

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

07-CA-078182
Case: 07-RC-072022

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; **and**
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Certified Mail

Paul Saber, CEO/CO-Owner
Bread of Life, LLC
d/b/a Panera Bread
2339 11th Street
Encinitas, CA 92024-6604

John J. Price, International Representative
Local 70, Bakery, Confectionery, Tobacco
Workers and Grain Millers International
Union (BCTGM), AFL-CIO, CLC
158 36th Street, S.E.
Grand Rapids, MI 49548-2260

Regular Mail

John J. Price, International Representative
Bakery, Confectionery, Tobacco
Workers and Grain Millers International
Union (BCTGM), AFL-CIO, CLC
10401 Connecticut Avenue
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171 Monroe Avenue, N.W., Ste. 1000
Grand Rapids, MI 49503-8743

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

BREAD OF LIFE, LLC

Respondent/Employer

and

**CASES 07-CA-078182
07-RC-072022**

**LOCAL 70, BAKERY, CONFECTIONARY,
TOBACCO WORKERS AND GRAIN MILLERS
INTERNATIONAL UNION, AFL-CIO, CLC**

Charging Union/Petitioner

- I. COMPLAINT**
- II. REPORT ON OBJECTIONS**
- III. ORDER CONSOLIDATING UNFAIR LABOR PRACTICE AND
REPRESENTATION CASES FOR HEARING**
- IV. NOTICE OF CONSOLIDATED HEARING**

I. COMPLAINT

This Complaint which is based on a charge filed by the Charging Union is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, and alleges that Respondent has violated the Act by engaging in the following unfair labor practices:

1. (a). The charge in Case 07-CA-78182 was filed by the Charging Union on April 4, 2012, and a copy was served by regular mail on Respondent on April 5, 2012.
- (b). The first amended charge in Case 07-CA-78182 was filed by the Charging Union on April 20, 2012, and a copy was served by regular mail on Respondent on the same date.
- (c). The second amended charge in Case 07-CA-78182 was filed by the Charging Union on May 24, 2012, and a copy was served by regular mail on Respondent on the same date.

2. At all material times, Respondent, a corporation with places of business located at: 5119 West Main Street (West Main store) and 5627 Gull Road (Gull Road store) in Kalamazoo, Michigan; 5970 South Westnedge Avenue, Portage, Michigan (Portage store); 2810 Capital Avenue SW, Battle Creek, Michigan (Battle Creek store); 1285 Boardman Road, Jackson, Michigan (Jackson store); and 3260 Niles Road, St. Joseph, Michigan (St. Joseph store); has been engaged in the operation of retail cafes.

3. During the calendar year ending December 31, 2011, Respondent, in conducting its business operations described in paragraph 2, derived gross revenues in excess of \$500,000, and purchased and received at its facilities described above in paragraph 2, goods valued in excess of \$50,000 directly from points outside the State of Michigan.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, the Charging Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Paul Saber	Chief Executive Officer
Patrick Rogers	Operating Partner, Manna Development
David Griego	Director of Operations, Manna Development
Greg Collins	Director of Operations, West Michigan Market
Rodney Alman	Bakery Market Manager, West Michigan Market

7. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time bakers, lead bakers, and lead training bakers employed by Respondent at its facilities located at 5119 West Main Street, Kalamazoo, Michigan; 5627 Gull Road, Kalamazoo, Michigan; 5970 South Westnedge Avenue, Portage, Michigan; 2810 Capitol Avenue SW, Battle Creek, Michigan; 1285 Boardman Road, Jackson, Michigan 49202; and 3260 Niles Road, St. Joseph, Michigan; but excluding all clerks, baker training specialists, confidential employees, managers and guards and supervisors as defined in the Act and all other bakery/café employees.

8. On March 22, 2012, in Case 7-RC-072022, a representation election was held among the employees in the Unit.

9. In the election described in paragraph 8, 11 employees voted for representation by the Charging Union, 7 employees voted against representation by the Charging Union, and there were no challenged ballots.

