. I'm sure Ron would like to see it
22 reduced, but -- this big stack we have there.

23 Q BY MR. DRITSAS: Okay. I'm showing you, Ms. Magana, a
24 document entitled, "Summary of housekeeping associates
25 terminated from February 14" -- "February 2014 through October

1 2015 for attendance."

2 So let me start first, the attendance logs for the
3 housekeeping associates, are those kept by or recorded by
4 clerks in your office? Vania Mariscal, she -- she is the one
5 that enters the absences on the points for personnel in
6 housekeeping?

7 A Yes.

8 Q Okay. And those are kept on a -- an ongoing or rotating
9 basis and then every year there's a new calendar that comes
10 out; is that right?

11 A That's right.

12 Q And ten points I think we've established in the record is
13 the -- kind the threshold for termination; is that right?

14 A That's correct.

15 Q Okay. And in -- in response to the subpoena by the
16 General Counsel, did you assist and direct people in your
17 office to pull together all the attendance logs and all the
18 discipline for the past couple of years for the housekeeping
19 associates?

20 A Yes, I did.

21 Q Okay. And as a -- as a result of that, did you compile --
22 you and your staff compile a list of those associates who were
23 terminated from February 2014 through October 2015 for
24 attendance?

25 A Yes. But we excluded the under probationary release and

1 not sharing their goals, because that's automatic --

2 Q Okay. So --

3 A -- quitting to the job.

4 Q -- the first one, did you say probationary employees?

5 A Probationary release. Under 90 days probation.

6 Q Okay. So they -- you could let them go for any reason
7 then that you didn't -- that didn't seem like a comparable
8 situation for our case?

9 A Yes.

10 Q Okay. And then no call, no show, what happens in that
11 situation?

12 A They just stop coming to work.

13 Q So it's like a job abandonment?

14 A Job abandonment.

15 Q Okay. So you excluded that because that would -- that
16 wouldn't be similar to what happened with Ms. Guzman; is that
17 right?

18 A That's correct.

19 Q But the examples that we have here in Exhibit 49, these
20 were all involuntarily terminations for people who reached ten
21 points or more?

22 A Yes.

23 Q Okay.

24 MR. DRITSAS: So, Your Honor, I -- I would move the
25 admission of Respondent's 49.

1 JUDGE THOMPSON: Any objection?

2 MS. DAVILA: No objection, Your Honor.

3 JUDGE THOMPSON: Hearing no objection, I'll receive
4 Respondent 49.

5 **(Respondent Exhibit Number 49 Received into Evidence)**

6 MR. DRITSAS: Thank you, Your Honor.

7 Q BY MR. DRITSAS: Oh, goodness. So we could spend probably
8 a few days on General Counsel 34, Ms. Magana --

9 A Hmm.

10 Q -- and my picture would be on the dart board I know. But
11 if you could pull a copy of General Counsel 34, and let me ask
12 you a few questions on that.

13 JUDGE THOMPSON: Let the record reflect the witness has
14 what's been marked as General Counsel 34.

15 Q BY MR. DRITSAS: Now, have you had an opportunity to at
16 least briefly review this exhibit?

17 A Yes, I did.

18 Q Okay. And do you have any general or overriding themes
19 that you see having reviewed this document?

20 A No.

21 Q What -- what does this document tell you in terms of how
22 employees had been given relief or points off?

23 A To be honest, when I went through these, it came to my
24 mind that I had been very consistent and fair as far as giving
25 my people opportunities to improve.

1 Q So you'll see, going through this document, there's
2 several -- well, pretty much all the document here shows that
3 on occasions there were points that had been reduced; is that
4 right?

5 A That's right.

6 Q And is there one reason for all these or does each case
7 have its own particular story?

8 A Each has their own story.

9 Q Okay. And for you to -- to be able to analyze or compare
10 any of these point reductions, you'd have to have the full
11 personnel file and go into the details of everyone's attendance
12 history, how many chances they got and things of that nature?

13 A It would be very hard for me to remember every single
14 employee. I do have a few employees that I can tell you that
15 the reason for their attendance issues was either they had two
16 jobs family issues.

17 Q Okay.

18 A Things like that.

19 Q And as we've seen from Exhibit 49, I guess your patience
20 have some limit. There are people that, despite their stories,
21 still have been terminated for attendance; is that right?

22 A That's right.

23 MS. DAVILA: Objection; leading.

24 MR. DRITSAS: I'm done with it, Your Honor.

25 JUDGE THOMPSON: I --

1 MS. DAVILA: Okay. If he's done, then --

2 JUDGE THOMPSON: I don't agree with -- I don't agree with
3 that, counsel. I'm going to overrule the objection. But I
4 think counsel's finished with that line of questioning anyway.

5 MR. DRITSAS: I am. Oh, I guess there's -- oh, there's
6 odds and ends.

7 Q BY MR. DRITSAS: Ofelia Diaz, was she ever nominated for
8 employee of the year?

9 A She was nominated -- yes, she was nominated.

10 Q Was that for employee of the year or employee of the
11 month?

12 A For employee of the month.

13 Q Okay.

14 MR. DRITSAS: Your Honor, can I have a few minutes just to
15 confer with Mr. Kramer to see if I have any more questions?

16 JUDGE THOMPSON: Yes.

17 Off the record.

18 (Off the record at 5:03 p.m.)

19 JUDGE THOMPSON: We are back on the record.

20 Mr. Draitsas, any further questions of this witness?

21 MR. DRITSAS: I have no further questions at this -- Your
22 Honor.

23 JUDGE THOMPSON: Oh. Great. Thank you.

24 General Counsel, any cross?

25 MS. DAVILA: No, Your Honor.

1 MS. OVIEDO: No, Your Honor.

2 JUDGE THOMPSON: Ms. Magana, thank you so very much for
3 your testimony and your patience with us. Please don't discuss
4 your testimony with anyone. Have a wonderful rest of your
5 evening. And you are excused. Thank you.

6 THE WITNESS: Thank you.

7 MR. DRITSAS: Thank you, Alejandra.

8 MS. OVIEDO: Will you just wait in the lobby so a Board
9 agent can escort you out, please?

10 THE WITNESS: Yes.

11 JUDGE THOMPSON: And plus I want to have just a brief
12 discussion with counsel and then we'll be out.

13 THE WITNESS: Yes.

14 JUDGE THOMPSON: Counsel, I know you may not have spoken
15 with your client. Do you have any more witnesses you'd like to
16 call other than Mr. Wandick?

17 MR. DRITSAS: Depending on the rebuttal, but the answer
18 would be no other than that.

19 JUDGE THOMPSON: Okay.

20 MS. OVIEDO: May I interject?

21 JUDGE THOMPSON: Yes.

22 MS. OVIEDO: It would help to find out sooner rather than
23 later if your client is going to -- is --

24 JUDGE THOMPSON: Well, hold it, because that's where I was
25 going.

1 MS. OVIEDO: Okay.

2 JUDGE THOMPSON: I don't mean to interrupt you, but that's
3 my part.

4 MS. OVIEDO: Well -- well, the only thing I was going to
5 say is I would ask that Respondent put into the record what
6 they plan on re-calling Mr. Wandick on? Because they already
7 had their opportunity to do their direct with him. So I want
8 to know -- if we are going to go through the effort and the
9 trouble of getting the subpoena enforced in Federal District
10 Court, to what extent are they going to examine him. I want to
11 know the scope and -- and how much -- if there's going to be
12 any overlap, you know.

13 MR. DRITSAS: Let's just make sure we all identify one
14 point. After Mr. Wandick left, the General Counsel amended the
15 complaint.

16 MS. OVIEDO: We're on the record.

17 MR. DRITSAS: The General Counsel amended the complaint to
18 change the charging allegation against Ms. Magana to
19 Mr. Wandick over my objection. So I didn't have the
20 opportunity to examine Mr. Wandick on that allegation. So,
21 beyond that --

22 MS. OVIEDO: So it would just be limited to that?

23 MR. DRITSAS: No.

24 MR. KRAMER: No. There's a couple of other things that
25 have come up in your case that we want to address. But clearly

1 on that one --

2 MR. DRITSAS: And in terms of the other question you
3 raised, Your Honor, I mean -- and you met Jill Martin. She's
4 involved in something else that's taking a lot of time. And I
5 said something to her, I said, "You know, we've got to talk."
6 I haven't heard back from her yet.

7 JUDGE THOMPSON: Okay.

8 MR. DRITSAS: I hope and expect to talk with her either
9 tonight --

10 JUDGE THOMPSON: Okay.

11 MR. DRITSAS: -- or first thing in the morning.

12 JUDGE THOMPSON: Okay.

13 MR. DRITSAS: But that's not a call that I can make.

14 JUDGE THOMPSON: I understand. What I was going to say was
15 on tomorrow, will you have at least some information as to
16 which way you may be leaning in terms of Mr. Wandick?

17 MR. DRITSAS: I sure hope so.

18 JUDGE THOMPSON: Okay.

19 MR. DRITSAS: I mean I've got to get in touch with --

20 JUDGE THOMPSON: That --

21 MR. DRITSAS: -- the client, so --

22 JUDGE THOMPSON: -- that -- I'm -- I'm -- I'm good with
23 that.

24 MR. DRITSAS: Okay. I'm making efforts to that. That's
25 what I can say.

1 JUDGE THOMPSON: Gotcha. General Counsel, are you
2 intending to put on any rebuttal witnesses?

3 Although Respondent's case isn't technically closed, off
4 the record we discussed how we may address the issue if
5 Mr. Wandick did not appear. Let the record reflect that
6 Mr. Wandick was subpoenaed by the Respondent to testify on --
7 on its behalf. And as of 5:20 -- 5:18 on the 3rd of December,
8 Mr. Wandick has not appeared. Respondent has to make a
9 determination how they want to proceed vis-a-vis Mr. Wandick.

10 Off the record I had discussions with counsel as to how to
11 proceed efficiently under the circumstances, vis-a-vis
12 Respondent hasn't necessarily closed his case. But to the
13 extent that the General Counsel may have some rebuttal from
14 some of the other evidence, that it may want to proceed in
15 order to utilize the time effectively, it may want to -- or
16 they may want to proceed with their rebuttal case.

17 General Counsel, do you intend to have any rebuttal of
18 any -- besides Mr. Wandick, any rebuttal evidence?

19 MS. DAVILA: My co-counsel and I haven't had that a chance
20 to confer about what happened today. I can say that before
21 today, we didn't expect to call any rebuttal witnesses. We'd
22 have to talk today about what happened today and --

23 JUDGE THOMPSON: Well, here's what I -- what -- the reason
24 I'm asking, counsel, is because we've got Friday and I don't
25 want to wait until Friday for you to decide whether you want to

1 call rebuttal witnesses and then we've got to wait to figure
2 out who you want -- may want to call.

3 MS. DAVILA: I will say that I'll -- if I plan to call
4 someone, I will make every effort to have them here tomorrow.

5 JUDGE THOMPSON: Okay. All right. In that case then --
6 and the reason I'm asking, counsel, is earlier in the first
7 part of the hearing, I'd indicated that we would resume this
8 week and, quote, "If necessary resume again on the 9th through
9 the 11th." And I'll just be very candid. If Respondent
10 counsel intends to enforce Mr. Wandick's subpoena, then it
11 would be, in my opinion, a better course of action to just
12 resume whenever that occurs, unless Respondent -- unless the
13 General Counsel, to the extent that you have any rebuttal, can
14 get it in on Friday.

15 I'm -- I'm just trying to utilize the time such that all of
16 us aren't sort of in and out. If we're going to have to
17 continue the case anyway, we may as well allow both counsel an
18 opportunity to effectively prepare whatever evidence they want
19 to put forth. However, if Respondent makes different divisions
20 regarding Mr. Wandick, perhaps we may be able to conclude any
21 rebuttal case tomorrow and not have the necessity to come back
22 next week for, you know, maybe one or two witnesses.

23 So I'm not -- I'm just throwing it out there for counsel to
24 consider. Tomorrow we can kind of make some final decisions as
25 to how we're going to proceed.

1 MS. DAVILA: Your Honor, just to save us all some work
2 tomorrow, so tomorrow would just be for Anthony, and then after
3 that they're going to not call anybody else?

4 MR. DRITSAS: Well, in my case in chief, right now the only
5 witness I would call would be Mr. Wandick.

6 MS. DAVILA: Okay.

7 MR. DRITSAS: I have reserved additional witnesses if you
8 bring a rebuttal case. So I would -- if Wandick were here, we
9 would rest -- unless he said some crazy, we would rest after
10 that.

11 JUDGE THOMPSON: Okay.

12 MS. DAVILA: And so tomorrow, would -- the rest of it would
13 be allotted for us to do a rebuttal if -- if --

14 JUDGE THOMPSON: If he shows.

15 MS. DAVILA: -- we had one?

16 JUDGE THOMPSON: Correct.

17 MS. DAVILA: So at this point since we don't know about
18 Mr. Wandick and we -- and if we didn't have a rebuttal, we
19 wouldn't have to come here tomorrow?

20 JUDGE THOMPSON: Correct.

21 MR. DRITSAS: Except we're going to have -- I assume we're
22 going to have to come so I can tell you what our position is.

23 JUDGE THOMPSON: Yes.

24 MR. DRITSAS: So I'm --

25 MR. KRAMER: And see if Mr. Wandick shows up.

1 MR. DRITSAS: If he goes up, great; and if he --

2 JUDGE THOMPSON: Correct.

3 MR. DRITSAS: -- doesn't, I have to be here to tell you
4 what we --

5 JUDGE THOMPSON: What -- right.

6 MR. DRITSAS: -- what the client wants to do.

7 JUDGE THOMPSON: But that would be --

8 MS. OVIEDO: To put that on the record.

9 JUDGE THOMPSON: Right. Yes.

10 MS. DAVILA: Okay. So do you want me to make -- state a
11 position of whether we have a rebuttal case or not today?
12 Would that be helpful?

13 JUDGE THOMPSON: It would be, but I don't want to put you
14 under any pressure, counsel.

15 MS. DAVILA: I mean I have -- I'm 80 percent sure of what
16 I'm going to say, if you give me one minute to just check with
17 the Regional attorney.

18 JUDGE THOMPSON: I will, yeah.

19 MS. DAVILA: Okay.

20 JUDGE THOMPSON: Okay. Let's go off the record real quick.
21 Thank you.

22 (Off the record at 5:21 p.m.)

23 JUDGE THOMPSON: We are back on the record after just a
24 brief recess.

25 Counsel, before we went off the record, you had asked just

1 for a moment to confer to determine whether you might have a
2 rebuttal -- rebuttal evidence to put forward. What have you
3 decided?

4 MS. DAVILA: Your Honor, the General Counsel does not
5 intend to put on rebuttal evidence at this time.

6 JUDGE THOMPSON: Okay. Thank you.

7 So at this moment we just need to make a decision -- or
8 Respondent just needs to inform the Court as to how it wants to
9 proceed vis-a-vis Mr. Wandick. So we will adjourn for the
10 evening and resume at 9:00 and we will go from there.

11 Thank you, counsel, so very much. Any other how's keeping
12 issues before we adjourn?

13 MR. DRITSAS: Not for us, Your Honor.

14 MS. OVIEDO: No, Your Honor.

15 MS. DAVILA: No, Your Honor.

16 JUDGE THOMPSON: Thank you so very much. Have a great
17 evening.

18 MR. DRITSAS: Thank you.

19 JUDGE THOMPSON: We're off the record.

20 **(Whereupon, the hearing in the above-entitled matter was**
21 **recessed at 5:26 p.m. until Friday December 4, 2015 at 9:00**
22 **a.m.)**

23

24

25

C E R T I F I C A T I O N

1
2 This is to certify that the attached proceedings before the
3 National Labor Relations Board (NLRB), Region 28, Case Numbers
4 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-
5 156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump
6 International Hotel Las Vegas and Local Joint Executive Board
7 of Las Vegas Affiliated with Unite Here International Union, at
8 the National Labor Relations Board, Region 28, 300 Las Vegas
9 Boulevard South, Las Vegas, Nevada 89101, on Thursday, December
10 3, 2015, at 9:10 a.m. was held according to the record, and
11 that this is the original, complete, and true and accurate
12 transcript that has been compared to the reporting or
13 recording, accomplished at the hearing, that the exhibit files
14 have been checked for completeness and no exhibits received in
15 evidence or in the rejected exhibit files are missing.

16

17

18

19

20

21

22

23

24

25



JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: December 4, 2015

Pages: 1625 through 1667

Volume: 9

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Friday, December 4, 2015, at 9:03 a.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Anthony Wandick	1646	1651			

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-37	1664	1664

P R O C E E D I N G S

1
2 JUDGE THOMPSON: We are on the record returning to the
3 hearing in the case of Trump Ruffin Commercial, LLC doing
4 business as Trump International Hotel Las Vegas and the Local
5 Joint Executive Board of Las Vegas, affiliated with Unite Here
6 International Union. I am Judge Thompson, Administrative Law
7 Judge presiding over the hearing in this case. Counsel for the
8 parties appear -- are here and appearing in the courtroom.
9 Judith Davila and Elise Oviedo on behalf of counsel for -- on
10 behalf of the General Counsel. William Dritsas on behalf of
11 Respondent and also client representative, Mr. Jeff Peterson
12 appears.

13 Good morning, counsel.

14 GROUP RESPONSE: Morning, Your Honor.

15 JUDGE THOMPSON: Yesterday, before we adjourned, counsel
16 for the Respondent had concluded testimony of its witnesses,
17 all but Mr. Anthony Wandick. Mr. Wandick had been subpoenaed
18 on behalf of Respondent and as of yesterday evening, before we
19 adjourned, he had not appeared to testify. At that time,
20 counsel indicated that it would decide its position with regard
21 to Mr. Wandick. So Mister -- well, before I go into that, let
22 me just clear up some housekeeping matters for the record.

23 Counsel for the Respondent introduced an exhibit which was
24 admitted into evidence, Respondent 44. During the course of the
25 testimony, I requested that counsel provide a substitute page

1 for page 1 because the dates on page 1 were cut off. And today
2 before we opened the record, Respondent counsel provided a
3 clear copy of the first page of Respondent 44. So I'm going to
4 substitute the page that he gave me with the page that is in
5 the record currently. And so I would ask counsel for the
6 General Counsel to do the same.

