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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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March 25, 2022

Delivered Via E-mail

Lisa Henderson
Regional Director, Region 10
National Labor Relations Board
401 West Peach St. NW, Suite 472
Atlanta, GA 30308

Dear Ms. Henderson:

On February 8, we wrote to you expressing concern with your recent Order granting a re-run election to the Retail, Wholesale and Department Store Union (RWDSU) at Amazon's warehouse in Bessemer, Alabama. The letter also asked you a number of questions about the Order and the basis for it. Instead of receiving a reply from you, a congressional affairs staffer in Washington, D.C. answered our letter, which answered none of our questions. Such disregard of our letter also adds to our concern that the Order is being driven by NLRB's Washington, D.C. headquarters and General Counsel, Jennifer Abruzzo. Therefore, we write again with additional questions about your Order and Decision mandating a re-run election for the RWDSU union, in particular, the extent of your communications with NLRB's headquarters.

Since beginning her tenure, Ms. Abruzzo has made clear her intentions to undermine the independence of the Regional Directorates. On August 12, 2021, the General Counsel's Office under Ms. Abruzzo's leadership issued Memorandum GC 21-04 requiring the Regional Directorates to submit a wide array of subject matter cases, including cases involving union access and recognition, to the General Counsel's Office for Advice and "centralized consideration." In intimidating language, Ms. Abruzzo warned the Regional Directorates "to seek clearance from Advice" before overturning Board decisions issued during the Obama Administration.¹ Within the same memo, Regions were also ominously required "to make Operations aware of cases that are the subject of attention outside of their local area, or that have a high profile in the local area."²

¹ See MEMORANDUM GC 21-04, "[Mandatory Submissions to Advice.](#)"

² Ibid.

Shortly after issuing Memorandum GC 21-04, General Counsel Abruzzo developed a penchant for giving multiple interviews to partisan outlets telegraphing her intention to interfere with the independent work of the Regional Directors. For example, Ms. Abruzzo gave an interview with *In These Times*, an outfit described as a “politically progressive monthly magazine” devoted to “identify[ing] and clarify[ing] the struggles against corporate power now multiplying in American society.” In this interview, Ms. Abruzzo incorrectly asserted the National Labor Relations Act should be broadly construed to endow the NLRB with “broad discretionary power to provide make-whole remedies” that were neither envisioned nor enacted by Congress.³ In another interview with *Bloomberg*, Ms. Abruzzo characterized the First Amendment right of employers to engage in advocacy campaigns equal to that of their union counterparts as an “abuse of [the NLRB’s] processes” and a nefarious attempt on the part of employers to “undermine the employee’s free choice.”⁴

Given the blatant political overtones within the memoranda issued from General Counsel Abruzzo and your neglect to directly answer our initial letter, we are wary of the motivations behind this Decision and Order. Ms. Abruzzo has made clear her intention to interfere politically with the decisions of the Regional Directorates. This raises concerns that the Order resorting to the extraordinary remedy of a re-run election at Amazon’s Bessemer distribution warehouse is less about improper employer interference, and more about Ms. Abruzzo’s need to guarantee a particular result. In addition, interference by the NLRB’s headquarters in answering oversight requests addressed to Regional Directors, and Regional Directors only, amplifies our skepticism of the Board’s impartiality. Therefore, in accordance with our oversight responsibilities, we request the following information. When responding, please include a response below each question rather than in a narrative format.

1. Did representatives from the NLRB’s Washington D.C. office contact you or any of your colleagues in Region 10 following Amazon’s election victory? Did they contact you or any of Region 10 staff about RWDSU’s challenge and re-run petition? If so, please provide all correspondence and documents relating to said communication.
2. Following notification by the Region of RWDSU’s intention to petition for a re-election, did General Counsel Abruzzo or any representative from the General Counsel’s Office contact you or your colleagues in the Region before the hearing officer’s decision regarding any element of that decision or case? If so, please provide all correspondence and documents relating to said communication.
3. Did any member of the General Counsel’s Office in the NLRB’s Washington, D.C. headquarters contact you regarding Amazon’s appeal of the hearing officer’s decision or

³ In These Times, [“Jennifer Abruzzo, the NLRB’s General Counsel, Is Labor’s Best Friend.”](#) September 27, 2021.

⁴ Bloomberg Businessweek, [“Biden’s Top Labor Lawyer Will Use Her Whole Enforcement Arsenal.”](#) December 14, 2021

Ms. Lisa Henderson

March 25, 2022

Page 3

relating to any element of the case? If so, please provide all correspondence and documents relating to said communication.

4. As stated above, Memorandum 21-04 requires all Regions to keep the General Counsel's Office apprised of cases "that are the subject of attention outside of their local area." Given that the case began to garner news coverage from the moment the election between Amazon and RDSU was announced, did you or any of your colleagues or subordinates within Region 10 reach out to any individual in the General Counsel's Office regarding the case, consistent with the memo's edict? If so, please provide all documentation and correspondence concerning such communication.
5. To your knowledge, did any individual or representative, either career or political, residing within NLRB's Washington, D.C. headquarters contact you or any of your colleagues and subordinates within Region 10 at any stage of the case's progress? If so, please provide all documentation and correspondence concerning such communication.
6. To your knowledge, did you or any of your colleagues or subordinates reach out to any individual or representative, career or political, within NLRB's Washington, D.C. headquarters at any stage of the case's progression? If so, please provide all documentation and correspondence concerning such communication.

Thank you for your attention to this matter. Given the severity of this issue, we expect meaningful and forthright answers to these inquiries no later than April 7, 2022. If you have any questions, please contact Matt Mimnaugh with the Senate Committee on Health, Education, Labor and Pensions at 202-617-5232 and matt_mimnaugh@help.senate.gov.

Sincerely,



Richard Burr
Ranking Member



Tommy Tuberville
Subcommittee on Employment and
Workplace Safety