10. At all times since March 22, 2012, based on Section 9(a) of the Act, the Charging Union has been the exclusive collective bargaining representative of the Unit.

11. Respondent, by its agents Paul Saber and Patrick Rogers, by letter to employees dated January 13, 2012, interfered with its employees exercise of their rights guaranteed in Section 7 of the Act by:

- (a). Telling employees not to sign union authorization cards or petitions.
- (b). Asking employees to retract their signed authorization cards.

12. Respondent, about late January 2012, created a website, www.believeinourteam.org, for its employees in order to discourage their support for the Charging Union.

13. Respondent, by its agent, David Griego:

(a). About January 11, 2012, at its Gull Road store, promised its employees that it would immediately remedy safety complaints in order to discourage support for the Charging Union.

(b). About late January 2012, at its West Main store, solicited employee complaints and grievances and promised employees increased benefits and improved terms and conditions of employment if they refrained from union organizing activity.

(c). About March 14, 2012, at its Battle Creek store, interfered with its employees' exercise of their rights guaranteed by Section 7 of the Act, by directing them not to be so vocal about their support for the Charging Union.

14. Respondent, by its agent, Greg Collins:

(a). About January 14, 2012, at its West Main store, solicited employee complaints and grievances and promised employees increased benefits and improved terms and conditions of employment if they refrained from union organizing activity.

(b). About January 15, 2012, at its West Main store, interfered with employees exercise of their rights guaranteed in Section 7 of the Act by telling them his feelings were hurt that they had chosen to engage in union organizing activity.

(c). About January 15, 2012, at its West Main store, solicited employee complaints and grievances and promised employees increased benefits and improved terms and conditions of employment if they delayed union organizing activity for six months.

(d). About January 15, 2012, at its West Main store, coercively interrogated its employees about their union membership, activities and sympathies.

(e). About mid-March, 2012, at its Gull Road store, threatened employees with loss of benefits if they selected the Charging Union as their bargaining representative.

15. About January 24, 2012, Respondent, by its agent, Patrick Rogers, at the Best Western Hotel in Kalamazoo, Michigan:

(a). Promised employees that it would remove a wage cap in order to discourage employee support for the Charging Union.

(b). Promised employees that it would shift managerial responsibilities to a more preferred manager if the employees rejected the Charging Union as their bargaining representative.

16. Respondent, by its agent, Paul Saber:

(a). About February 2012, by telephone, offered employees an expenses-paid trip to California in order to discourage support for the Charging Union.

(b). About March 8, 2012, at the Holiday Inn Hotel in Kalamazoo, Michigan:

(i). Promised its employees increased benefits and improved terms and conditions of employment if they delayed union organizing activity for six months.

(ii). Communicated to employees that it would be futile for them to select the Charging Union as their bargaining representative, by telling its employees that he would never sit down and negotiate with the Charging Union.

(iii). Communicated to employees that it would be futile for them to select the Charging Union as their bargaining representative by telling its employees that he would fight the Charging Union until his dying breath.

(iv). Communicated to employees that it would be futile for them to select the Charging Union as their bargaining representative by telling its employees that the Charging Union could not help them because they would still have to go through him.

(v). Promised employees that they could be promoted to a higher paying position and that they could vote for the next person to fill the position in order to discourage employee support for the Charging Union.

(vi). Promised employees that they could complete a warmth survey to identify problems in order to discourage employee support for the Charging Union.

(c). About March 21, 2012, at the Clarion Hotel in Kalamazoo, Michigan:

(i). Threatened its employees with termination because they engaged in union organizing activity.

(ii). Communicated to employees that it would be futile for them to select the Charging Union as their bargaining representative by telling its employees that he would delay the certification of the Charging Union as long as possible no matter the cost.

(iii). Promised employees that their concerns regarding health insurance benefits would be addressed if they voted against the Charging Union.

(iv). Coercively interrogated employees about their sympathies toward the Charging Union by asking employees to openly demonstrate whether they supported Respondent.

17. About March 14, 2012, Respondent disciplined through verbal counseling and a note to her personnel file, its employee, Kathleen Von Eitzen.