7 Now, back to the issue with Mr. Wandick. As I indicated,
8 counsel for Respondent was to provide me and the Court today
9 with his position regarding Mr. Wandick. Mr. Dritsas for the
10 record, what do you intend to do with respect to Mr. Wandick?

11 MR. DRITSAS: Your Honor, thank you. We've carefully
12 reviewed the record and we have to point out that although Mr.
13 Wandick testified, he testified before the testimony of Carmen
14 LLarul, Celia Vargas, both of whom provided testimony about
15 actions and activities of Mr. Wandick which we believe are
16 pertinent to the allegations made by the general counsel.

17 And also after Mr. Wandick testified, the General Counsel
18 amended the complaint to allege additional allegations against
19 Mr. Wandick. So there are at least three parts of the
20 complaint in which Mr. Wandick -- his activities are called
21 into question that we have not had an opportunity to fully
22 explore his conduct.

23 And so regrettably we believe that it's important to seek
24 enforcement of the subpoena that we issued to Mr. Wandick so
25 that we can elicit the appropriate testimony that reflects the

1 allegations made by the General Counsel. So whenever you want,
2 I'll tell you about our enforcement efforts.

3 JUDGE THOMPSON: Okay. Please -- you can.

4 MR. DRITSAS: Okay. So first of all, that was Mr. Kramer
5 that was doing it, but I will pinch hit for him on this as best
6 I can. We sent a subpoena to Mr. Wandick's last known address
7 which I will state was the address that he used when he filed
8 his charge of discrimination with the Nevada Equal Rights
9 Commission on October, roughly October 13, 2015. So that was
10 the address he listed. It's the address that we used. And a
11 subpoena was sent to that address on or about October 28, 2015.

12 A check, the check mistakenly was not included. So the
13 check for that subpoena was sent to Mr. Wandick the following
14 day. Mr. Wandick signed and received the check and in fact
15 called Mr. Peterson to say, what's going on with the check
16 here. So we know he got the check and it was at the address
17 that he's listed as last known address.

18 Then when we -- apparently the General Counsel also
19 subpoenaed Mr. Wandick. So when we came to the hearing, Mr.
20 Wandick was here. I believe that was on November 19 if I'm not
21 mistaken. I think it's November 19th.

22 MS. OVIEDO: That's correct.

23 JUDGE THOMPSON: And so in an abundance of caution, we
24 reissued the subpoena to Mr. Wandick on that day and Mr. Kramer
25 right in this courtroom gave the witness \$60, \$40 for the fee

1 and \$20 to cover for any mileage. So we believed at that point
2 that the subpoena was effective.

3 Then it's my information that Mr. Kramer spoke to Mr.
4 Wandick on December 1st for 14 or 15 minutes to arrange for him
5 to appear the next day at 1. Mr. Peterson emailed him and
6 called him, him being Mr. Wandick, that same day. And Mr.
7 Kramer sent a follow-up email. We all expected on December 2
8 to see Mr. Wandick in this courthouse at 1 and we didn't.

9 So following that, there were numerous emails, texts,
10 phone calls, to try to reach Mr. Wandick and we know this at
11 least that while we never reached him and he never returned any
12 call to us, and actually when I say us, I mean me, Ron Kramer,
13 Jeff Peterson.

14 We do know that his voicemail at one point was filled and
15 one message we couldn't leave. But then it was unfilled or
16 opened on another call. So we know that someone at least was
17 able to at least clear the voicemail and presumably listen to
18 the messages.

19 As late as last night, I left Mr. Wandick a message
20 personally on his voicemail, what I understand to be his
21 voicemail, that says this is serious business, Mr. Wandick,
22 you've been subpoenaed, the Judge is not happy and the next
23 step is to go to federal court to enforce this. I strongly
24 encourage you to contact us to avoid what could be some serious
25 ramifications for you. That was roughly 8 last night.

1 And I have not received any response to that message. We
2 sent a process server again last night and what we were
3 informed this morning was that the people in the home said Mr.
4 Wandick no longer lives here. That he hasn't been living there
5 since August. Of course, that's inconsistent with his
6 information charge. It's inconsistent with his receipt of a
7 check that was sent to that address.

8 But nevertheless, we now have a process server going to a
9 new address that was provided to us.

10 MR. PETERSON: The old address.

11 MR. DRITSAS: The old -- okay. I guess the old address,
12 but a different address in Henderson, Nevada. And you know,
13 we're hopeful to see if we can get him there. We also
14 attempted to reach his employer and his employer, what we
15 understand to be his employer, and his employer refused to
16 confirm that he worked there or provide information for us.

17 MS. OVIEDO: I don't mean to interrupt, but you might just
18 read into the record the addresses you have so we can compare
19 them to the ones we have. And just make sure that --

20 MR. DRITSAS: Yeah.

21 MS. OVIEDO: -- we're all on the same page.

22 MR. DRITSAS: Okay, the address on the subpoena is -- goes
23 to Anthony Wandick, 650 East Azure, A-Z-U-R-E, apartment 2028,
24 North Las Vegas, Nevada 80918, which is the same address that
25 we have on the charge of discrimination.

1 JUDGE THOMPSON: Okay.

2 MS. DAVILA: If I may, we have a different address where
3 our subpoena went to.

4 MS. OVIEDO: That he received.

5 MS. DAVILA: That he received and showed up to.

6 MR. DRITSAS: What address do you have?

7 MS. DAVILA: 4201 --

8 MR. DRITSAS: 4201, what's the address?

9 MS. DAVILA: East Craig Avenue.

10 MR. DRITSAS: Craig.

11 MS. DAVILA: Uh-huh. C-R-A-I-G.

12 MS. OVIEDO: Road?

13 MS. DAVILA: Avenue.

14 MR. DRITSAS: And what -- Las Vegas?

15 MS. DAVILA: Apartment 3016. Las Vegas, Nevada 89030.

16 MR. DRITSAS: Okay. Well, we can try to move on --

17 MS. DAVILA: And also the email address that you used --

18 MR. DRITSAS: Pardon me?

19 MS. DAVILA: The email address that you used, what was the
20 email address?

21 MR. DRITSAS: I don't know that as I sit here right now.

22 I'm sorry.

23 MS. DAVILA: I can give it to you just in case you want
24 to --

25 MR. DRITSAS: Yes, of course.

1 MS. DAVILA: Because I have talked to him via this email.
2 It's anthony95823@gmail.com.

3 JUDGE THOMPSON: Thank you, counsel.

4 MR. DRITSAS: It's my understanding that General Counsel
5 yesterday also had made attempts to reach Mr. Wandick through a
6 text I think.

7 MS. DAVILA: That is correct.

8 MR. DRITSAS: And my understanding is there's been no
9 response to the General Counsel's attempts to reach him.

10 MS. DAVILA: That's correct.

11 JUDGE THOMPSON: With this new information, Mr. Dritisas,
12 I'm assuming that you will want to reissue a subpoena to the
13 new address that you've just been informed about or the
14 additional address.

15 MR. DRITSAS: I can and I will. I mean I still think -- I
16 mean fundamentally in my presence, I saw Mr. Kramer serve Mr.
17 Wandick with the subpoena in this courthouse.

18 JUDGE THOMPSON: Got you.

19 MR. DRITSAS: But we're all in favor of -- we sent him
20 another subpoena, we'll send another one if the Judge will sign
21 one for us. And we'll get a process server to go to the new
22 address the General Counsel just gave us.

23 JUDGE THOMPSON: I will do that.

24 MS. OVIEDO: Your Honor, may I just say a few words on
25 this.

1 JUDGE THOMPSON: Just a second, counsel. Let me let Mr.
2 Dritsas finish what he needs to put on the record. Go ahead,
3 Mr. Dritsas.

4 MR. DRITSAS: Sure, thank you, Your Honor. So pursuant to
5 Mr. Wandick not appearing despite subpoena -- being subpoenaed
6 and reassuring us that he was going to be here, we request now
7 and we'll follow up with a letter to the General Counsel
8 pursuant to Board rules 102.31(d), that the General Counsel
9 file an action in the Federal District Court to enforce the
10 subpoena on behalf of Trump Ruffin so we can have Mr. Wandick
11 appear and present testimony in this case, short of us being
12 able to reach him before that.

13 JUDGE THOMPSON: Ms. Oviedo.

14 MS. OVIEDO: So I'm just going back through the transcript
15 and I'm looking at page 442 and I believe that the whole reason
16 why Mr. Kramer served him the subpoena that day and also paid
17 him that day is because they were able to ask him questions.

18 I understand we amended the complaint on the record to add
19 that additional 81 allegation. But here, I can read in
20 pertinent part lines like 11 through 21, pertinent part. It
21 said that General Counsel was willing to make a concession in
22 the interest of time. We're fine with proceeding with him on
23 the stand so that they don't have to recall him at a later
24 date.

25 If they're going to put on their case in chief through

1 this witness, then they should blah, blah, blah. So in any
2 event, the reason why Mr. Kramer paid him that day and the
3 reason why he issued him a subpoena that day is because he
4 testified that day.

5 So my question is are they planning on again doing another
6 direct with him beyond that 8(a)1 allegation that we amended on
7 the record?

8 JUDGE THOMPSON: Not sure, counsel.

9 MR. DRITSAS: Yeah, listen. You tried your case in a way
10 that I'm not -- it's unusual, let me just say it like that.
11 When you bring everyone forward and then you expect us to say
12 okay, we're done and now you're going to bring on witnesses to
13 say further things.

14 That -- I'm not in any way going to be limiting what I
15 expect to take out of -- expect to ask Mr. Wandick just because
16 he's testified first.

17 If you would have brought Ms. Llarul up first or Ms.
18 Vargas up first, then I would understand the point you're
19 making. But for you to -- it's almost like the sequestration
20 order. You had the ability to talk to Mr. Wandick and then
21 bring on your witnesses.

22 And I'm in no way going to limit -- I don't believe I have
23 to limit my examination of Mr. Wandick to a particular point
24 that was amended after Mr. Wandick testified. I'm allowed I
25 believe to present testimony that reflects additional

1 information that was raised, specific information, because if
2 you recall, when Mr. Wandick first testified, we didn't know
3 where he was allegedly grabbing information, who he was
4 grabbing it from, and there were a lot of details, frankly they
5 didn't have a lot of details, but there were more details
6 fleshed out by Ms. Vargas and Ms. Llarul that we had no ability
7 to anticipate or to question Mr. Wandick on when we first
8 talked with him at this hearing.

9 So I understand your concern, but I respectfully say that
10 I'm not limited by that.

11 MS. OVIEDO: So is the Respondent's position that you
12 didn't have an opportunity to do your direct with Mr. Wandick
13 when he was here?

14 MR. DRITSAS: Counsel, we asked questions, I don't know
15 you want to characterize it, it was on cross-examination
16 actually to your case. We did what we could given the
17 complaint, but there was no live testimony by your witnesses as
18 to what you were accusing him of.

19 JUDGE THOMPSON: Well, I don't want to get into a debate,
20 counsel plural, over what Mr. Dritsas may or may not ask the
21 witness. What I will say is this. I understand Respondent's
22 argument and there isn't any rule that I'm aware of that would
23 limit Respondent to just questioning Mr. Wandick on the newly
24 amended allegation in the complaint.

25 And again, Ms. Oviedo, this goes back to I think one of --

1 part of the concern you raised on a different issue that is
2 sort of a similar concern. But the problem is is that the way
3 -- part of the problem is the way this process works. And it
4 doesn't allow for efficient examination of witnesses that would
5 go to your point of having the opportunity to examine a witness
6 on various and a sundry allegations.

7 So I actually have to agree with Mr. Dritsas to the extent
8 that his questioning would be beyond just the amended
9 allegation. It's just the way in which this process works that
10 prohibits efficient examination in some circumstances.

11 MS. OVIEDO: Your Honor, if I may add something.

12 JUDGE THOMPSON: I just don't think it's worth really
13 arguing.

14 MS. OVIEDO: I would just like to put on the record that
15 it is not our position that we feel -- that the General Counsel
16 feels that Respondent should have taken the opportunity to ask
17 all of their questions when we had their supervisors or agents
18 on the stand. But it's our position that they represented to
19 us in this hearing that they asked for permission to go into
20 their case on the premise that they did not want to have to
21 recall a witness and that is quoted in the transcript on page
22 440 by Mr. Kramer.

23 JUDGE THOMPSON: I understand that. What Mr. Dritsas is
24 saying is is that after Mr. Wandick testified, there were
25 additional witnesses after he testified that spoke of

1 allegations involving him -- strike that. That involved
2 allegations regarding or against Mr. Wandick after Mr. Wandick
3 testified. So counsel isn't clairvoyant. They can't ask
4 questions that they don't know exist until after the witness
5 testified. It would be equivalent to for example counsel if
6 you were a witness and you testified on the stand about and you
7 gave your full and complete testimony and let's say Mr. Dritsas
8 asked whatever questions he needed to ask of you on the stand
9 and went beyond the scope, and then Ms. Oviedo and our court
10 reporter testified about some additional allegations involving
11 you, how could Respondent have anticipated the additional
12 allegations involving you when you testified? Because Ms.
13 Oviedo and our court reporter hadn't testified about it yet.

14 So there's no way that Respondent could have anticipated
15 asking questions when they hadn't existed yet.

16 MS. OVIEDO: And we understand that. I guess our point is
17 they should have done their direct after we had finished our
18 case in chief.

19 MS. DAVILA: He shouldn't have been allowed to do it in
20 the first place.

21 MR. DRITSAS: But --

22 JUDGE THOMPSON: How would they have known that, counsel?
23 I mean I don't understand your argument.

24 MS. DAVILA: Which is why they don't do that in the first
25 place.

1 JUDGE THOMPSON: There wasn't information for them to do
2 the direct of Mr. Wandick because it hadn't come up.

3 MS. DAVILA: Then they shouldn't --

4 JUDGE THOMPSON: I mean so what you're arguing is that --

5 MS. OVIEDO: They should have been limited by scope.

6 MS. DAVILA: They should have been limited by scope.

7 JUDGE THOMPSON: -- counsel should have been clairvoyant
8 and anticipated that witnesses that they didn't know you were
9 going to call because you're not obligated to tell them, would
10 have been -- so counsel not only has to know what Mr. Wandick
11 could have said, but then counsel has to know what other
12 witnesses that they don't know exist or will testify, what they
13 could say.

14 MS. OVIEDO: But they would know at the close of our case
15 in chief and be able to recall those witnesses on their own and
16 not do their direct when they're supposed to just only be doing
17 cross limited by scope.

18 JUDGE THOMPSON: Well, counsel, it just didn't work that
19 way. So this is how it -- this unfortunately is how it works
20 when nobody knows who's testifying to what and when allegations
21 come out or incidences come out that nobody anticipated. It
22 unfortunately is part of the process of how this tribunal and
23 how this process works. And so now we are where we are.

24 So I'm not going to limit counsel to what he could have
25 asked when he didn't know that those issues were asked. And

1 I'm not going to debate it any further because counsel is
2 entitled to call a witness it wants to call and question them
3 about allegations that it didn't have an opportunity to ask.

4 And so, you know, I respect your concern, counsel, but
5 there's nothing I can really do about it. Because Respondent
6 has the right to inquire, you know, and have due process in
7 this case. So we are where we are, but I respect your
8 argument.

9 So I believe Mr. Dritsas, that you had indicated that
10 there was an additional process server that is attempting to
11 serve Mr. Wandick as we speak --

12 MR. DRITSAS: Yes, Your Honor.

13 JUDGE THOMPSON: -- is that correct?

14 MR. DRITSAS: Yes, Your Honor.

15 JUDGE THOMPSON: And I believe that you and the General
16 Counsel were urging the Court to provide some opportunity and
17 time today, some reasonable period of time that we could keep
18 the record open in the event that we reach Mr. Wandick and he
19 appears; is that correct?

20 MR. DRITSAS: Yes, Your Honor.

21 JUDGE THOMPSON: And I believe that off the record,
22 counsel thought that perhaps between now and 2, we would
23 revisit to see if Mr. Wandick would appear and make some
24 additional decisions around that time.

25 MR. DRITSAS: That's correct, Your Honor.

1 JUDGE THOMPSON: Okay. So let's -- I believe that that's
2 a reasonable request. Let's hold the record open or let's just
3 recess until 2 and see if Mr. Wandick will appear and then we
4 will go from there.

5 Any other concerns, questions, housekeeping matters? Just
6 for the record, Mr. Dritsas, I am satisfied that you have made
7 every effort to subpoena Mr. Wandick and to the extent that Mr.
8 Wandick does not appear, I would definitely to the extent that
9 I have the authority to grant your request to request General
10 Counsel to enforce the subpoena, I would approve that.

11 MR. DRITSAS: Thank you, Your Honor.

12 JUDGE THOMPSON: So until then, we'll just stay in recess
13 until around 2 unless we hear something before then.

14 MR. DRITSAS: The only other thing I'd request, Your
15 Honor, is if the General Counsel would be kind enough to
16 broaden the subpoena, we have another address that you gave us
17 that we'll get another process server to go to that address.
18 So we'll have two process servers, two addresses, to kind of
19 see what we can do.

20 JUDGE THOMPSON: Sounds good.

21 MS. OVIEDO: General Counsel is amenable to that.

22 MR. DRITSAS: Okay.

23 JUDGE THOMPSON: Perfect. Thank you. See you around 2, if
24 not before. Off the record.

25 (Off the record at 9:27 a.m.)

1 JUDGE THOMPSON: We are back on the record and just for
2 clarification purposes, we are going to only reconvene this
3 hearing if and only if we receive word that Mr. Wandick will
4 appear and will honor the subpoena. We will not return to the
5 record if after a reasonable period of time to include until
6 about 2 p.m. this afternoon, we do not hear back from Mr.
7 Wandick. And then I have agreed to approve Respondent
8 counsel's request to request from the General Counsel to
9 enforce Mr. Wandick's subpoena.

10 So the record, we will be adjourned unless Mr. Wandick
11 returns to this courtroom today. Thank you, counsel.

12 MR. DRITSAS: Thank you, Your Honor.

13 JUDGE THOMPSON: Off the record.

14 (Off the record at 9:41 a.m.)

15 JUDGE THOMPSON: We are back on the record after a recess
16 earlier this morning, continuing the case of Trump Ruffin
17 Commercial, LLC. At the time that we recessed, Respondent
18 counsel had not closed its case in chief. And was waiting for
19 its last witness, Mr. Wandick. Mr. Wandick has appeared and is
20 in the witness box. Good afternoon, Mr. Wandick.

21 MR. WANDICK: Good afternoon.

22 JUDGE THOMPSON: I don't know if you remember me from when
23 you testified on November 19th. I'm Judge Thompson. And I am
24 still presiding over this hearing. You have been called as a
25 witness or subpoenaed as a witness for Respondent. But as I

1 did on the 19th, I need to swear you in. So would you raise
2 your right hand.

3 Whereupon,

4

ANTHONY WANDICK

5 having been duly sworn, was called as a witness herein and was
6 examined and testified as follows:

7 JUDGE THOMPSON: Great. Thank you. I know that you stated
8 your name when you testified back on the 19th. But for the
9 record, could you state your name again please.

10 THE WITNESS: Anthony Wandick.

11 JUDGE THOMPSON: And Mr. Wandick, you spell it W-A-N-D-I-
12 C-K; is that correct?

13 THE WITNESS: Correct.

14 JUDGE THOMPSON: Great. Mr. Wandick, do you recall some
15 of the instructions that I'd given you back on the 19th with
16 regard to testifying, i.e., speak loud, give a verbal response,
17 some of those things?

18 THE WITNESS: Yes.

19 JUDGE THOMPSON: Okay. Those same instructions apply
20 today.

21 Before I turn the questioning over to Mr. Dritsas on
22 behalf of the Respondent, I need to clear up just some
23 housekeeping matters. First, Mr. Wandick, I understand that
24 you were subpoenaed by the Respondent to appear on the 2nd of
25 this month and you did not appear. Can you tell me why you

1 didn't appear on the 2nd?

2 THE WITNESS: Yes, I had work and I have some stuff that's
3 going on at work that I'm gearing up for, that I couldn't miss
4 unfortunately.

5 JUDGE THOMPSON: Okay. All right. Thank you. Mr.
6 Dritsas, your witness.

7 MR. DRITSAS: Thank you, Your Honor.

8 **DIRECT EXAMINATION**

9 Q BY MR. DRITSAS: Good afternoon, Mr. Wandick.

10 A Good afternoon.

11 JUDGE THOMPSON: Make sure you speak as loud as you can --

12 THE WITNESS: Good afternoon.

13 JUDGE THOMPSON: -- Mr. Wandick. Thank you.

14 Q BY MR. DRITSAS: My name is Bill Dritsas and I'm one of
15 the lawyers for the hotel. So I know that the hotel's in your
16 rearview mirror and I'm sorry to have to bring you in here, but
17 I've got a few questions to ask you because since you testified
18 last time, other claims have been made about your behavior that
19 I have to ask you about. So thank you for appearing.

20 Mr. Wandick, do you know who Carmen Llarul is?

21 A Yes.

22 Q Okay. And was there a time in March of 2015 when you were
23 in the EDR, the employee dining room, and Carmen Llarul was
24 distributing flyers and you grabbed or snatched a flyer away
25 from an employee who was being passed out a flyer?

1 A No, I've never took a flyer out of an associate's hand.

2 Q Okay. Was there ever a time that you took a flyer that an
3 associate had and just tore it up and said it was trash?

4 A No, never taken a flyer out of an associate's hands.

5 Q Okay. Was there a time that Ms. Llarul was speaking with
6 an employee or strike that. You understand that Ms. Llarul was
7 going to be committee leaders trying to organize the hotel?

8 A Yes.

9 Q Okay. And you saw her before the Trump Talks periodically
10 hand billing and talking to people?

11 A Yes.

12 Q Okay. Was there a time that she was speaking to, you
13 know, one or more people and you went up to take that person
14 away to prevent them to talk -- from talking to Ms. Llarul?

15 A To prevent them from talking to her, no. But to speak to
16 that particular associate, it could have been a new hire
17 associate that I needed to introduce them to their trainer or
18 let them know what was going to be happening before they went
19 up to the floors, yes.

20 Q Okay. Is that something that you have done both at that
21 time period during the organizing and prior to that?

22 A Generally, normally when new hires go into Trump Talk in
23 the mornings, before the Trump Talk starts and once I see their
24 trainer walk in, I do go in and approach the associate and let
25 them know, hey, I need to speak with you to introduce them to

1 their trainer, yes.

2 Q Okay. Thank you, sir. Was there any time in March or
3 thereafter that you brought someone to a trainer as you just
4 testified, then Ms. Llarul objected and said you can't do that?

5 A No.

6 Q Okay. Did you ever talk or strike that. Do you know who
7 the associate or an associate by the name of Mike Flores is?

8 A Not that I recall Mike Flores.

9 Q Okay. Do you know Judy Reyes?

10 A Say that name again?

11 Q Judy Reyes?

12 A Judy Reyes, no.

13 Q Juan Cabrera?

14 A I don't recall any of the associates working for Trump.

15 Q Okay. That's fine. Before working time started, so you
16 understand there's break time or pre-work time and working
17 time, you're supposed to start working. Before --

18 A Correct.

19 Q -- so I'm focused on before working time started, in the
20 EDR, did you ever go over to tables and pick up the Union
21 flyers and say they're trash and throw them away?

22 A No.

23 Q I want to move to a different time now. Sometime -- I
24 think we've identified it as sometime in June. Did you have a
25 meeting -- strike that. Let me rephrase that. Did you have an

1 -- strike that. Did you meet with Ms. Magana in her office
2 when she had two associates and one being Janet Vasquez and the
3 other being Iresyane Gonzalez? Do you remember ever being in
4 an office with those three people?

5 A Yes.

6 Q Okay. Now, was that about the approximate time period?
7 Sometime around -- sometime mid to last -- mid this year?

8 A I'm not exactly sure of the timeframe honestly.

9 Q Okay. And when you were in that office, can you tell us
10 what you recall being discussed?

11 A Yes, the associates, Iresyane and Janet both approached us
12 and they were telling us that they were being approached by
13 Union -- employees that supported the Union and that they were
14 talking about promises as far as pay increases, health
15 benefits, and there's other stuff, other promises that the
16 Union were making. So at that point, we had these flyers that
17 we were distributing basically and it was to tell them if the
18 Union is promising you this, have them sign this, that they
19 were talking -- it was somewhere along the lines of giving them
20 a pay raise, better health benefits, of that nature.

21 Q Okay. And these -- they're sometimes called guarantee
22 statements?

23 A Correct.

24 Q Those were -- they weren't just for housekeeping. That
25 was part of the campaign literature that was outside in the

1 hotel?

2 A Correct.

3 Q Okay. At any time in that meeting, did you ask either Ms.
4 Gonzalez or Ms. Vasquez, who they were going to vote for?

5 A No.

6 Q Did you ask either one of them were they in favor or
7 against the Union?

8 A No.

9 Q Okay. Now after the meeting, when the two ladies left,
10 did you ask either one of them -- I'm talking now in the
11 immediate time period after you left the meeting, did you ask
12 either one of them if they were in favor of the Union?

13 A No.

14 Q Did you ask either one of them how they were going to vote
15 for the Union?

16 A No.

17 Q Did -- I'm jumping back to Ms. Llarul. Did Ms. Llarul
18 ever say anything to you or complain to you about you being in
19 the EDR?

20 A She never complained to me personally, no.

21 Q Okay. Did you ever, you know, laugh at her because you
22 thought that her requests were stupid or silly or
23 inappropriate?

24 A Her requests as in what?

25 Q Strike that. I have to see how I can ask you this

1 question here. You said she never complained about you. Did
2 you -- did she ever tell you that you should not be in the EDR
3 when she was distributing literature or trying to organize
4 employees?

5 A No.

6 Q Okay.

7 MR. DRITSAS: That's the only questions I have for Mr.
8 Wandick. Thank you, again.

9 JUDGE THOMPSON: Thank you. Ms. Davila or Ms. Oviedo, any
10 cross?

11 MS. DAVILA: Yes, Your Honor. One second.

12 **CROSS-EXAMINATION**

13 Q BY MS. DAVILA: Good afternoon, Mr. Wandick. My name is
14 Judith Davila. I'm with the National Labor Relations Board.
15 This is Elise Oviedo and she's my co-counsel. Just have a few
16 questions for you and we also appreciate you being here.

17 You spoke to the hotel's attorneys before coming here,
18 correct?

19 A Yes.

20 Q And you spoke to them in a phone call that lasted about 15
21 minutes, correct?

22 A Yes.

23 Q And in that phone call, did you discuss your testimony
24 today?

25 MR. DRITSAS: I'm going to object, Your Honor, on the

1 grounds of attorney/client privilege. Mr. Wandick was a
2 management employee at the time and his communications with
3 counsel at the hotel are still covered within the privilege.

4 MS. DAVILA: I wasn't going to ask about the details of
5 those conversations. Just that a conversation happened.

6 MR. DRITSAS: Okay.

7 JUDGE THOMPSON: Subject to that, overruled. Could you
8 repeat the question for the witness?

9 MS. DAVILA: Yes, Your Honor.

10 Q BY MS. DAVILA: That you had a conversation about your
11 testimony today, correct?

12 A Yes.

13 Q Okay. And you were in charge of training housekeepers,
14 correct?

15 A Correct.

16 Q And associates are paid for training, correct?

17 A Yes.

18 Q Okay. And employees can be in the EDR and be off the
19 clock, correct?

20 A Yes.

21 Q And employees can be in the EDR and be on the clock,
22 correct?

23 A Yes.

24 Q Are Trump Talks held on or off the clock?

25 A On the clock.

1 Q Excuse me. Sorry if I jump around. To the conversation
2 that you had with Janet Vasquez and Iresyane and Alejandra
3 Magana in that office, you mentioned some flyers that you gave
4 the associates, correct?

5 A Yes.

6 Q Okay. And where did you get those flyers?

7 A From my knowledge, they were generated by either crews or
8 associates for the hotel.

9 Q Do you remember exactly who gave them to you?

10 A Alejandra.

11 Q And what instructions were you given with those flyers?

12 A It was just that if associates come to you and tell you
13 that the Union is promising you -- is promising them something
14 as far as wages, health benefits, there was something else,
15 just to give them this flyer and tell them if this is what the
16 Union is promising you, have them sign it.

17 Q And you've had discussions with housekeepers about the
18 Union, correct?

19 A Yes.

20 Q And you know that some employees supported the Union,
21 correct?

22 A Yes.

23 Q And you know that some employees didn't support the Union,
24 correct?

25 A Yes.

1 Q And you know that a union is established through an
2 election, correct?

3 A Yes.

4 MS. DAVILA: No further questions, Your Honor.

5 JUDGE THOMPSON: Okay. Thank you, Ms. Davila. Mr.
6 Dritsas, any redirect?

7 MR. DRITSAS: No, I do not.

8 JUDGE THOMPSON: Mr. Wandick, thank you for your testimony
9 today and thank you for your appearance. Please don't discuss
10 your testimony with anyone and you're excused and have a
11 wonderful day. Thank you so very much.

12 THE WITNESS: Thank you.

13 JUDGE THOMPSON: Mr. Dritsas, do you have any additional
14 witnesses at this time?

15 MR. DRITSAS: I do not, Your Honor.

16 JUDGE THOMPSON: In that case, does the Respondent rest?

17 MR. DRITSAS: We rest, subject to rebuttal if you allow
18 the General Counsel to put on what they want to put on.

19 JUDGE THOMPSON: Okay. I'm not certain that they are
20 putting on anything. So but I will note that for the record.
21 Thank you.

22 Ms. Davila and Ms. Oviedo, initially when we adjourned on
23 yesterday, you had indicated on the record that you did not
24 have any additional rebuttal evidence. Now that the Respondent
25 has rested, what is your position with respect to rebuttal at

1 this time?

2 MS. DAVILA: Your Honor, we do have rebuttal evidence.

3 However --

4 MS. OVIEDO: It will be brief.

5 JUDGE THOMPSON: And when you say rebuttal evidence, do
6 you mean testimony or documentary or both?

7 MS. DAVILA: If Respondent's counsel stipulates to the
8 document being admitted into the record, we have no problem
9 with that. If they would require us to put on a witness, then
10 we would call a witness.

11 JUDGE THOMPSON: Okay. Since a lot of what you're
12 discussing was held off the record, there was an additional
13 document that counsel for the General Counsel requested to
14 admit into the record. And there was some discussion among
15 counsel as to whether Respondent would stipulate to the
16 authenticity of this document.

17 First of all, Ms. Davila, what is the document that you
18 intend to offer into the record?

19 MS. DAVILA: It is the attendant -- the 2015 attendance
20 calendar of housekeeping associate Tricia Ledwon. I can spell
21 that for the record.

22 JUDGE THOMPSON: Please.

23 MS. DAVILA: T-R-I-C-I-A, last name Ledwon, L-E-D-W-O-N.

24 JUDGE THOMPSON: And would you provide the Court with a
25 copy of that potential document and would you please if you

1 intend to present it --

2 MS. DAVILA: We would ask the court reporter for GC's next
3 exhibit.

4 JUDGE THOMPSON: Certainly.

5 COURT REPORTER: 37.

6 MS. DAVILA: It's a two-page document. Unfortunately,
7 it's not signed by -- oh, it's stapled, great. Okay.

8 MS. OVIEDO: Your Honor, if I approach --

9 JUDGE THOMPSON: Sure.

10 MR. DRITSAS: Do you have one for me?

11 MS. OVIEDO: Not yet.

12 JUDGE THOMPSON: Okay.

13 MR. DRITSAS: I think I'm entitled to know what you're
14 telling the Judge or what you're pointing to the Judge.

15 JUDGE THOMPSON: Yes, he is.

16 MR. DRITSAS: It's not a secret proceeding here. Can you
17 tell me at least what you were pointing to?

18 MS. DAVILA: 11 --

19 JUDGE THOMPSON: Page 2, counsel, June 11th.

20 MR. DRITSAS: Okay. Can I see that?

21 JUDGE THOMPSON: Just a second.

22 MS. OVIEDO: Jacqui, are the microphones okay? Are these
23 okay?

24 JUDGE THOMPSON: Ms. Davila, could you make a -- assuming
25 that this document was admitted, could you make an offer of

1 proof as to the purpose for which you are seeking admission of
2 the document?

3 MS. DAVILA: Yes, Your Honor. The General Counsel seeks
4 to admit this document to show that Respondent took into
5 consideration an employees' union -- a position -- Union
6 position in point reduction pursuant to their attendance
7 policy.

8 JUDGE THOMPSON: Well, okay, that's what the offer of
9 proof is and the document will speak for itself.

10 MR. DRITSAS: The document doesn't say that, Your Honor.
11 What the document says is not given due to Union voting. It
12 doesn't say due to preference.

13 MS. DAVILA: Which is why we would be welcome to call
14 Alejandra Magana and ask her to speak to the document.

15 MR. DRITSAS: Well, let me make a similar offer of proof,
16 Your Honor. And if we need to, we can put it on. That's why I
17 brought Mr. Peterson. The hotel received an election petition
18 on or about June 5. And given the Board's proceedings, they
19 used a fast track election. The hotel directed departments,
20 housekeeping and others, not to issue discipline during that
21 time period given the uncertainty as to whether or not there
22 would be any alleged claims of retaliation. Of course, the
23 background is of course there have been a slew of charges that
24 have been addressed and resolved, et cetera. So they were
25 being cautious.

1 Once the election was called off by the Union or by the
2 Board, whichever you want to say, then the issuance of
3 discipline started up again. So if we need to, Mr. Peterson
4 can testify to that because he told it, but I think I would
5 just --

6 JUDGE THOMPSON: I don't -- oh, go ahead, Mr. Dritsas.

7 MR. DRITSAS: I would just tell you, we have right here
8 two of your witnesses. Ryan Aguayo and Eleuteria Blanco, who
9 have the same writing on their forms. They were not issued
10 disciplinary action pursuant to HR direction during the month
11 of June. So --

12 MS. DAVILA: We did not discover those documents in the
13 subpoenaed documents that we had. And I assure you, we combed
14 through them. And out of all of those documents that we have
15 in our conference room, that was the only attendance calendar
16 that mentioned a point reduction pursuant to the word Union.

17 MR. DRITSAS: Okay.

18 MS. DAVILA: And you know, we're not saying they didn't
19 comply with the subpoena because we don't have or know why when
20 they looked at Eleuteria Blanco's similar attendance calendars.
21 What we're saying is what General Counsel is in possession of,
22 that is the one document and we can put into context with the
23 witness which we're happy to do. But we're saying that that
24 document speaks to something that none of the attendance
25 calendars that we are in possession of spoke to. And we would

1 like it in the record.

2 JUDGE THOMPSON: Well, so let me go back to your original
3 request, counsel. I believe you are offering this document and
4 you are requesting Respondent to stipulate to the authenticity
5 of the document and then you would not require another witness
6 to testify as to that particular reference on June 11th; is
7 that my understanding?

8 MS. DAVILA: Correct.

9 JUDGE THOMPSON: And the document would then just be for
10 itself and counsel could theoretically make whatever argument
11 necessary in a post hearing brief as to whatever argument it
12 wanted to make. Is that my understanding as well?

13 MS. DAVILA: Yes, correct.

14 JUDGE THOMPSON: Okay. Mr. Dritsas, based on that
15 understanding, would you stipulate to the authenticity of this
16 document vis-à-vis this is the attendance calendar of Tricia
17 Ledwon for 2015 and the document would speak for itself?

18 MR. DRITSAS: Well, as I've said throughout, I'm not going
19 to make -- play games on authenticity. This is a document from
20 the hotel.