18. Beginning about April 2012, Respondent changed the terms and conditions of employment of certain employees in the Unit by reducing their hours of employment.

19. Respondent engaged in the conduct described in paragraphs 17 and 18 because the employees of Respondent assisted the Charging Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

20. The subject set forth in paragraph 18 relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

21. Respondent engaged in the conduct described above in paragraph 18 without affording the Charging Union prior notice and a meaningful opportunity to bargain with Respondent about this change and its effects on the Unit.

22. By the conduct described above in paragraphs 11 through 16, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

23. By the conduct described above in paragraphs 17 through 19, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

24. By the conduct described above in paragraphs 18 and 21, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

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

WHEREFORE, it is prayed that Respondent be ordered to:

1. Cease and desist from:

(a). engaging in the conduct described above in paragraphs 11 through 19 and 21, or in any like or related manner interfering with, restraining, or coercing its employees in the exercise of rights guaranteed in Section 7 of the Act.

(b). engaging in the conduct described above in paragraphs 17 through 19, or in any like or related manner discriminating in regard to the hire or tenure or terms and conditions of employment of its employees so as to discourage their support for, membership in, assistance to, or any other activities on behalf of the Charging Union, or any other labor organization.

(c). engaging in the conduct described above in paragraphs 18 and 21, or in any like or related manner failing and refusing to bargain collectively and in good faith with the Charging Union as the exclusive collective bargaining representative of the Unit.

2. Take the following affirmative action:

(a). Rescind the March 14, 2012, discipline of Kathleen Von Eitzen, expunge any reference in its files and records to the disciplinary action taken against her, notify her, in writing, that it has done so and will not in any manner use said discipline against her in the future, and make her whole for any loss of earnings or other benefits she suffered by reason of the discrimination against her, with interest computed in accordance with Board policy.

(b). Rescind work hour changes enacted since April 2012, and make whole any Unit employees adversely affected by said changes with interest computed in accordance with Board policy, and return the work hours to the status quo ante as of March 2012.

(c). Reimburse the appropriate Unit employees the amount equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination.

(d). Submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

(e). Bargain collectively and in good faith with the Charging Union as the exclusive collective bargaining representative of the Unit, upon issuance of a Certification of Representative.

(f). Post appropriate notices at its West Main, Gull Road, Battle Creek, St. Joseph, Portage, and Jackson stores.

(g). Within 14 days after service of the appropriate notice by the Region, hold a meeting or meetings, scheduled to ensure the widest possible attendance, at which the

notice is to be read to employees by a responsible management official of Respondent in the presence of a Board agent, or, at the Respondent's option, by a Board agent in the presence of a responsible management official of Respondent.

The Acting General Counsel further prays for such other relief as may be just and proper to remedy the unfair labor practices herein alleged.

II. REPORT ON OBJECTIONS

Pursuant to a petition filed by the Petitioner on January 9, 2012, and a Decision and Direction of Election issued by the Acting Regional Director on February 24, 2012, an election by secret ballot was conducted on March 22, 2012, among the Employer's employees in the following appropriate collective bargaining unit:

All full-time and regular part-time bakers, lead bakers, and lead training bakers employed by the Employer at its facilities located at 5119 West Main Street, Kalamazoo, Michigan; 5627 Gull Road, Kalamazoo, Michigan; 5970 South Westnedge Avenue, Portage, Michigan; 2810 Capitol Avenue SW, Battle Creek, Michigan; 1285 Boardman Road, Jackson, Michigan 49202; and 3260 Niles Road, St. Joseph, Michigan; but excluding all clerks, baker training specialists, confidential employees, managers and guards and supervisors as defined in the Act and all other bakery/café employees.

The payroll period for eligibility was the pay period ending February 11, 2012.