21 JUDGE THOMPSON: Right.

22 MR. DRITSAS: So I'm not disputing the authenticity. I
23 don't think --

24 JUDGE THOMPSON: And to the extent, counsel, that you want
25 to make the argument --

1 MR. DRITSAS: Well, I'm going to put a witness on. If you
2 let it in, then I'm going to call Mr. Peterson as a witness.
3 So that's fine, that's why he's here. But because --

4 JUDGE THOMPSON: Well, hold on.

5 MS. DAVILA: Well, we would call a witness first.

6 JUDGE THOMPSON: Really?

7 MR. DRITSAS: Well, I don't under -- well -- it's not a
8 conversation here. But I don't understand -- you offer --
9 you're offering to put this in. If the Judge lets you put it
10 in, you said that's all you want. I've got a witness here to
11 explain what he told his department heads to do. So I don't
12 understand why what's the problem with that process.

13 JUDGE THOMPSON: Because if you put a witness in, they
14 want to say something.

15 MR. DRITSAS: Okay.

16 JUDGE THOMPSON: That's what the process is.

17 MR. DRITSAS: Well, I can't agree, Your Honor, to have a
18 document go in that says something that they're going to
19 construe taking it, one was like well, they're taking Union
20 sympathies into account on points, that's not the purpose of
21 this and I'm going to present evidence to the contrary.

22 So my first position would be it's not relevant. We
23 weren't supposed to have rebuttal from the General Counsel. So
24 it shouldn't come in anyway. But if you were going to admit
25 it, then I believe I should be able to have a witness put in

1 context the directions he gave that led to this, especially
2 given two of the Union committee members were beneficiaries of
3 the same directive.

4 MS. DAVILA: Which we don't have record of.

5 MR. DRITSAS: You have it -- if you look, Judy -- actually
6 General Counsel, it doesn't say Union, it says, if you look at
7 theirs, it says remove per HR director.

8 MS. DAVILA: We have a lot of those in entries.

9 MR. DRITSAS: Okay.

10 MS. DAVILA: How are we supposed to know it has to do with
11 Union. We would have flagged -- if we saw the word Union more
12 than once, we would have flagged it, I assure you, Mr. Dritisas.

13 MR. DRITSAS: Okay, you know, I'm not -- I don't need to
14 argue with you. I'm just telling you what my evidence would
15 be.

16 JUDGE THOMPSON: Mr. Dritisas, here's my dilemma. The
17 General Counsel said yesterday quote, "At this time, we do not
18 have any rebuttal evidence," close quote. And I remember
19 distinctly because I wrote it down.

20 Technically speaking, because you had not closed your case
21 until we had made the issue -- we had resolved the issue for
22 Mr. Wandick, under the rules of evidence, the General Counsel
23 still had an opportunity to reflect and change their mind for
24 lack of a better word with regard to rebuttal evidence.

25 I really don't want this hearing to drag on any longer. I

1 do not know that we will be able to get Ms. Magana because I'm
2 assuming that if I let it in, I have to give counsel an
3 opportunity to rebut and you're going to want to surrebut with
4 Ms. Magana.

5 We're not going to be able to get her -- well, I don't
6 know if we're going to be able to get her back here by the end
7 of the day. Counsel, Ms. Davila, assuming I let this evidence
8 in, Mr. Dritsas calls Mr. Peterson, are you going to want to
9 call Ms. Magana?

10 MS. DAVILA: Yes, Your Honor.

11 JUDGE THOMPSON: Then I mean this is just going to never
12 end because we can't get her here today.

13 MR. DRITSAS: Well --

14 JUDGE THOMPSON: Is this absolutely necessary, counsel?

15 MS. DAVILA: The General Counsel believes so, yes.

16 MR. DRITSAS: I guess I don't understand why it's
17 absolutely necessary for you to have Alejandra Magana come in
18 to testify about something that Mr. Peterson is going to say it
19 was his directive. I guess -- because she's going to come in
20 and she'd say, yeah, Jeff came and told us not to issue
21 discipline during this time period.

22 MS. DAVILA: Because it's been Ms. Magana's testimony that
23 she authorizes point reductions solely to her discretion.

24 MR. DRITSAS: This wasn't a point reduction, Judy. This
25 was just not issuing a discipline.

1 MS. DAVILA: I'm just reading what the calendar says.

2 MR. DRITSAS: The points are still there.

3 MS. DAVILA: Well, Ms. Magana testified that she has
4 authorization and final say about these attendance calendars.
5 Mr. Peterson has never been on the stand to talk about that
6 authority.

7 MR. DRITSAS: Okay, Judge, I just have to -- I'm not being
8 able to convince her. I have to put it on through evidence if
9 we're going to go that route. But I cannot --

10 JUDGE THOMPSON: No, I understand what you're saying. I
11 don't mean to cut you off, counsel. I understand. I'm really
12 just inquiring of General Counsel. Are you intending to
13 subpoena Ms. Magana?

14 MS. DAVILA: We will do so if necessary.

15 JUDGE THOMPSON: Then we are not going to finish this
16 hearing today because she's not going to be able to get down
17 here before we need to adjourn.

18 So counsel, I feel that it's arguably relevant and I don't
19 know if -- strike that. This document is arguably relevant and
20 I have to accord it the requisite weight and I believe I have
21 to allow counsel to put it in and then if that's the case, I
22 have to allow you to rebut the evidence that is necessary and
23 to that extent, that may mean that the General Counsel needs to
24 rebut your evidence.

25 So here's what we're going to have to do. Since Mr.

1 Peterson is here now, I will allow him to testify if you intend
2 to call him, Mr. Dritsas. And then we'll have to adjourn and
3 reconvene and I will have to take Ms. Magana's testimony via
4 video subject to no objections from the parties. Because
5 you're going to need time to subpoena her and we're not going
6 to be able to get her in here today.

7 And we could potentially work that out next week on a date
8 and time that we could potentially all be available. So having
9 said that, counsel, I'm going to overrule the objection. I'll
10 receive GC-37.

11 **(General Counsel Exhibit Number 37 Received into Evidence)**

12 JUDGE THOMPSON: I am going to allow you to present
13 evidence to -- in support or defense of this document.

14 MR. DRITSAS: Okay.

15 JUDGE THOMPSON: Or in opposition to this document I
16 should say.

17 MR. DRITSAS: So because you admitted it, so I guess the
18 next thing is that General Counsel is done with their case.

19 JUDGE THOMPSON: Oh, I guess you -- if we're still on your
20 rebuttal, then counsel, then you have to present your evidence
21 so that Mr. Dritsas could present his.

22 MS. DAVILA: Do we want to go off the record for just a
23 minute to handle a housekeeping issue?

24 JUDGE THOMPSON: Certainly. Off the record, Jacqui.

25 (Off the record at 2:37 p.m.)

1 JUDGE THOMPSON: We are back on the record after some off
2 the record discussions concerning housekeeping. Just so the
3 record is clear, I did receive General Counsel Exhibit 37.
4 Because upon admitting that document, we are in the middle of
5 the General Counsel's rebuttal, Ms. Davila has indicated that
6 she intends to call Ms. Alejandra Magana for a limited purpose
7 to inquire with respect to GC-37.

8 Ms. Magana is not available at this time and due to the
9 sudden notice and needing to have to subpoena her, she would
10 not be able to appear today. Mr. Dritsas has agreed to make
11 Ms. Magana available and the parties and I agreed that we will
12 coordinate a date and time next week to make Ms. Magana
13 available by video which all the parties have consented to take
14 Ms. Magana's testimony via video.

15 Mr. Dritsas will alert the parties via email as to when he
16 may be able to make Ms. Magana available to testify next week.
17 We will establish a date and time. I will appear via video
18 from Los Angeles as well as our court reporter and the parties
19 will appear either in Region 28 or in their respective
20 residences or states of residency.

21 And then Respondent counsel has indicated that it intends
22 to also rebut or do a surrebuttal and call Mr. Jeff Peterson
23 and he will be made available also on the date and time via
24 video that Ms. Magana will testify. And all of those details
25 will be confirmed via email with the parties and myself.

1 So at this time, we will adjourn for the day and reconvene
2 at such a time and date as can be made available -- a date and
3 time that Ms. Magana can be made available to testify.

4 Counsel, is there anything else before we recess for the
5 day?

6 MS. DAVILA: Not from t eh General Counsel, Your Honor.

7 JUDGE THOMPSON: Mr. Dritsas, anything?

8 MR. DRITSAS: No, Your Honor.

9 JUDGE THOMPSON: Thank you very much, Ms. Davila and Ms.
10 Oviedo. I'm hoping that we won't have any issues with video
11 and we can work all of that out going forward.

12 MS. DAVILA: Yes, Your Honor.

13 JUDGE THOMPSON: Thank you so much, counsel.

14 MS. DAVILA: Thank you.

15 MR. DRITSAS: Thank you, Your Honor.

16 MR. PETERSON: Thank you, Your Honor.

17 JUDGE THOMPSON: Thank you. And we are off the record.

18 **(Whereupon, the hearing in the above-entitled matter was**
19 **recessed at 2:46 p.m.)**

20

21

22

23

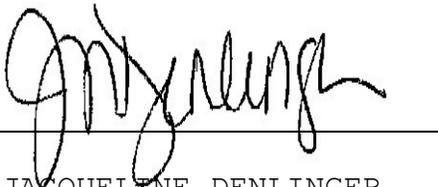
24

25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Friday, December 4, 2015, at 9:03 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JACQUELINE DENLINGER

Official Reporter

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Trump Ruffin Commercial, LLC,	Case No. 28-CA-149979
d/b/a Trump International	28-CA-150529
Hotel Las Vegas,	28-CA-155072
	28-CA-156304
and	28-CA-156719
	28-CA-157883

Local Joint Executive Board
of Las Vegas, affiliated with
Unite Here International
Union.

Place: Las Vegas, Nevada

Dates: December 10, 2015

Pages: 1668 through 1741

Volume: 10

OFFICIAL REPORTERS

AVTranz
E-Reporting and E-Transcription
7227 N. 16th Street #207
Phoenix, AZ 85020
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of:

TRUMP RUFFIN COMMERCIAL, LLC,
d/b/a TRUMP INTERNATIONAL
HOTEL LAS VEGAS,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, AFFILIATED WITH
UNITE HERE INTERNATIONAL
UNION.

Case No. 28-CA-149979
28-CA-150529
28-CA-155072
28-CA-156304
28-CA-156719
28-CA-157883

The above-entitled matter came on for hearing, pursuant to notice, before **LISA THOMPSON**, Administrative Law Judge, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Thursday, December 10, 2015, at 1:07 p.m.**

A P P E A R A N C E S**On behalf of the General Counsel:****JUDY DAVILA, ESQ.**

NATIONAL LABOR RELATIONS BOARD - REGION 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Tel. 602-640-2121
Fax. 602-640-2178

ELISE F. OVIEDO

NATIONAL LABOR RELATIONS BOARD - REGION 28
300 South Las Vegas Boulevard, Suite 2-901
Las Vegas, NV 89101
Tel. 702-388-6211
Fax. 702-388-6248

On behalf of the Respondent:**RONALD KRAMER, ESQ.**

SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
Tel. 312-460-5000
Fax. 312-460-7000

WILLIAM J. DRITSAS, ESQ.

SEYFARTH SHAW, LLP
560 Mission Street, Suite 3100
San Francisco, California 94105
Tel. 415-397-2823
Fax. 415-397-8549

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Alejandra Magana	1675	1702			
Vania Marsical	1705	1716			
Gustavo Acosta	1724	1731	1736		

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-10	1738 (Withdrawn)	1738
GC-12	1738 (Withdrawn)	1738
GC-38	1682	1682
GC-39	1690	1690
GC-40	1695	1695
GC-41	1696	1696
GC-42	1698	1698
Respondent:		
R-50	1715	1715

1 P R O C E E D I N G S

2 JUDGE THOMPSON: We are back on the record resuming the
3 consolidated case of Trump Ruffin Commercial, LLC, doing
4 business as Trump International Hotel, Las Vegas and the Local
5 Joint Executive Board of Las Vegas, affiliated with Unite Here
6 International Union.

7 Today is the Thursday, December the 10th, 2015. I am that
8 Judge Thompson and I'm conducting this hearing by video. All
9 of the parties are present. Judith Davila, lead counsel on
10 behalf of the General Counsel appears in Region 28's Phoenix
11 office. Her co-counsel, Ms. Elise Oviedo, appears in Region
12 28's Las Vegas office. William Dritsas, lead counsel on behalf
13 of the Respondent appears -- also appears in Vegas. I am
14 appearing from Region 21's Los Angeles, California office along
15 with our court reporter and Jill Martin, in-house counsel for
16 the Respondent.

17 Good afternoon, everyone.

18 MR. DRITSAS: Good afternoon, Your Honor.

19 MS. OVIEDO: Good afternoon.

20 JUDGE THOMPSON: Good afternoon. Let me just give you a
21 couple of reminders. To silence your cell phones because they
22 still can be heard via the video. And also a reminder that the
23 order to sequester the witnesses that was issued the beginning
24 of the hearing is still in effect at this time.

25 Are there any housekeeping matters that counsel need to

1 address on the record before we begin with the General
2 Counsel's rebuttal? Hearing none --

3 MR. DRITSAS: Not for the Respondent.

4 JUDGE THOMPSON: Oh. I'm sorry. Hearing --

5 MS. DAVILA: None from the --

6 MR. DRITSAS: I said --

7 MS. DAVILA: -- General Counsel.

8 MR. DRITSAS: -- not from the respondent.

9 JUDGE THOMPSON: Okay. Hearing nothing, I just want to --
10 the record to reflect that I am by video and can see all of the
11 parties on the TV screen here in Region 21.

12 Hearing no more -- or hearing nothing regarding
13 housekeeping matters, we will turn now to the General Counsel's
14 rebuttal case.

15 Ms. Davila, would you like to call your next witness?

16 MS. DAVILA: Yes, Your Honor. The General Counsel calls
17 Alejandra Magana.

18 JUDGE THOMPSON: And Ms. Magana, for the record, is
19 appearing in our Las Vegas office.

20 Ms. Magana, good afternoon.

21 MS. MAGANA: Good afternoon.

22 JUDGE THOMPSON: Can you hear me okay?

23 MS. MAGANA: Yes.

24 JUDGE THOMPSON: Ms. Davila, can you see Ms. Magana from
25 your screen?

1 MS. DAVILA: Yes, Your Honor.

2 JUDGE THOMPSON: Okay. Great. Ms. Magana, you have been
3 re-called by the General Counsel for just a few additional
4 questions. Let me swear you in. Would you raise your right
5 hand?

6 Whereupon,

7 **ALEJANDRA MAGANA**

8 having been duly sworn, was called as a witness herein and was
9 examined and testified as follows:

10 JUDGE THOMPSON: Great. Thank you.

11 Ms. Magana, can you state your name again for the record,
12 please?

13 THE WITNESS: Alejandra Magana.

14 JUDGE THOMPSON: Ms. Magana, do you recall the instructions
15 that I had given you when you previously testified with regard
16 to giving verbal responses as opposed to huh-uh or uh-huh and
17 speaking one at a time, et cetera?

18 THE WITNESS: Yes.

19 JUDGE THOMPSON: Okay. Those instructions still apply
20 today. And our court reporter is indicating if you could speak
21 up as loud as you can. Ms. Magana, she -- she can hear you but
22 it would be better if you could speak up.

23 But those instructions still remain in effect today.

24 THE WITNESS: Okay.

25 JUDGE THOMPSON: Great.

1 Ms. Davila, your witness.

2 MS. DAVILA: Thank you, Your Honor.

3 **DIRECT EXAMINATION**

4 Q BY MS. DAVILA: Good afternoon, Ms. Magana.

5 A Good afternoon.

6 Q Okay. Did you review any documents in preparation for
7 your testimony today?

8 A No.

9 Q Did you speak to anyone in preparation for your testimony
10 today?

11 A No.

12 Q The Hotel received a petition for a Union election
13 sometime this year, correct?

14 A Yes.

15 Q And the first petition was filed in June this year,
16 correct?

17 A Yes.

18 Q And you were directed by human resources not to issue
19 discipline during the month of June, correct?

20 A Yes.

21 Q And you were told by the hotel that discipline was being
22 withheld because of other unfair labor practice charges that
23 were being filed, correct?

24 A No.

25 Q Why did the hotel tell you to withhold discipline for the

1 month of June?

2 MR. DRITSAS: Well, I'm going to object to the form of the
3 question. You can ask her what was said, but you haven't laid
4 foundation for the why question.

5 MS. DAVILA: She just said that she was instructed by the
6 hotel not to issue discipline for the month of June.

7 JUDGE THOMPSON: I'm going to allow the witness to answer
8 the question. Miss --

9 THE WITNESS: Can you repeat the question?

10 Q BY MS. DAVILA: And you were told by the hotel that
11 discipline was being withheld because of unfair labor practices
12 that were filed against the hotel?

13 A No.

14 Q What reason did they give you to withhold discipline for
15 the month of June?

16 A I was actually not working when that instruction came to
17 the department.

18 Q And how did you learn of the instruction?

19 A When I came back from vacation, I'm not sure if it was
20 Anthony or Kelvin, my assistant, who said that to me.

21 Q What did they tell you?

22 A That we had all the discipline on hold.

23 Q Did they give you any reason for the discipline being on
24 hold?

25 A No.

1 Q Did they tell you it came from human resources?

2 A The instructions came from human resources.

3 Q And what were the instructions?

4 A Not to issue any discipline until further notice.

5 Q Okay. And has the -- has human resources ever directed
6 you to withhold discipline before?

7 A Yes.

8 Q Do you remember the last time before this?

9 A No.

10 Q And once the Union election was called off, you started to
11 issue discipline again, correct?

12 MR. DRITSAS: Objection. Vague as to time.

13 JUDGE THOMPSON: Sustained. Can we narrow it, counsel?

14 MS. DAVILA: Yes.

15 Q BY MS. DAVILA: When the Union election was called off the
16 third week of June, you began to issue discipline again,
17 correct?

18 A No.

19 Q When were you told that you could start issuing discipline
20 again?

21 A When I came back on July 9th.

22 Q Can you tell us when you went on vacation?

23 A I went on vacation end of May, and came back on June 9th.

24 And I went back on June 26th and came back on July 9th.

25 Q And from June 9th to June 26th, you didn't issue

1 discipline, correct?

2 A Not that I recall.

3 Q Okay. And you were asked to compile documents pursuant to
4 the subpoena in this case, correct?

5 A Yes.

6 Q Okay. I'm going to show you what's been marked as GC
7 Exhibit 37.

8 JUDGE THOMPSON: Ms. Oviedo, would you hand the witness GC
9 37?

10 MS. OVIEDO: Yes, Your Honor.

11 JUDGE THOMPSON: And let the record reflect that I also
12 have a copy of that exhibit. Mr. Dritsas, do you have that
13 before you?

14 MR. DRITSAS: I do, Your Honor.

15 JUDGE THOMPSON: Okay. Proceed, Ms. Davila.

16 Q BY MS. DAVILA: Ms. Magana, can you tell us what employee
17 this attendance calendar belongs to?

18 A Ticia Ledwon.

19 Q And is she an employee of housekeeping?

20 A Yes.

21 Q Okay. Can you turn to page 2 of the exhibit, and read to
22 us the entry for -- sorry -- and read to us the entry for
23 June 11th, 2015?

24 A Per HR, this agreement given to Ti --

25 MR. DRITSAS: But I'm not sure that is Ti -- I mean the

1 document speaks for itself, but her voice kind of trembled, so
2 maybe she could say it again.

3 JUDGE THOMPSON: Could you repeat that, Ms. Magana?

4 THE WITNESS: "Per HR, this agreement not given due to
5 Union bargaining."

6 Q BY MS. DAVILA: Can you explain to us what that means?

7 MR. DRITSAS: Objection --

8 THE WITNESS: I can't tell you what that means.

9 JUDGE THOMPSON: Hold -- hold -- there was an objection,
10 but --

11 MR. DRITSAS: -- object, lack of foundation. But -- I was
12 going to object on lack of foundation, but the witness has
13 answered, then that strikes my objection.

14 Q BY MS. DAVILA: Do you know what this means? I didn't
15 hear the answer, I'm sorry.

16 A No. I don't know.

17 Q You don't know. And you are the one that's in charge of
18 reviewing the attendance calendars, correct?

19 A Yes.

20 Q Who else is in charge of reviewing attendance calendars?

21 A In my absence, I have Kelvin, Morgan.

22 Q And you've never seen this entry before today?

23 A I have -- no.

24 Q Okay. I'm going to show you what's been marked as GC
25 Exhibit 38. I'm going to e-mail it to Judge Thompson and

1 Mr. Dritsas, and I believe you have the physical copy.

2 JUDGE THOMPSON: Okay. Let's go off the record to
3 facilitate this, and then we'll come back on.

4 (Off the record at 1:19 p.m.)

5 JUDGE THOMPSON: We are back on the record after
6 Ms. Davila e-mailed me what has been marked as General Counsel
7 Exhibit 38, which is three pages in length. And the record
8 should reflect that the witness and Respondent counsel also
9 have a hard copy of what's been marked as GC Exhibit 38.

10 Ms. Davila, proceed, please.

11 MS. DAVILA: Thank you, Your Honor.

12 Q BY MS. DAVILA: Ms. Magana, can you read to us what
13 employee this attendance calendar belongs to?

14 A Ticia Ledwon.

15 Q Can you turn to page 2 of the exhibit, GC Exhibit 38, and
16 read to us the June 11th, 2015, entry.

17 A "Per HR, discipline not given."

18 Q Is this the same employee that the other calendar
19 pertained to?

20 A Yes.

21 Q Is there a reason that the word "Union" was removed?

22 MR. DRITSAS: Objection to the lack of foundation.

23 Q BY MS. DAVILA: Do you know why -- do --

24 JUDGE THOMPSON: Go ahead, Ms. Davila.

25 Q BY MS. DAVILA: Do you know why the word "Union" was

1 removed?

2 A No, I don't.

3 Q Did you give the instruction for the word "Union" to be
4 removed?

5 A No.

6 Q Who would have the authority to have the word "Union"
7 removed from an attendance calendar?

8 A Anybody could have come and edit it.

9 Q When you say anybody, do you mean a housekeeper could go
10 and edit the attendance calendar?

11 A Anybody like Vania, Anthony.

12 Q Do they have the authority or permission to remove entries
13 from attendance calendars?

14 A They have the authority to edit it every time there's
15 something wrong.

16 Q So who has the --

17 A The detail --

18 Q So Vania has the authority to edit the attendance calendar
19 without you reviewing it?

20 A She probably asked a manager.

21 Q So does Vania have the authority to remove something from
22 the attendance calendar without permission?

23 A No.

24 Q So she would have to get permission from a manager?

25 A Yes.

1 Q And what managers would that be?

2 A It couldn't have been Kelvin or Anthony or Morgan.

3 Q Okay.

4 MS. DAVILA: I'd like to move for the admission of GC
5 Exhibit 38.

6 MR. DRITSAS: No objection.

7 JUDGE THOMPSON: Hearing no objection, I will receive GC
8 Exhibit 38.

9 **(General Counsel Exhibit Number 38 Received into Evidence)**

10 JUDGE THOMPSON: Mr. Dritsas, Jacqui is indicating, when
11 you respond, could you speak up just a little bit, please.

12 MS. DAVILA: Just shout into there as much as you can.

13 JUDGE THOMPSON: Miss -- Miss --

14 THE WITNESS: Did she ask me a question?

15 JUDGE THOMPSON: No. I was speaking to -- sorry,
16 Ms. Magana. I was speaking to Mr. Dritsas.

17 THE WITNESS: Oh.

18 JUDGE THOMPSON: Our court reporter is having some
19 difficulty hearing him, so whenever he needs to object or he's
20 responding to admission of documents, if he could just speak
21 closer to the mic, that would be great.

22 MR. DRITSAS: Okay, I will, Your Honor.

23 JUDGE THOMPSON: Thank you. Ms. Davila, continue.

24 Q BY MS. DAVILA: Ms. Magana, Ticia Ledwon is a housekeeper
25 in your department, correct?

1 A Yes.

2 Q And Ticia Ledwon is against the Union, correct?

3 MR. DRITSAS: Objection. Lack of foundation.

4 JUDGE THOMPSON: Sustained. If you could rephrase the
5 question, counsel.

6 Q BY MS. DAVILA: Ms. Magana, do you know if Ticia Ledwon
7 supports or is against the Union?

8 A I don't know.

9 Q I'd like to show you what's been marked as GC Exhibit 39.
10 I'm going to e-mail it to the parties. Elise has a copy.

11 JUDGE THOMPSON: Okay. I'm going to stay on the record
12 this time, counsel.

13 MR. DRITSAS: This says 39 and a half.

14 MS. DAVILA: Oh. It's page 1 of 2.

15 JUDGE THOMPSON: Ms. Davila, I have received your e-mail.
16 If you give me one second, I need to ensure that the document
17 is displayed properly on my screen.

18 Okay. Let the record reflect that I have received, from
19 General Counsel, what has been marked as GC Exhibit 39, which
20 consists of two pages.

21 Ms. Davila, continue.

22 Q BY MS. DAVILA: Ms. Magana, can you identify the employee
23 pictured here?

24 A Yes. It's Ticia Ledwon.

25 Q Okay. And have you ever seen this statement before?

1 A No, I didn't.

2 Q Did the hotel run statements by the employees in the EBR
3 against the Union?

4 A No.

5 Q You never saw TVs in the EBR showing statements from
6 employees about why they didn't need the Union?

7 A I saw a few on the TV.

8 Q Did they look to be in the format that GC Exhibit 39 is?

9 A I'm not sure.

10 Q You have never seen a format like this in the EBR being
11 displayed on the TVs?

12 A I'm not sure that this is the format of the ones I saw.

13 Q Okay.

14 MS. DAVILA: I'd like to move for the admission of GC
15 Exhibit 39.

16 MR. DRITSAS: There's no foundation for it, Your Honor.

17 JUDGE THOMPSON: Counsel, you have to lay some foundation
18 as to what this document is, who, you know, who made the
19 document, who created the document, et cetera. So objection
20 sustained.

21 MS. DAVILA: It was provided to us by Respondent; if
22 they'll stipulate to the authenticity as they did on other
23 exhibits with a similar -- where we got this exhibit from.

24 JUDGE THOMPSON: Counsel?

25 MR. DRITSAS: Well, I can't tell you that this came from

1 the hotel. I'm sorry, I can't tell you where this came from.
2 There were a lot of -- thousands of pages to produce. So I,
3 unfortunately, am not in a position to tell you that this
4 document came from the hotel. So I can't agree to that theory
5 from counsel.

6 JUDGE THOMPSON: Okay. Ms. Davila, then you're going to
7 have to try to establish what this document is through this
8 witness.

9 MS. DAVILA: I'll move on, Your Honor.

10 JUDGE THOMPSON: Okay. Are you withdrawing admission of
11 the document? How are you handling this? Because you've moved
12 for admission, Respondent objected to lack of foundation. So
13 either we have to provide the foundation or withdraw or, I
14 don't know what your pleasure is with regard to this document.

15 MS. DAVILA: Your Honor, I would just ask that you look at
16 GC Exhibit 36, which has already been admitted into evidence,
17 which is part of the Respondent packet provided to the General
18 Counsel. And then, if that doesn't lay enough foundation that
19 you can rule on it, then --

20 JUDGE THOMPSON: Well --

21 MS. DAVILA: -- we'll go with it.

22 JUDGE THOMPSON: -- just because -- that document is a
23 different document, counsel. So I can't attribute whatever was
24 going on with that document to this document.

25 If I recall, GC-36, I believe you had a witness to testify

1 as to that that person created the document, et cetera. I
2 don't know that this witness has created this document, so I
3 can't attribute the foundation that you lay to -- with regard
4 to Exhibit -- General Counsel Exhibit 36 to this document. So,
5 because I don't know --

6 MS. DAVILA: Your Honor --

7 JUDGE THOMPSON: Go ahead.

8 MS. DAVILA: -- then I would just ask that Respondent
9 produce the custodian of records so we can get this
10 authenticity stipulated.

11 JUDGE THOMPSON: Well, that's going to require us to have
12 to reconvene, counsel, which I'm -- you know, I'm trying to
13 bring this case to some semblance of conclusion. I don't know
14 who the custodian of records is that would have produced this.

15 MS. DAVILA: I don't know either, Your Honor. Respondent
16 provided it to us.

17 MR. DRITSAS: Your Honor --

18 MS. DAVILA: I didn't know that they wouldn't stipulate.

19 MR. DRITSAS: At this late date, I think -- I would object
20 to, I don't know, a rebuttal case like this and the General
21 Counsel trying to have us bring in some custodian of records
22 for something that allegedly, she's had for a long time.

23 MS. DAVILA: Respondent told us that they would be willing
24 to stipulate to the authenticity of records they produced
25 pursuant to the subpoena. And in -- so that they wouldn't have

1 to bring the custodian of records. I didn't know it had
2 changed from our standing agreement.

3 JUDGE THOMPSON: Well, let me see if I can do it this way,
4 Ms. Davila --

5 MR. DRITSAS: Your Honor, can I just get one thing out?

6 JUDGE THOMPSON: Yes.

7 MR. DRITSAS: I would just like to get one thing on, and I
8 apologize for interrupting. There was no agreement that -- on
9 my behalf or Mr. Kramer's that you were going to have open,
10 objection-free evidence being put in by the General Counsel.
11 So, I just wanted to make sure that was on the record.

12 JUDGE THOMPSON: Ms. Davila --

13 MR. DRITSAS: -- Your Honor.

14 JUDGE THOMPSON: -- let me do it -- see if we can do it
15 this way. Can you locate the particular subpoena request that
16 you would have received this document under?

17 MS. DAVILA: Yes, Your Honor. If you give me one minute,
18 sorry.

19 JUDGE THOMPSON: Yes.

20 MS. DAVILA: I mean, to be fair, though, you did represent
21 that --

22 JUDGE THOMPSON: We're still on the record, counsel. I
23 just asked Ms. Davila to locate which subpoena request General
24 Counsel Exhibit 39 would have been received under, or would
25 have been received.

1 MS. DAVILA: Right --

2 MR. DRITSAS: Okay. And my point to you, counsel, is,
3 there's one attorney per side --

4 MS. DAVILA: Asking questions. I'm not about to ask a
5 question.

6 For the record, I want it noted that Respondent had
7 represented on the record that they wanted to avoid horsing
8 around with authenticity issues. That document was produced in
9 response to the subpoena. I mean, throughout the trial you've
10 said, I'm not going to waste time doing that. So, I mean, I
11 don't know what has changed between now and then, but --

12 MR. DRITSAS: I just can't tell you -- I told you -- as I
13 said on the record, I can't tell you that this document was
14 produced by me.

15 JUDGE THOMPSON: Okay.

16 MR. DRITSAS: The other ones I agreed to --

17 JUDGE THOMPSON: That's fine, counsel. Thank you.

18 Ms. Davila.

19 MS. DAVILA: I just need a minute to go to my office to
20 pick up the subpoena. I need to go off the record, I need to
21 go to my office. I can't find it on my laptop.

22 JUDGE THOMPSON: Okay. Off the record.

23 (Off the record at 1:37 p.m.)

24 JUDGE THOMPSON: We are back on the record. Ms. Davila,
25 were you able to locate the subpoena request that Exhibit -- GC

1 Exhibit 39 would have been produced under?

2 MS. DAVILA: Yes, Your Honor. It's item 16 --

3 JUDGE THOMPSON: Could you --

4 MS. DAVILA: -- of the subpoena.

5 JUDGE THOMPSON: Could you read that, please?

6 MS. DAVILA: "Documents included, but not limited to,
7 notes, meeting agenda and minutes as will show what was
8 discussed, what was set by who and any information otherwise
9 disseminated during all meetings, correspondence or at or
10 communications between Respondent and any entity or individual
11 in which the topic of the unions or any organizing drive was
12 referenced or discussed."

13 JUDGE THOMPSON: Do you have some indication or can you
14 represent to the Court that this particular document was
15 responsive to number -- Request 16?

16 MS. DAVILA: Yes, Your Honor.

17 JUDGE THOMPSON: And you are so representing that?

18 MS. DAVILA: Yes, Your Honor.

19 JUDGE THOMPSON: Mr. Dritsas, does that satisfy you?

20 MR. DRITSAS: Well, I guess I'd say this. As I stated, I
21 don't know every thousands of documents that were produced, so
22 I guess if Ms. Davila is telling us as an officer of the court
23 that she received the document pursuant to a subpoena that she
24 sent, I'm not going to say -- I can't say she's not telling the
25 truth, Judge.

1 So you have to rule on that yourself. I can't -- not on
2 whether she's telling the truth, but you have to rule on
3 whether the document comes in based on what she said. I am
4 just not in a position to say that this particular document was
5 one of them that was produced.

6 JUDGE THOMPSON: Okay. In light of the foregoing,
7 counsel, I will take Ms. Davila at her word as an officer of
8 the court that she received what's been marked as GC Exhibit 39
9 in response to her document request subpoena, Number 16, as a
10 document that was received from the Respondent in terms of
11 foundation.

12 And with that, I'm going to allow the document to come
13 into evidence over Respondent's objection. So I will receive
14 GC Exhibit 39 into evidence.

15 **(General Counsel Exhibit 39 received into evidence)**

16 JUDGE THOMPSON: Ms. Davila, continue, please.

17 Q BY MS. DAVILA: Ms. Magana, have you seen any employees
18 statements on the around -- of the hotel?

19 A Around the hotel, no.

20 Q You've never seen an employee statement like this in the
21 EDR?

22 A When you say around the hotel, you mean all over the
23 place? No.

24 Q Okay. And when you said you saw statements on the TV in
25 the EDR, can you describe what they look like?

1 A I can't recall how they look like.

2 Q But they were in the EDR, correct?

3 A Yes.

4 Q So I just want to clarify. It's your testimony that
5 you've never seen employee statements like this in the EDR?

6 MR. DRITSAS: Objection, misstates her testimony.

7 JUDGE THOMPSON: Sustained. That's not what she said,
8 counsel.

9 Q BY MS. DAVILA: Can you just clarify for me then, because,
10 I mean --

11 JUDGE THOMPSON: You asked her did she -- I'm sorry,
12 Ms. Magana. You asked her, had she seen statements like GC39
13 in the hotel and she responded to that question. Now you're
14 asking her a separate question and --

15 MS. DAVILA: What's her response?

16 JUDGE THOMPSON: So you've got to distinguish what
17 question you're asking her. That's why counsel objected
18 because her response wasn't to the second question you asked.
19 It was to the question, have you seen statements like GC39
20 around the hotel, which she responded "no". And then you
21 sought to clarify by saying, have you never seen statements
22 like this in the EDR?

23 So that's what prompted the objection and that's why I
24 sustained it because it misstated her testimony. So you can
25 clarify your question, counsel, or --

1 MS. DAVILA: One minute, Your Honor.

2 JUDGE THOMPSON: Certainly.

3 MS. DAVILA: Okay. I'm going to move on. If Elise could
4 show the witness what's been marked as GC Exhibit 42. I'm
5 going to send it to the parties by e-mail.

6 JUDGE THOMPSON: 42?

7 MS. DAVILA: Yes. I'm sorry, 41, but it says 42 on the
8 paper. So if you could just exit out to page 41.

9 MR. DRITSAS: Your Honor, I don't think we have 40 yet.

10 JUDGE THOMPSON: That's what I was about to say. What
11 happened to 40, counsel?

12 MS. DAVILA: I'm going to send them all at once so we
13 don't have this trouble.

14 JUDGE THOMPSON: Okay.

15 MS. OVIEDA: Judy, which one do you want me to hand them?

16 MS. DAVILA: Hold on.

17 MR. DRITSAS: Is she sending them all at once? Then I
18 should get rid of what she's sending the Judge.

19 MS. DAVILA: I sent them to you. I copied you.

20 MS. OVIEDA: She'll cc you. She's going to cc you on all
21 of them.

22 MR. DRITSAS: Okay.

23 MS. OVIEDA: But I have physical copies so it's easier.

24 JUDGE THOMPSON: Okay. Counsel, I have -- right now I
25 have GC -- what's been marked as GC-42.

1 MS. DAVILA: Did you get my e-mail with 40 through 42?

2 JUDGE THOMPSON: I just did. So hold on just a second.

3 MS. OVIEDA: It's just the three.

4 (Counsel confer)

5 JUDGE THOMPSON: Just a second. I'm going to get to this
6 e-mail. All right. All right. Ms. Davila, which exhibit do
7 you want to show the witness?