Following the election, the ballots were counted and a copy of the Tally of Ballots, showing the following results, was prepared and copies made available to the parties in accordance with the Board's Rules and Regulations. The results of the election, as reflected in the Tally, were as follows:

Approximate number of eligible voters.....	18
Void ballots.....	0
Votes cast for the Petitioner.....	11
Votes cast against participating labor organization.....	7
Valid votes counted.....	18
Challenged ballots.....	0
Valid votes counted plus challenged ballots.....	18

On March 30, 2012, the Employer timely filed objections to conduct affecting the results of the election, a copy of which this office served upon the Petitioner in accordance with the Board's Rules and Regulations. A copy of the objections is attached hereto as Exhibit A.

Based upon an investigation of the objections, and after due consideration of the evidence gathered in the investigation, the undersigned concludes that the objections raise substantial and material issues of fact requiring credibility resolutions which can best be resolved by a hearing, and such hearing is so ordered pursuant to Section 102.69(d) and (i) of the Board's Rules and Regulations. The issues raised by these objections involve the same parties as in the complaint above. Accordingly, pursuant to Sections 102.69(d) and (i) and 102.33 of the Rules and Regulations of the Board, the undersigned shall order consolidation of Cases 7-CA-078182 and 7-RC-072022 for hearing before an administrative law judge.

III. ORDER CONSOLIDATING UNFAIR LABOR PRACTICE AND REPRESENTATION CASES FOR HEARING

IT IS ORDERED, pursuant to Section 102.33 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, that Cases 7-CA-078182 and 7-RC-072022 be, and they are, consolidated for purposes of hearing, ruling, and decision by an administrative law judge and that, thereafter, Case 7-RC-072022 be transferred to and continue before the Board in Washington, D.C., and that the provisions of Section 102.46 and 102.69(f) of the Board's Rules and Regulations shall govern the filing of exceptions.

IV. NOTICE OF CONSOLIDATED HEARING

PLEASE TAKE NOTICE THAT commencing on the 30th day of July, 2012 at 11:00 a.m., and on consecutive days thereafter until concluded, at a location to be designated at a later date, a hearing will be conducted before an administrative law judge of the National Labor Relations Board on the allegations in this Complaint and the issues delineated in the Report on Objections. At the hearing, Respondent, the Charging Union and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint and objections. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or, or postmarked on or before July 12, 2012, or postmarked on or before July 11, 2012.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

Dated at Detroit, Michigan, this 28th day of June, 2012.

/s/ Terry Morgan
Terry Morgan, Regional Director
National Labor Relations Board, Region 7
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 300
Detroit, Michigan 48226

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD
BEFORE THE NATIONAL LABOR RELATIONS BOARD
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

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

BREAD OF LIFE, LLC,)	
)	
Employer)	
)	
-and-)	Case No. 7-RC-072022
)	
LOCAL, 70 BAKERY)	
CONFECTIONERY, TOBACCO &)	
GRAIN MILLERS INTERNATIONAL)	
UNION, AFL-CIO,)	
)	
Union)	

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OBJECTIONS TO ELECTION

Now comes the Employer, Bread of Life, LLC ("Employer"), and files these Objections to Election in this matter, pursuant to Rules and Regulations of the National Labor Relations Board at Section 102.69(a), as follows:

1. Some of the bakers working at the Employer's six cafés deemed eligible to vote functioned as a group at least since March, 2011. Among its leaders were Kathleen Von Eitzen, Daniel J. Wood, and Kyle Schilling. The Union co-opted that leadership structure for purposes of organizing the group of bakers and for its campaign leading up to the vote.

2. As part of that process, the Petitioner Union authorized Kathleen Von Eitzen to be its agent for purposes of soliciting authorization cards among the Employer's employees. In the process of so doing, Ms. Von Eitzen mis-represented to at least one of the Employer's employees that he "had to" sign a union authorization card.

3. After January 9, once Ms. Von Eitzen determined that one of her baker co-workers at the Battle Creek cafe who had signed a union authorization card intended to vote "no" in the upcoming election, she engaged in a course of deliberate conduct to intimidate this co-worker, not only in an attempt to change his mind about the vote but to also send a message to other co-workers about what would happen to them if they decided not to support the Union. Ms. Von Eitzen's intimidating and coercive behavior included telling co-workers that their co-worker was not to be trusted or believed (he is a "liar"), that he was not a good worker, making false reports regarding his work habits, and photographing and videotaping the co-worker with threats to report him to management for not being actively engaged in his work. Ms. Von Eitzen also referred to this colleague as "an asshole" and as someone who was going to "get me in trouble." Ms. Von Eitzen enjoyed a good working relationship with this baker colleague until she determined that he intended to vote "no" in the upcoming Union vote.