8 MS. DAVILA: Hold on, Your Honor. Exhibit 40. I know I
9 said Exhibit 41 before, but we'll -- can you show her 40?

10 JUDGE THOMPSON: All right. Let the record reflect that I
11 have received what's been marked as GC-40 through 42 via
12 e-mail. But at the moment, counsel is showing the witness
13 what's been marked as GC40. This consists of three pages.

14 Ms. Magana, do you have what's been marked as General
15 Counsel Exhibit 40?

16 THE WITNESS: Yes, I do.

17 JUDGE THOMPSON: Mr. Dritsas, do you have General Counsel
18 Exhibit 40?

19 MR. DRITSAS: Yes.

20 JUDGE THOMPSON: Okay. Ms. Davila, please proceed.

21 Q BY MS. DAVILA: Ms. Magana, can you tell us what
22 attendance calendar, GC40, what employee it belongs to?

23 A Alicia Williams.

24 Q What department does Ms. Williams work in?

25 A Housekeeping.

1 Q Okay. Can you read for us the entry for June 2nd?

2 A "For HR, discipline not given discipline."

3 Q Was this part of the discipline withheld because of the
4 union campaign?

5 MR. DRITSAS: Judge, lack of foundation.

6 JUDGE THOMPSON: I'm going to allow the witness to answer
7 the question.

8 THE WITNESS: I'm not sure.

9 Q BY MS. DAVILA: Who else, besides you, would know about
10 the entries on these calendars?

11 A I want to say Kelvin or Morgan in my absence.

12 Q Were both of them in charge in your absence, Kelvin and
13 Morgan?

14 A Yeah, when something comes to their -- to their attention,
15 yes.

16 Q And what -- are there other reasons why HR would withhold
17 discipline on these attendance calendars?

18 MR. DRITSAS: Objection. The question is vague and
19 unintelligible.

20 Q BY MS. DAVILA: Is that entry something --

21 MS. DAVILA: I can rephrase, sorry.

22 JUDGE THOMPSON: Okay.

23 Q BY MR. DAVILA: Is that per HR, discipline not -- "per HR,
24 discipline not given discipline" an entry that you've
25 authorized before?

1 A I don't remember.

2 Q Is this an attendance calendar from an employee in your
3 department?

4 A Yes.

5 MS. DAVILA: I'd like to move for the admission of GC
6 Exhibit 40.

7 MR. DRITSAS: No objection.

8 JUDGE THOMPSON: Hearing no objection, I'll receive GC
9 Exhibit 40.

10 **(General Counsel Exhibit 40 received into evidence)**

11 MS. DAVILA: Elise, would you hand the witness GC Exhibit
12 41.

13 MS. OVIEDA: Yes.

14 Q BY MS. DAVILA: Ms. Magana, can I have you tell us what
15 employee this attendance calendar belongs to?

16 A Marcella Hernandez.

17 Q Did she work in the housekeeping department?

18 A Yes.

19 Q Can you read to us the entry for June 10th?

20 A "Per HR, discipline not given."

21 Q You came back from vacation June 9th, correct?

22 A Yes.

23 Q Did you authorize the entry in this attendance calendar
24 for Mr. Hernandez?

25 A No.

1 Q You did not tell whoever made an entry in this calendar to
2 add this to Mr. Hernandez's calendar?

3 A No.

4 Q Was this part of the discipline being withheld because of
5 the union campaign?

6 MR. DRITSAS: Objection, lack of foundation.

7 JUDGE THOMPSON: I'm going to allow her to answer the
8 question.

9 THE WITNESS: Can you rephrase that?

10 Q BY MS. DAVILA: Was this part of the discipline being
11 withheld because of the union campaign?

12 A Could have been.

13 Q Were you withholding any discipline for any other reason
14 in June, besides the union campaign?

15 A I -- I can't tell you.

16 Q You don't remember withholding discipline in June for any
17 other reason, besides the union campaign?

18 A No, I don't remember. I don't recall that.

19 MS. DAVILA: I'd like to move for the admission of GC
20 Exhibit 41.

21 MR. DRITSAS: No objection.

22 JUDGE THOMPSON: Hearing no objection, I'll receive GC-41.

23 **(General Counsel Exhibit 41 received into evidence.)**

24 MS. DAVILA: I only have one more, I promise. Can you
25 show her GC Exhibit 42?

1 MS. OVIEDA: Yes.

2 MS. DAVILA: Does everyone have it?

3 THE WITNESS: Yes.

4 JUDGE THOMPSON: Yes.

5 MR. DRITSAS: I --

6 JUDGE THOMPSON: Mr. Dritisas, do you have it?

7 MR. DRITSAS: I do, Your Honor, thank you.

8 JUDGE THOMPSON: Okay. Ms. Davila, proceed.

9 Q BY MR. DAVILA: Ms. Magana, can you identify the employee
10 that this attendance calendar belongs to?

11 A Jorge Ortiz Silva.

12 Q And is Mr. Ortiz Silva an employee in the housekeeping
13 department?

14 A Yes, he is.

15 Q Can you read for us the entry on June 26th?

16 A June 26 -- "occurring on June 26 at 1:25 p.m. for his
17 shift on June 26th, 10:00 a.m., total seven points. Per HR,
18 discipline not given."

19 Q Do you remember withholding discipline for Mr. Ortiz Silva
20 on June 26?

21 A No.

22 Q Was this directed as part of the decision not to issue
23 discipline during the union campaign?

24 MR. DRITSAS: Objection to lack of foundation.

25 JUDGE THOMPSON: I'm going to allow her to answer,

1 counsel. Ms. Magana, you can answer the question if you recall
2 it.

3 THE WITNESS: I don't recall.

4 Q MS. DAVILA: You don't recall the question or what?

5 A I don't recall holding -- I don't recall holding these for
6 that reason or other reasons.

7 MS. DAVILA: I would like to move for the admission of GC
8 Exhibit 42.

9 MR. DRITSAS: No objection.

10 JUDGE THOMPSON: Hearing no objection, I'll receive GC-42.

11 **(General Counsel Exhibit 42 received into evidence)**

12 MS. DAVILA: Just one minute, Your Honor. Your Honor, I'm
13 going to e-mail you and Mr. Dritsas a motion. I believe it's
14 been handed to Mr. Dritsas now.

15 JUDGE THOMPSON: What motion is this, counsel?

16 MS. DAVILA: It's a motion to amend the complaint.

17 JUDGE THOMPSON: For what purpose? I mean, what part of
18 the complaint, counsel?

19 MS. DAVILA: Where the General Counsel seeks to add an
20 allegation to paragraph 5 and 6.

21 JUDGE THOMPSON: Counsel, why are we waiting until almost
22 the end of trial to add an allegation at this point?

23 MS. DAVILA: Because, Your Honor, the General Counsel
24 wasn't aware of certain circumstances until Respondent and this
25 witness confirmed. If you can just wait until I send it. One

1 second. Okay.

2 MR. DRITSAS: Your Honor, I strenuously object to what was
3 a last minute rebuttal for the general counsel to be seeking to
4 amend the case. The other thing is it's beyond the eleventh
5 hour here. Any evidence that she had, she had for over a month
6 and to supplement and come in at the last minute and try to
7 throw a motion at us to amend the complaint I think is out of
8 order and violates our due process rights and it's beyond any
9 scope of the prior examination.

10 MS. DAVILA: Your Honor, if I may respond.

11 JUDGE THOMPSON: Yes.

12 MS. DAVILA: We didn't have those documents until the
13 subpoena production and even then, we didn't know that the HR
14 directive given to -- by human resources in granting a benefit
15 or withholding discipline during the union campaign.

16 We weren't aware that these entries in these calendars
17 spoke to such a policy until Mr. Dritsas and this employee
18 explained that to us.

19 JUDGE THOMPSON: Counsel, you've had the documents since
20 the first day of trial. I understand that, you know, you might
21 not have been aware of -- with regard to this until
22 Respondent's case in chief, but you've had these documents
23 since, I guess, November the 17th when -- and/or 18th and/or
24 that week. So to the extent that that was in there, you had
25 plenty of time to discover that and to question any of the

1 witnesses about that, either during your direct or during cross
2 examination.

3 I have to agree with Mr. Dritsas on this point. We are in
4 rebuttal. The documents you had for at least two weeks, if not
5 three, and the fact that you just discovered it isn't, in my
6 opinion, sufficient to warrant such a last minute amendment of
7 the complaint.

8 Just one second. I'm trying to -- I've got too many
9 documents on my screen and I'm trying to just turn back to --
10 I'm sorry, counsel. I was just -- I was just kind of reading
11 your amendment.

12 I'm going to have to deny the motion, counsel, at this
13 time because it is very, very late to move for amendment. I
14 understand that you requested a voluminous amount of documents,
15 but the fact that you may have just discovered these documents
16 on what I believe would have been the last day of this hearing
17 and now to move to amend the complaint, it's just too late in
18 time, counsel. So I'm going --

19 MS. DAVILA: Can I have --

20 JUDGE THOMPSON: I'm going to have to deny the motion to
21 amend at this time. However, I am going to still allow all of
22 the testimony with respect to the various and sundry documents
23 to stand as rebuttal to earlier evidence. I'm just not
24 allowing the amendment, counsel.

25 MS. DAVILA: Your Honor, if I just may say something on

1 the record that we hadn't -- while we did have possession of
2 the documents, we didn't know that the HR directive as listed
3 on these documents was pursuant to this policy. And I
4 understand your ruling, but I would like to make this amendment
5 an exhibit and introduce it.

6 JUDGE THOMPSON: Any objection?

7 MR. DRITSAS: I object to that, too, Your Honor. Yes, I
8 object to that. It's not evidence. I don't think this has any
9 bearing in the hearing right now. Remember, this started out
10 where she was trying to question the motive of why Ms. Magana
11 was testifying. Now we're on a whole different part of the
12 case for a different theory of the case of the new case she
13 wants to bring. So the motion has nothing to do with the
14 pertinent evidence for the case that's before you.

15 JUDGE THOMPSON: Counsel, I agree with you. I'm not going
16 to allow the motion to be labeled as an exhibit to the extent
17 that, you know, I'm assuming that you're objecting to it. I
18 will take your offer as an objection and simply permit that you
19 would like to reserve that for appeal. I will certainly note
20 that for the record, counsel.

21 But I'm going to agree with or sustain Respondent's
22 objection and not make this an exhibit in the case. But I'm
23 assuming that --

24 MS. DAVILA: Your Honor, I would ask that --

25 JUDGE THOMPSON: -- you're going to --

1 MS. DAVILA: -- it be in the rejected exhibit pile.

2 JUDGE THOMPSON: That's fine. So moved, counsel.

3 MS. OVIEDA: So is that Exhibit 43?

4 JUDGE THOMPSON: Yes. The motion will be -- I'm sorry,
5 the amendment will be 43. It will be in the rejected pile.
6 I've lost my document. Hold on just a moment. Okay. I have
7 them back. Okay.

8 Counsel, continue. Do you have any other questions for
9 this witness? Please proceed.

10 MS. DAVILA: No, Your Honor. No further questions, Your
11 Honor.

12 JUDGE THOMPSON: Okay. Mr. Dritsas.

13 MR. DRITSAS: Yes, I just have a few, Your Honor.

14 **CROSS-EXAMINATION**

15 Q BY MR. DRITSAS: Alejandra, did you ever give anyone any
16 direction as to discipline or not discipline someone based on
17 how they -- what their sympathy was for or against the union?

18 A No.

19 Q Did you ever discuss with anyone in your department or in
20 the human resource department whether or not any of the
21 employees who had discipline withheld pursuant to some HR
22 guidance, whether or not those employees were for or against
23 the union?

24 A No.

25 Q Did you discuss on any individual basis with anyone in

1 your department or HR whether or not discipline for any
2 employee in June should or should not be issued?

3 A No.

4 MR. DRITSAS: I have nothing further of Ms. Magana.

5 JUDGE THOMPSON: Okay. Just a second. Thank you.
6 Ms. Davila, any follow up?

7 MS. DAVILA: No, Your Honor.

8 JUDGE THOMPSON: Ms. Magana, thank you so very much for
9 your testimony. As I instructed you previously, please don't
10 discuss it with anyone. Have a great afternoon and you're
11 excused.

12 THE WITNESS: Thank you.

13 JUDGE THOMPSON: Thank you.

14 MR. DRITSAS: Your Honor, could -- okay.

15 JUDGE THOMPSON: Yes.

16 MR. DRITSAS: General Counsel, did I hear you say that you
17 had no more witnesses?

18 MS. DAVILA: Yes.

19 JUDGE THOMPSON: Oh, okay. I'm sorry.

20 MS. DAVILA: I didn't say that, but it's fine.

21 JUDGE THOMPSON: You have no more witnesses at this time,
22 counsel?

23 MS. DAVILA: No, Your Honor.

24 JUDGE THOMPSON: Okay. Mr. Dritisas, do you have any
25 surrebuttal at this time?

1 MR. DRITSAS: I do, Your Honor, and I would request a five
2 minute break to bring my next witness on.

3 JUDGE THOMPSON: Yes. We'll go off the record.

4 MR. DRITSAS: Okay. Thank you.

5 JUDGE THOMPSON: Off the record.

6 (Off the record at 2:07 p.m.)

7 JUDGE THOMPSON: We are back on the record with
8 Respondent's surrebuttal. Mr. Dritisas, would you care to call
9 your next witness?

10 MR. DRITSAS: I would, Your Honor. I would like to call
11 Vania Mariscal.

12 JUDGE THOMPSON: Hi, Ms. Mariscal.

13 THE WITNESS: Hi. Good afternoon.

14 JUDGE THOMPSON: I'm Judge --

15 MR. DRITSAS: You have to keep your voice up.

16 JUDGE THOMPSON: I'm Judge Thompson. And thank you,
17 Mr. Dritisas. We met a few days ago when I was there in Vegas
18 when you testified earlier. I'm going to swear you in again
19 for your testimony today. Would you please raise your right
20 hand?

21 Whereupon,

22 **VANIA MARISCAL**

23 having been duly sworn, was called as a witness herein and was
24 examined and testified as follows:

25 JUDGE THOMPSON: Great. Thank you. Ms. Mariscal, would

1 you state your name again for the record, please.

2 THE WITNESS: Vania Mariscal.

3 JUDGE THOMPSON: Okay. If at any time, since I'm
4 appearing by video, if you can't hear me or you can't hear
5 counsel for the general counsel who's appearing by video in
6 Phoenix, would you stop us and tell us that you can't hear so
7 that we can ensure that the question is repeated?

8 THE WITNESS: Yes, Your Honor.

9 JUDGE THOMPSON: And do you recall, Ms. Mariscal, the
10 instructions that I gave you when you testified before with
11 respect to giving a verbal response, letting one person speak
12 at a time, telling us that you don't understand a question,
13 those instructions that I gave you the last time?

14 THE WITNESS: Yes.

15 JUDGE THOMPSON: Okay. Perfect. They still apply today.
16 So please keep those in mind as you provide your testimony.
17 Mr. Dritsas.

18 THE WITNESS: Thank you.

19 JUDGE THOMPSON: Oh, thank you. Your witness.

20 MR. DRITSAS: Thank you.

21 **DIRECT EXAMINATION**

22 BY MR. DRISTAS:

23 Q Vania, just like before about your job duties, I just want
24 to kind of tell you where we're going here. I'm going to be
25 focused on the part of your job that logs attendance issues and

1 discipline, okay.

2 A Okay.

3 Q So I think you testified before that you -- you keep track
4 of when you get something from status and you keep track of
5 people who have not come to work or left early, that sort of
6 thing?

7 A Yes.

8 Q Okay. And how do you make those -- how do you record that
9 information?

10 A I put it on their attendance calendar.

11 Q Okay. And there was points and it was just what was
12 written down. What do you do for points?

13 A For points, I just put it on their attendance calendar.

14 Q Okay. And then if there's a -- we heard testimony before
15 about discipline for a certain number of points. So if someone
16 has enough discipline that triggers, for example, a written
17 warning, what, if anything, do you put on the attendance
18 calendar?

19 A I put their offense, like if it's a first written, second
20 written, verbal or suspension.

21 Q Okay. And then what do you do -- let's say that we have
22 someone who made an entry on and it would warrant under the --
23 under the policy would warrant a written warning. What do you
24 do then?

25 A I put all the way to the right side "written warning" --

1 "written," just written. First written, second written,
2 whatever the case is.

3 Q Okay. And do you write that even if the discipline
4 ultimately is not given?

5 A Yes.

6 Q Okay. And then do you have any role in preparing the
7 actual discipline document?

8 A Yes, I do.

9 Q Okay. And what role is that?

10 A I have to type it up.

11 Q Okay. And then what do you do once you type it up?

12 A I take it over to the assistant director's office and we
13 put it in a black folder for the managers to issue the
14 disciplinary action.

15 Q Okay. And are there times that you have prepared the
16 written discipline form that and for whatever reason the
17 manager has decided not to issue a discipline?

18 A Yes.

19 Q Okay. But your job as, you know, basically the reporting
20 person is to prepare and manage some things and decide what to
21 do with them?

22 A That is correct.

23 Q Okay. Now, I want to focus you on June of this year. You
24 were aware that there was an election that was supposed to go
25 forward in June of 2015?

1 A Yes.

2 Q Okay. And did you continue with your regular job duties
3 and assess points and prepare discipline as appropriate for
4 employee attendance infractions in the housekeeping department
5 in June of 2015?

6 A Yes. My job did not change at all.

7 Q Okay. And where did you put the discipline once it was
8 prepared by you in your regular course of business?

9 A In Kelvin's office in the same black binder that we have.

10 Q Okay. And at some point, did you have a conversation or
11 say anything to Kelvin about the discipline in that folder?

12 A Yes, I did.

13 Q And what did you say?

14 A I told the assistant director that the folder was getting
15 really, really backed up and it was getting a lot of papers
16 were in there and they were basically -- they weren't moving.

17 Q Okay. What did he tell you?

18 A He told me to calm down, just to leave it.

19 Q Okay.

20 A Just to continue doing my job.

21 Q Okay. Now, towards the end of June or beginning of July
22 sometime thereabouts, did you have a conversation with
23 Mr. Anthony Wandick about attendance discipline that you had
24 put in the black notebook you mentioned?

25 A Yes, I did.

1 Q Okay. And where did you have that conversation with
2 Mr. Wandick?

3 A Inside Kelvin's office.

4 Q Okay. And who was present during that conversation?

5 A Me, Kelvin and Anthony.

6 Q And tell me what was said.

7 A I told Anthony what was going on with the write ups and he
8 said that he was going to talk to Gustavo about it and Kelvin
9 just said, okay.

10 Q Okay. And did Anthony come back and talk to you after he
11 spoke with Gustavo?

12 A Yes, he did.

13 Q And what did he tell you?

14 A He told me that we just -- the write ups were backed up
15 and basically we need to open everybody's attendance calendar
16 and put on there, disciplinary issue was not given per HR.

17 Q Okay. Now, there's points and there's discipline. Were
18 the points still given?

19 A Yes, they were.

20 Q Okay. Did you do anything after you heard that from
21 Mr. Wandick?

22 A Yes.

23 Q What did you do?

24 A I went to go ask Gustavo.

25 Q Okay. And what did you say to Gustavo?

1 A I said, "Gustavo, are you sure this is what we're going to
2 do, because these are a lot of write ups you have in here. I
3 don't know what you guys are going to do." And then he told me
4 that -- he said, "why don't you just put what Anthony told you
5 to put," which was per HR, disciplinary action not issued.

6 Q Okay. Did he tell you why, besides just telling you to do
7 what Anthony said? Did he tell you why?

8 A No.

9 Q Okay. So what did you do?

10 A I put per -- so I opened everybody's attendance calendar,
11 but I told Anthony I wasn't going to finish. There was a lot
12 of papers, a lot of them.

13 Q Okay.

14 A So I opened some and Anthony told me he was going to help
15 me.

16 Q Okay. So if I understand the -- you went back and opened
17 the attendance logs. It was after the discipline prepared had
18 already been in the folder for some period of time?

19 A Yes.

20 Q Okay. So let me show you a couple of these and then we'll
21 mark them. Just take a look at General Counsel 42, which is
22 attendance calendar for Jorge Ortiz Silva. There is an entry
23 on June 26 that said, "per HR, discipline not given."

24 Is that an example of what you typed in the attendance log?

25 A Yes.

1 Q Okay. Now, there's another one, Exhibit 37, for
2 Petitioner Lebwin or Ledwon --

3 A Uh-huh.

4 Q -- that says, "on June 11th, per HR, discipline not given
5 due to union voting." Have a look at that. Did you type that
6 in?

7 A No.

8 Q Did anyone ever tell you to type anything about union
9 voting?

10 A No.

11 Q Let me show you another one, Exhibit 38, for Ms. Lebwin,
12 which has -- this one has entries all the way up to September
13 15. So do you -- as more incidents are recorded, do you just
14 keep going and put a new page that has more entries on?

15 A More?

16 Q Let me retract this question. So Exhibit 37, the last
17 entry was August 9th. If there is an entry for after August
18 9th, do you keep all the prior entries and then make another
19 entry?

20 A I keep all the entries, nothing ever changes. You just
21 add on to it.

22 Q Okay. So this document that you see under June 11
23 compared to June 11 here -- so June 11 on Exhibit 27 says, "per
24 HR, discipline not given due to union voting." And June 11
25 says, "per HR, discipline not given."

1 Did you go in and edit that and remove the language about "due
2 to union voting"?

3 A No. I -- I honestly -- I didn't put per union voting. I
4 just put HR discipline not given.

5 Q Okay. Now, has anyone ever told you to issue attendance
6 discipline or any discipline for that matter, but to write up
7 any attendance discipline based on whether or not they're for
8 or against the union?

9 A No.

10 Q Has anyone ever told you that you should either record or
11 not record attendance points whether or not they're for or
12 against the union?

13 A No.

14 Q Okay. And when the -- when you got the word from Gustavo
15 to just listen to what Anthony said, did you ever go back and
16 take off the points that were issued for people who have
17 attendance infractions in June of 2015?

18 A No.

19 Q Okay. And you said you went on vacation. Tell me about
20 that. What did Mr. Wandick tell you about his assistance that
21 he was going to provide with this stack of discipline?

22 A I told him that I was -- that it was a lot and I wasn't
23 able to finish it because my vacations were going to start. So
24 he told me to hand him the stack and he was going to help me.

25 Q Okay. And when you came back, were there still some few

1 to edit?

2 A Yeah. It was mostly the whole stack back again he gave
3 me.

4 Q Okay. Approximately when was your vacation?

5 A It was the 4th of July weekend and I did not come back
6 until Thursday because my days off is Tuesday, Wednesday.

7 Q Okay. And then at the end of June, did you go back to
8 regular issue -- preparing discipline as you had before?

9 A Yes.

10 MR. DRITSAS: Okay. Judge, I want to send you a document
11 and give it to Elise and General Counsel at the same time.

12 MS. OVIEDA: And then just make sure you cc Judy on the
13 e-mail.

14 JUDGE THOMPSON: Okay.

15 MR. DRITSAS: Okay. One second. Okay. So -- okay. So
16 it's Lisa --

17 JUDGE THOMPSON: Dot Thompson.

18 MR. DRITSAS: Dot Thompson.

19 JUDGE THOMPSON: At NLRB.

20 MS. OVIEDA: Dot gov.

21 MR. DRITSAS: Okay. And then let's see, Judith, and she
22 pops up here. And, Elise, I had your name wrong. It's
23 Elise --

24 MS. OVIEDA: O.

25 MR. DRITSAS: -- dot O-V --

1 MS. OVIEDA: I-E-D-O.

2 MR. DRITSAS: At NLRB dot --

3 (Counsel confer)

4 MR. DRITSAS: Okay. So let's see if -- okay. So I'm
5 forwarding that now.

6 JUDGE THOMPSON: Okay.

7 MR. DRITSAS: Jacqui, can you tell me what my next exhibit
8 is, please?

9 THE COURT REPORTER: 50.

10 MR. DRITSAS: 5, 0?

11 JUDGE THOMPSON: Yes.

12 MR. DRITSAS: Thank you.

13 JUDGE THOMPSON: I'm just waiting to receive it, counsel.
14 Here it is.

15 (Counsel confer)

16 JUDGE THOMPSON: I have approximately 23, but I'm not
17 certain if that's correct.

18 MR. DRITSAS: Yes, there should be 23, Your Honor.

19 JUDGE THOMPSON: I have 23. Ms. Davila, have you received
20 the exhibit?

21 MS. DAVILA: Yes, Your Honor, and I also have 23 pages.

22 JUDGE THOMPSON: Okay. And this is Respondent 50, I
23 believe. Okay.

24 Proceed, Mr. Dritisas.

25 MR. DRITSAS: Thank you, Your Honor.

1 Q BY MR. DRITSAS: Ms. Mariscal, I'm going to show you
2 what's been marked as Respondent's Exhibit 50, which are
3 attendance calendars for housekeeping employees. Can you take
4 a look at that? Okay. Are these the attendance calendars that
5 you wrote attendance issues and discipline, what about its
6 issue are you dealing with disciplines --

7 A Yes, that's correct.

8 Q And did you do this in the regular course of your business
9 as part of your job duties?

10 A Yes.

11 Q And have you seen all these before?

12 A Yes.

13 MR. DRITSAS: Your Honor, I'd move the admission of
14 Respondent's 50.

15 JUDGE THOMPSON: Ms. Davila, any objection?

16 MS. DAVILA: No, Your Honor.

17 JUDGE THOMPSON: Hearing no objection, I'll receive
18 Respondent's Exhibit 50.

19 **(Respondent's Exhibit 50 received into evidence)**

20 Q BY MR. DRITSAS: Okay. Let me ask you, Ms. Mariscal, one
21 of the exhibits we looked at involved a woman, Alicia Williams.
22 This was General Counsel 40. Are you familiar who Ms. Williams
23 is?

24 A Yes.

25 Q Was Ms. Williams -- in June 2015, did she wear a union

1 button?

2 A I believe so.

3 Q Okay. Was she outspoken on behalf of the union?

4 A Yes.

5 Q Do you know Francisco Real?

6 A Yes.

7 Q In approximately the June time period, did Mr. Real wear a
8 union pin?

9 A I did not see him with a union pin.

10 Q Okay. Do you know Eleuteria Blanco?

11 A Yes.

12 Q Is she one of the committee members in favor of the union?

13 A Yes. She's very outspoken.

14 Q On behalf of the union?

15 A Yes.

16 Q And Aguayo, do you know if he wears a union pin?

17 A Yes, he does.

18 Q Was he also outspoken for the union?

19 A He is outspoken, but not as much as Eleuteria.

20 Q Okay.

21 MR. DRITSAS: I have nothing further, Your Honor.

22 JUDGE THOMPSON: Thank you. Ms. Davila, any questions?

23 MS. DAVILA: Yes, Your Honor. Yes, Your Honor.

24 **CROSS EXAMINATION**

25 Q BY MS. DAVILA: Ms. Mariscal, did you review any documents

1 in preparation for your testimony today?

2 A No, ma'am.

3 Q Did you speak to anyone in preparation for your testimony
4 today?

5 A No. I spoke to Bill, but he just wanted to ask me a few
6 questions.

7 Q How long was your conversation with Mr. Dritsas?

8 A Fifteen minutes.

9 Q Okay. Then for that much -- okay. You said that part of
10 your job is to make entries on these attendance calendars,
11 correct?

12 A Correct.

13 Q Are you the only person who makes entries on the
14 attendance calendars for housekeeping?

15 A No.

16 Q Who else makes entries on the attendance calendars for
17 housekeeping?

18 A Christina. Christina helps me on my days off and also
19 Anthony helped me with all these disciplinary and Alejandra
20 also sometimes goes in there.

21 Q When you say "Christina," do you mean Christina Keeran?

22 A Yes.

23 Q When you say "Anthony," do you mean Anthony Wandick?

24 A Yes.

25 Q And he was a floor manager, correct?

1 A Yes.

2 Q Okay. And you said Alejandra sometimes goes in there. Do
3 you mean Alejandra Magana?

4 A Yes.

5 Q And it's your testimony today that you went back to the
6 attendance calendar in June and wrote the entries, "per HR,
7 discipline not given"?

8 A Yes. At the end of June.

9 Q So you made these edits at the end of June?

10 A Yes.

11 Q Do you know if any discipline was issued during the month
12 of June of the ones that you drafted?

13 A I'm not sure.

14 Q What happened at the end of June?

15 A Anthony came over and I told him, I said, "Anthony, what's
16 going on with these disciplines because they're just sitting
17 here?" So he told me he was going to talk to Gustavo. He went
18 to go talk to Gustavo, came back and told me to put on the
19 paper, per HR, discipline not issued.

20 So then, Anthony went back to his desk and I went to go
21 talk to Gustavo and I said to him, "Gustavo, these are a lot of
22 papers. Are you sure this is what you want me to do?" He
23 said, "yes, just listen what Anthony told you and put whatever
24 he told you on the paper."

25 Q So it was Anthony who told you to write "per HR,

1 discipline not given"?

2 A Yes. And then he --

3 Q And what was --

4 MR. DRITSAS: Wait.

5 JUDGE THOMPSON: Wait, wait, wait.

6 MS. DAVILA: I'm sorry, do you have a question?

7 JUDGE THOMPSON: Wait, wait.

8 MR. DRITSAS: She wasn't --

9 JUDGE THOMPSON: She wasn't finished with her response to
10 your question. Go ahead, Ms. Mariscal.

11 THE WITNESS: Yes. He told me what to put and then I went
12 to Gustavo to verify. I said, "are you sure? Are you sure
13 this is what you want me to do?" And he said, "yes."

14 Q BY MS. DAVILA: And what happened to the disciplines that
15 you had already drafted?

16 A Nothing. They remained there.

17 Q You kept them in the personnel file?

18 A No. I did not. I -- Anthony kept them.

19 Q Did you take them out of the black folder and give them to
20 Anthony or how do you know Anthony kept them?

21 A They were in the black folder and Anthony was bringing
22 them. So then he just kept them. I don't know where he put
23 them.

24 Q Had Anthony ever kept disciplines before this?

25 A If he did, I wouldn't know about it.

1 Q Okay. Were you ever given instructions by Gustavo before
2 to add entries into the calendar that said "per HR, discipline
3 not given"?

4 A No.

5 Q Were you ever given instructions before by Anthony to
6 put -- before this time to put on the attendance calendar, "per
7 HR, discipline not given"?

8 A No. It was the first time this had ever happened.

9 Q And this is at the end of June, correct?

10 A Correct.

11 Q Okay. You mentioned you had a meeting with Anthony
12 Wandick and Kelvin Kwon?

13 A It wasn't a meeting.

14 Q About this -- well, you met with Anthony Wandick and
15 Kelvin Kwon about these disciplines?

16 A I asked them what was going on with the disciplines. Yes,
17 I did.

18 Q And what was Kelvin's response?

19 A He didn't say nothing. He just said, just do your job and
20 place any disciplinary actions on the black folder.

21 Q Where did the conversation take place?

22 A In his office.

23 Q Whose?

24 A Kelvin Kwon's. Kelvin Kwon's office.

25 Q Thank you.

1 MS. DAVILA: One minute, please.

2 Q BY MS. DAVILA: Can you look at Respondent -- GC Exhibit
3 37, please.

4 JUDGE THOMPSON: Let the record reflect the witness has
5 been given what's been marked as GC-37.

6 Q BY MS. DAVILA: If you look at page 2, Ms. Mariscal, the
7 June 11 entry, it's your testimony that you did not write this
8 entry into the calendar?

9 A That is correct.

10 Q Have you ever written an entry in the attendance calendar
11 having to do with union?

12 A No.

13 Q Have you ever seen an attendance calendar reference the
14 union?

15 A No.

16 Q Is this the first calendar you've ever seen that has the
17 word union?

18 A That is correct.

19 Q Okay. If you didn't write this entry, would it have been
20 Christina Keeran who did it.

21 MR. DRITSAS: Objection; lacks foundation.

22 JUDGE THOMPSON: I'm going to sustain the objection,
23 counsel.

24 Q BY MS. DAVILA: It's your testimony, Ms. Mariscal, that
25 the only other people who make entries on these calendars is

1 Alejandra Magana, Anthony Wandick or Christina Keeran, correct?

2 A That is correct.

3 MS. DAVILA: No further questions, Your Honor.

4 JUDGE THOMPSON: Thank you. Mr. Dritsas, any follow-up?

5 MR. DRITSAS: No, Your Honor, I do not have any follow-up.

6 JUDGE THOMPSON: Ms. Mariscal, thank you so much for your
7 testimony. As I previously instructed, please don't discuss it
8 with anyone. You are excused. And have a wonderful afternoon.
9 Thank you.

10 THE WITNESS: Thank you, Your Honor.

11 MR. DRITSAS: Could I have a minute, Your Honor? I'll go
12 get my next witness.

13 JUDGE THOMPSON: Yes. Off the record.

14 (Off the record at 2:46 p.m.)

15 JUDGE THOMPSON: We are back on the record.

16 Mr. Dritsas, would you like to call your next witness?

17 MR. DRITSAS: I would, Your Honor. I'd like to re-call
18 Gustavo Acosta.

19 JUDGE THOMPSON: Mr. Acosta, how are you this afternoon?

20 MR. ACOSTA: Doing good. And yourself?

21 JUDGE THOMPSON: I'm doing well. Thank you.

22 I am conducting the resumption of this hearing by video in
23 Los Angeles. And Ms. Davila, General Counsel, is also
24 appearing by video from Phoenix.

25 I'm going to swear you in again. If you would raise your

1 right hand.

2 Whereupon,

3

GUSTAVO ACOSTA

4 having been duly sworn, was called as a witness herein and was
5 examined and testified, by and through an interpreter as
6 follows:

7 JUDGE THOMPSON: Great. Thank you.

8 Mr. Acosta, could you state your name again for the record,
9 please.

10 THE WITNESS: Gustavo Acosta.

11 JUDGE THOMPSON: Mr. Acosta, do you recall the instructions
12 I give you when you testified previously about giving a verbal
13 response, waiting for the entire question to be asked before
14 you answer, instructions of that nature?

15 THE WITNESS: Yes, I do.

16 JUDGE THOMPSON: Okay. Those instructions still apply
17 today. And then I have another addition for you. If you don't
18 hear us because we're appearing my video, would you please
19 interject immediately, "I can't hear you," so that I can
20 instruct counsel to repeat the question?

21 THE WITNESS: Okay.

22 JUDGE THOMPSON: Okay. Thank you.

23 Mr. Dritsas, your -- I'm sorry. I couldn't hear. Oh --

24 MR. DRITSAS: She was just pointing him to the microphone.

25 JUDGE THOMPSON: Oh. Thank you.

1 MR. DRITSAS: I just want to make -- I want to make sure,
2 Judge, you can -- with Ms. Oviedo's computer there, can you see
3 the witness?

4 JUDGE THOMPSON: Yes.

5 MR. DRITSAS: Okay. Thank you.

6 **DIRECT EXAMINATION**

7 Q BY MR. DRITSAS: Okay. Gustavo, just hopefully a few
8 questions before you take off on vacation.

9 I want to refer you back to refer you back to June of 2015.
10 You -- you were aware there was a petition for election?

11 A Yes.

12 Q Okay. And did you speak with anyone in the housekeeping
13 department on or about the time that petition came in about
14 anything related to attendance discipline in that department?

15 A Attendant discipline?

16 Q Attendance discipline in that department?

17 A Yes.

18 Q Okay. Tell us who you spoke with.

19 A I spoke with Kevin.

20 Q Kelvin?

21 A Kelvin. Sorry. Kelvin.

22 Q And that's Kelvin Kwon?

23 A Yes.

24 Q Okay. And where were you when you had that conversation?

25 A It was in his office.

1 Q Okay. And what did you tell him?

2 A I told him to pull -- or hold -- any discipline on hold,
3 put it on hold.

4 Q Did you tell him why?

5 A No.

6 Q Okay. Now, let's fast forward towards the -- the end of
7 the month. Did anyone come to you from the housekeeping
8 department to ask you questions about discipline that had been
9 put on hold?