4. Ms. Von Eitzen engaged in a course of behaviors that continued after the Employer's receipt of the January 9 Petition in this matter intended to coerce her co-workers. Acting as an agent of the Petitioner, Ms. Von Eitzen coerced at least two of her co-workers at the Battle Creek café by stating that either or both she and Daniel J. Wood would be fired from their job with the Employer if the co-workers did not vote for the Petitioner.

5. Ms. Von Eitzen threatened a Battle Creek co-worker who she perceived was not going to support the Union that it would be better for him to not vote in the election at all.

6. As part of an overall effort to create an intimidating and coercive environment leading up to the vote, Petitioner's agent Daniel J. Wood stated that nothing could be "awful enough" to happen to the Employer's Bakery Market Manager. Mr. Wood made the statement in front of other bakers at the Employer's Kalamazoo café that the Bakery Market Manager could be "shot in the head" in front of them and that action would not make a difference in how they perceive their jobs. Mr. Wood then went on to add "you guys don't know who you are dealing with." In the same conversation, Mr. Wood's stated the Union's intent to obtain pictures of the Bread of Life owners' homes and addresses and circulate them among the employees.

7. At least one other baker at the Employer's Portage café stated that the Union injected a sense of fear with regard to the upcoming Union vote by stating that the Company would fire pro-union bakers if the Union did not win the vote.

8. A baker assigned to the Employer's Gull Rd. café who spoke in favor of giving the Employer "a chance" during a baker meeting was immediately shouted down by baker Kyle Schilling who added coercively "we will lose our jobs if we do not vote for the union." On March 22, the same baker assigned to the Employer's Gull Rd. café volunteered to one of the owners that she wanted to give the Employer "a chance," but given the open anger shown by the Union's supporters and agents added: "I just don't know what I can do." This overall environment of anger and intimidation was confirmed by another baker assigned to the Gull Rd. café.

The totality of the circumstances, as described above, establish that there was an environment of intimidation and coercion leading to the March 22/23 vote that affected the results of the election. Given the two vote margin in this election, the Employer requests that the Board investigate the events described above and also undertake a thorough review of the full

range of intimidating and coercive statements and acts similar to those described above. The Petitioner is responsible for the actions of its agents and the coercive and intimidating environment it allowed to develop that distorted employee free choice. As a result, the Employer requests that the election held on March 22/23 be set aside and a re-run election scheduled after appropriate remedial steps are taken.

Respectfully submitted,

BARNES & THORNBURG LLP

A handwritten signature in cursive script, appearing to read "Donald P. Lawless", is written over the printed name.

Donald P. Lawless

Dated: March 30, 2012

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8½ by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the administrative law judge will be considered unless received by the Chief Administrative Law Judge in Washington, DC (or, in cases under the branch offices in San Francisco, California; New York, New York; and Atlanta, Georgia, the Associate Chief Administrative Law Judge) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously on all other parties, and proof of such service furnished to the Chief Administrative Law Judge or the Associate Chief Administrative Law Judge, as the case may be. A quicker response is assured if the moving party secures the positions of the other parties and includes such in the request. All briefs or proposed findings filed with the administrative law judge must be submitted in triplicate, and may be printed or otherwise legibly duplicated with service on the other parties.

In due course the administrative law judge will prepare and file with the Board a decision in this proceeding, and will cause a copy thereof to be served on each of the parties. Upon filing of this decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, on all parties. At that point, the administrative law judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the administrative law judge's decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be served on the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations. If adjustment appears possible, the administrative law judge may suggest discussions between the parties or, on request, will afford reasonable opportunity during the hearing for such discussions.