10 A Yes.

11 Q And who was that?

12 A Anthony.

13 Q Anthony Wandick?

14 A Wandick, yes.

15 Q Okay. And tell me, where did you have that conversation
16 with Mr. Wandick?

17 A He came to my office in the HR department.

18 Q Did he have anything with him?

19 A He had a stack of discipline in a -- in a pile.

20 Q Okay. And what was said? Was there anyone else in the
21 conversation except -- besides the two of you?

22 A No.

23 Q Okay. Tell us what was said.

24 A He told me that he had a disciplined (sic). "What should
25 we do?" And I reviewed it. And some of the disciplines were

1 kind of old. And I told him don't deliver any discipline
2 because they were old disciplined (sic). I told him we just
3 have to take the hit.

4 Q What do you mean by that, just take the hit?

5 A Because we didn't deliver it. We didn't -- I don't think
6 it was fair for us to deliver a discipline that was old to the
7 associates. I told him we just have to start fresh or just
8 have to take, you know, a loss for that.

9 Q Okay. So did you authorize any discipline in June 2015
10 for the housekeeping department when Mr. Wandick brought the
11 file to you?

12 A Repeat that question.

13 Q Did you authorize any discipline for the housekeeping
14 department in June 2015 when Mister -- strike that.

15 Mr. Wandick brought attendance discipline to you that had
16 been gathered since you earlier told him to put a -- told him
17 to put the discipline on hold, correct?

18 A Uh-huh. Yes.

19 Q Okay. So when Mr. Wandick spoke with you later in the
20 month or even July, did you tell him he could issue any of the
21 discipline for attendance for the month of June?

22 A I don't understand your question.

23 Q Okay.

24 A I'm sorry.

25 Q So let's try it this way: Was it -- was any attendance

1 discipline issued for employees in the month of June in the
2 housekeeping department?

3 A No.

4 Q Okay. And then did you have a conversation with
5 Ms. Mariscal, Vania Mariscal, about the collected discipline
6 forms?

7 A Yes.

8 Q And when was that relative to Mr. Wandick's call -- or
9 conversation?

10 A It was about a day or two. She came to me and she asked
11 me if it was correct what Anthony told her, not to do the --
12 not to the written discipline. I told her, "That's correct. I
13 instructed Anthony not to do any discipline for the month of
14 June."

15 Q Okay. And did you tell -- let's go back to Anthony. Did
16 you tell Anthony if there should be anything written on the
17 attendance logs?

18 A Just on the -- per HR. That's it.

19 Q Okay. So did you tell anything to Vania?

20 A I just told her to per HR. That's it.

21 Q Okay. Now, did you direct Vania or Anthony or anyone in
22 the housekeeping department not to issue the points that were
23 associated with the attendance infraction in the month of June?

24 A The points would still be there. The point will still be
25 counted.

1 Q Okay. So even if a discipline was not issued, the points
2 were still there that could go upon for future discipline?

3 A Correct.

4 Q Okay. When you met with Mr. Wandick, did you have any
5 conversation with him about any of the people who had
6 discipline in the folder as to whether they were for or against
7 the Union?

8 A No.

9 Q Did you have any conversation with Mr. Wandick whether any
10 of the people whose discipline was in the folder wore Union
11 pins?

12 A No.

13 Q Did the fact that people had Union buttons or not Union
14 buttons have anything to do with your determination, as you put
15 it, to take the hit not to issue the discipline at the end of
16 the month?

17 A No.

18 Q Okay. Why -- why was it that you told the housekeeping
19 department, I think you said Mr. Kwon, to just put the
20 discipline on hold?

21 A We just -- we just didn't want anybody to think that we
22 were retaliating. We didn't want -- we didn't want to get any
23 charges.

24 Q So this is after the election petition?

25 A Uh-huh.

1 Q You have to --

2 A Before it.

3 Q And in your conversation, when you say, think you were
4 retaliating based on what?

5 A For the -- so the employee doesn't have to feel like we're
6 doing it for the -- the election -- I mean the voting.

7 JUDGE THOMPSON: I'm sorry, Mr. Dritsas. Mr. Acosta's
8 testimony is breaking up. We're not hearing him clearly. So
9 can you repeat the question for him to answer?

10 MR. DRITSAS: Sure.

11 Q BY MR. DRITSAS: So I -- I was asking -- you said -- I --
12 I can't remember exactly how you put it. But I was asking you
13 why you told the human -- told the housekeeping department to
14 put the discipline on hold. And you mentioned something about
15 it related to the Union election. Can you repeat your answer?

16 A That is correct. Just because of the Union election.

17 Q And what was you -- what was your concern? Why would you
18 want the discipline on hold?

19 A We just didn't want any retaliation -- retaliation and we
20 didn't want to get any charges.

21 Q Unfair labor practice charges?

22 A Correct.

23 Q Okay. Okay. Now, I want to show you a document.

24 MR. DRITSAS: I'm going to -- I'm going to show the witness
25 Exhibits 37 and 38.

1 JUDGE THOMPSON: GC --

2 MR. DRITSAS: So --

3 JUDGE THOMPSON: -- Exhibits?

4 MR. DRITSAS: Yes, Your Honor. It's GC-37 and 38.

5 JUDGE THOMPSON: Got it.

6 Q BY MR. DRITSAS: So -- you're on GC-37. Take a look at
7 June 11th. It says, "Per HR, discipline not given due to Union
8 voting." Let me ask you about that first. Did you tell anyone
9 to make that entry?

10 A No, I did not. I did not about the voting. Just per HR
11 discipline not given. That's it.

12 Q Okay. And then I've shown you Exhibit 38, which is the
13 same kind of sentence but later in the month, and the -- the
14 phrase "due to Union voting" is missing. Do you have an
15 explanation for that or do you know why that happened?

16 A If I'm not mistaken, this first discipline came to my
17 attention, I reviewed it and I saw this, "due to Union voting."
18 I went and I instruct them -- I told them, "Just put per HR."
19 And I guess it got fixed afterwards, because I just told them
20 only per HR.

21 Q Okay. And --

22 MR. DRITSAS: I have nothing further, Your Honor.

23 JUDGE THOMPSON: Okay. Thank you.

24 Ms. Davila, any questions?

25 MS. DAVILA: Yes, Your Honor.

CROSS-EXAMINATION

1

2 Q BY MS. DAVILA: Mr. Acosta, hi.

3 A Hi.

4 Q Did you review any documents in preparation for your
5 testimony today?

6 A No.

7 Q Did you speak to anyone in preparation for your testimony
8 today?

9 A No.

10 Q Okay. So it's your testimony that you told housekeeping
11 to withhold discipline because of the Union election, correct?

12 A Correct.

13 Q And this was for the month of June, correct?

14 A Correct.

15 Q Was it June 1st to June 30th, 2015?

16 A My -- it was for the month of year. I can't keep dates.

17 Q Okay.

18 A I'm not sure.

19 Q And you said that the fact that discipline was being
20 withheld had nothing to do with the Union buttons, correct?

21 A Correct.

22 Q So you -- isn't it your testimony that discipline was held
23 just entirely for the housekeeping department, correct?

24 A It was for the entire Hotel.

25 Q Okay. You said something about a build up being caused by

1 this directive, correct? There was a buildup in discipline,
2 correct?

3 A Rephrase that again, please.

4 Q You said that there was some sort of buildup that this --
5 this policy caused, correct, of discipline? A buildup of
6 discipline?

7 A Correct. Yes.

8 Q Had you ever -- had you ever had a buildup of discipline
9 before?

10 A Yes, we have.

11 Q Do you remember when that was?

12 A It wouldn't have been particularly in that department. It
13 was somewhere in a different department again. Yeah.

14 Q Was it under the same circumstances? Was a Union election
15 involved?

16 A No, it was not.

17 Q What were the circumstances?

18 A The manager did not deliver the discipline on time. It
19 was kind of late.

20 Q So it wasn't due to an HR directive?

21 A I had given the -- I told them not to deliver it.

22 Q So the discipline was not issued on time because you and
23 HR told them not to issue it?

24 A No, not correct.

25 Q Okay. But in the instance that we're discussing now, you

1 told -- you told housekeeping -- or you told the whole Hotel to
2 not issue discipline because you didn't want an unfair labor
3 practice charge, correct?

4 A Correct. That is correct.

5 Q I'm going to reference you to GC Exhibit 37 and 38.

6 A Okay.

7 Q Mr. Gustavo, GC Exhibit 37, you'd said that -- that it
8 came to your attention -- this calendar came to your attention,
9 correct?

10 A Correct. Correct.

11 Q And that -- and that you instructed somebody to fix it,
12 correct?

13 A Correct.

14 Q How did this calendar come to your attention?

15 A We -- any discipline that we get to issue, I have to
16 review it. So when I was looking through the points, I saw
17 that and I thought it was not appropriate. So I went to the
18 housekeeping department and asked them to remove that.

19 Q Do you remember when you -- when you noticed this entry?

20 A I do not. I don't have --

21 Q What's --

22 A -- the first other attachment, the disciplined (sic).

23 Q Was it June of --

24 A So I'm -- I'm --

25 JUDGE THOMPSON: Wait a minute.

1 THE WITNESS: I'm going to guess.

2 MS. DAVILA: No, don't --

3 JUDGE THOMPSON: No, don't guess, Mr. Acosta.

4 THE WITNESS: Okay.

5 JUDGE THOMPSON: We don't -- we want --

6 THE WITNESS: I'm sorry.

7 JUDGE THOMPSON: -- your personal -- what you personally
8 recall or remember. So you --

9 THE WITNESS: Okay.

10 JUDGE THOMPSON: Go ahead --

11 Q BY MS. DAVILA: So was it --

12 JUDGE THOMPSON: -- Ms. Davila.

13 Q BY MS. DAVILA: It was in -- do you remember, was it in
14 June of this year that you noticed the entry?

15 A No, I don't recall.

16 Q Okay. Why were you reviewing the attendance calendar for
17 June if you weren't going to issue discipline for June?

18 A Because the discipline that got delivered to me, they --
19 whenever an associate gets a discipline, they deliver the
20 discipline attached with the attendance log. So I like to
21 review the attendance log and the disciplined (sic). And when
22 I was reviewing it, I saw that.

23 Q Okay. And who did you tell to fix it?

24 A I went to Christina and I asked her to fix it.

25 Q Is that Christina Keeran?

1 A Yes.

2 Q Did you tell her to remover the word union?

3 A Just -- I told her just per HR -- just per HR.

4 Q Were there any other calendars that were fixed to remove
5 the word union?

6 A I don't know about -- this was the only one that I saw
7 that came to me. So I'm not sure if there was. And if she did
8 it -- if there were, if she got -- if they got fixed. I'm not
9 sure. I'm not sure.

10 Q Who else can give instructions to edit attendance
11 calendars for the housekeeping department?

12 A That would be Alejandra, anybody -- Alejandra and Kelvin.

13 Q Can floor managers edit attendance calendars?

14 A Not to my knowledge, no.

15 Q And can you tell us the employees that are authorized to
16 make entries into these calendars for the housekeeping
17 department?

18 A I believe it's -- when they get add, those points, it's
19 either Vania or Christina.

20 Q And that's Vania Mariscal?

21 A Correct.

22 Q And Christina Keeran?

23 A Correct.

24 Q Correct?

25 A Correct. Yes.

1 MS. DAVILA: No further questions, Your Honor.

2 JUDGE THOMPSON: Thank you. Mr. Dritsas, any follow-up?

3 MR. DRITSAS: Yes.

4 **REDIRECT EXAMINATION**

5 Q BY MR. DRITSAS: A couple follow-up about the -- take a
6 look at 37, Mr. Gustavo. Go to the last page -- I'm sorry.
7 The second page. Do you see the -- it says, "Second written,
8 August 9."

9 A Uh-huh.

10 Q Okay. So -- is that a "yes," you see that?

11 A Yes, I do.

12 Q Okay. So is -- when a -- if a second written warning was
13 issued, if I'm reading this right, it would have been based on
14 conduct that took place on August 9; is that right?

15 A Correct.

16 Q And so by the time it got to you, it would have sometime
17 -- you know, either days or weeks after August 9 when -- the
18 discipline had already been issued and sent to you for HR
19 review; is that right?

20 A Correct.

21 Q Okay. And, again, if you'll take a look at -- well,
22 that's all, actually. Now, you don't work in the housekeeping
23 department. We know that. Do you -- do you know of your own
24 personal knowledge who has -- which managers within the
25 department have authority to go in to make any edits or to --

1 adjustments to the attendance log?

2 A It would be just Alejandra or Kelvin Kwon. Kelvin. I'm
3 sorry. Kelvin.

4 Q Do you know if, like if either of them are not there,
5 whether other managers have authority to make any edits in the
6 log? Just if you know.

7 A You know, I don't -- don't recall.

8 Q Okay.

9 MR. DRITSAS: Okay. I have nothing further, Your Honor.

10 JUDGE THOMPSON: Okay. Mr. Acosta, thank you so very much
11 for your testimony. Please don't discuss it with anyone.
12 You're excused. And have a wonderful afternoon.

13 THE WITNESS: You too. Thank you.

14 JUDGE THOMPSON: Thank you. Mister --

15 MR. DRITSAS: Your Honor, we're -- Respondent rests.

16 JUDGE THOMPSON: Okay. Just a second. Okay. I believe
17 that is all for the rebuttal evidence. Hold on just a second.

18 Ms. Davila, let me return back to you with regard to
19 Exhibits 10 and 12. When we adjourned on Friday, I believe I
20 indicated that you needed to inform the Court what you intended
21 to do with respect to those two exhibits. Have you had an
22 opportunity to decide what -- how you wanted proceed on those
23 exhibits? They were GC-10 and GC-12. They were not admitted
24 based on authentication concerns. And we sort of held them in
25 abeyance for you to decide how you wanted to proceed. But I

1 received the testimony at this point, so I need to refer back
2 to you to find out how do you want to proceed with these two
3 documents.

4 MS. DAVILA: Your Honor, the General Counsel withdraws 10
5 and 12.

6 JUDGE THOMPSON: Okay.

7 **(General Counsel Exhibit Number 10 and 12 Withdrawn)**

8 JUDGE THOMPSON: All right. Since both parties have --
9 have now rested with their rebuttal, I suppose now that means I
10 have received all of the evidence in this case and the
11 testimony. I shouldn't say all the evidence, but the
12 testimony, and correct myself.

13 So let me give you the deadlines for post-hearing briefs
14 and then remind counsel with respect to the motion for summary
15 judgment that is currently pending.

16 Post-hearing briefs are due Thursday, January 14, 2016, to
17 be E-filed by 11:59 p.m. And that is 35 days -- calendar days
18 from today's date. To the --

19 MS. OVIEDO: That's Pacific time?

20 JUDGE THOMPSON: Pacific time. To the extent that counsel,
21 plural, need an extension, or I should say either one of you,
22 need an extension of time from that deadline, would you please
23 make your request to Associate Chief Judge Gerald -- G-E-R-A-L-
24 D -- Etchingham -- E-T-C-H-I-N-G-H-A-M, as in man -- who is the
25 Associate Chief of the San Francisco Division of Judges. It

1 would be helpful if whoever's making the request could
2 ascertain whether the opposing party has any objection and it
3 would also be helpful if you would indicate a specific date
4 that you would like to extend the time.

5 In the post-hearing brief, counsel, Respondent, if you care
6 to put your motion that you orally gave in writing with any
7 additional citations to support your argument, you may do so.

8 Ms. Davila, or, Ms. Oviedo, to the extent that you were
9 opposing the motion, you are certainly welcome to put any
10 citations in support of your opposition to that summary
11 judgment motion in your post-hearing brief. Obviously if you
12 extend the time for the post-hearing brief in general, that's
13 going to extend the time for your response to the summary
14 judgment motion.

15 Mr. Dritsas, because you made your motion on the record and
16 the General Counsel asked for leave to submit a brief in
17 opposition and you essentially laid out your argument on the
18 record, in order to balance the equities therein, I am giving
19 you 14 days from the date that you submit your post-hearing
20 briefs to file a reply to the summary judgment only. And to
21 the extent that you care to do that, your deadline for your
22 reply is January 28th. And obviously, again, Mr. Dritsas, if
23 there's an extension of time to file the post-hearing briefs,
24 it would be between days after that date.

25 MR. DRITSAS: Okay. Thank you, Your Honor.

1 JUDGE THOMPSON: I don't believe that there's anything
2 further.

3 Counsel, thank you so very much. It was a pleasure to meet
4 all of you and work with you on this case.

5 Thank you, Ms. Oviedo, for your cooperation, particularly
6 in coordinating the video, et cetera, et cetera, for today.

7 Ms. Davila, thank you also for coordinating with regard to
8 how we deal with the exhibits today. I really appreciate that
9 suggestion. If there be nothing further --

10 MS. DAVILA: Thank you, Your Honor.

11 JUDGE THOMPSON: If there be nothing further --

12 MR. DRITSAS: Your Honor --

13 JUDGE THOMPSON: Yes?

14 MR. DRITSAS: I just -- I want to thank Your Honor. It's
15 been a privilege I think for all counsel to -- to be appearing
16 in front of you. So thank you for your time and patience.

17 JUDGE THOMPSON: Thank you as well.

18 I guess we are adjourned.

19 **(Whereupon, the hearing in the above-entitled matter was closed**
20 **at 3:20 p.m.)**

21

22

23

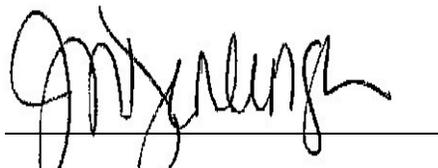
24

25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Numbers 28-CA-149979, 28-CA-150529, 28-CA-155072, 28-CA-156304, 28-CA-156719, 28-CA-157883, Trump Ruffin Commercial, LLC, d/b/a Trump International Hotel Las Vegas and Local Joint Executive Board of Las Vegas Affiliated with Unite Here International Union, at the National Labor Relations Board, Region 28, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Thursday, December 10, 2015, at 1:07 p.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.


A handwritten signature in black ink, appearing to read 'Jacqueline Denlinger', is written over a solid horizontal line.

JACQUELINE DENLINGER

Official Reporter