

This Order Further Consolidating Cases, Amended Consolidated Complaint, and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Board's Rules and Regulations, and alleges Respondents violated the Act as described below.

1.

The charges in this matter were filed and/or amended, and served upon Respondents, on the dates shown below:

Charge	Filing date	Service date	First Amendment	First Amendment Served	Second Amendment	Second Amendment Served
(a) 10-CB-275094	4/5/2021	4/5/2021	6/8/2021	6/9/2021	7/16/2021	7/16/2021
(b) 10-CB-275701	4/15/2021	4/16/2021	6/8/2021	6/9/2021	7/16/2021	7/16/2021
(c) 10-CB-275714	4/15/2021	4/16/2021	6/8/2021	6/9/2021	7/16/2021	7/16/2021
(d) 10-CB-275716	4/15/2021	4/16/2021	6/8/2021	6/9/2021	7/16/2021	7/16/2021
(e) 10-CB-275721	4/15/2021	4/16/2021	7/16/2021	7/16/2021	N/A	N/A
(f) 10-CB-275692	4/15/2021	4/16/2021	6/8/2021	6/9/2021	7/16/2021	7/19/2021
(g) 10-CB-279453	7/6/2021	7/6/2021	8/13/2021	8/16/2021	N/A	N/A
(h) 10-CB-279456	7/1/2021	7/6/2021	8/13/2021	8/16/2021	N/A	N/A
(i) 10-CB-279457	7/1/2021	7/6/2021	8/13/2021	8/16/2021	N/A	N/A
(j) 10-CB-279463	7/6/2021	7/6/2021	8/13/2021	8/16/2021	N/A	N/A
(k) 10-CB-279483	7/6/2021	7/7/2021	8/13/2021	8/16/2021	N/A	N/A
(l) 10-CB-279494	7/1/2021	7/7/2021	8/13/2021	8/16/2021	N/A	N/A

2.

At all material times, Charging Party has been a Delaware limited liability company with offices and places of business located in Alabama (Charging Party's facilities) and has been engaged in the business of mining, non-retail sale, and distribution of coal.

3.

During the past year, in conducting its business operations described in paragraph 2, Charging Party purchased and received goods and services valued in excess of \$50,000 from sources outside of the State of Alabama.

4.

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

5.

At all material times, Respondents have been labor organizations 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 agents of Respondents within the meaning of Section 2(13) of the Act:

Name	Position
(a) Cecil Roberts	International President
(b) Brian Sanson	International Secretary-Treasurer
(c) Kristopher Mallory	Special Assistant to International President
(d) Larry Spencer	District 20 Vice President
(e) James Blankenship	District 20 Representative
(f) Brian Kelly	Local 2245 President
(g) Roscoe Boyd	Local 2245 Vice President and Financial Secretary
(h) Anthony Trenter	Local 2245 Recording Secretary
(i) Michael Jordan	Local 2368 President
(j) Jerrod Knox	Local 2368 Recording Secretary

Name	Position
(k) Clarence Gibson	Local 2368 Financial Secretary
(l) Carl White	Local 2397 President
(m) David Bittle	Local 2397 Recording Secretary
(n) David Greek	Local 2397 Financial Secretary
(o) Curtis Tanner	Local 2427 President
(p) Brian Seabolt	Local 2427 Recording Secretary
(q) John Price	Local 2427 Financial Secretary
(r) Levi Allen	Contract Negotiation Team Member

7.

At all material times, by virtue of Section 9(a) of the Act, Respondents have been the exclusive collective-bargaining representative of the following employees of Charging Party (the Unit):

All miners, repair and maintenance workers, and supply workers employed at Respondent's facilities, excluding all watchmen, clerks, engineering and technical workers, security guards, managers, and supervisors as defined by the Act.

8.

Prior to April 1, 2021, Respondents and Charging Party maintained and enforced a collective-bargaining agreement covering the terms and conditions of employment of the Unit.

9.

The collective-bargaining agreement identified in paragraph 8 expired effective April 1, 2021.

10.

About April 1, 2021, Respondents declared and implemented a strike at Charging Party's facilities.

11.

On or about the following dates, Respondents, by, in the presence of, in the knowledge of, and/or through following the example and/or pattern set by its agents, blocked ingress and egress at Charging Party's facilities:

- (a) April 1, 2021 at or near the entrance to Mine No. 4.
- (b) April 2, 2021 at or near the North Portal of Mine No. 4.
- (c) April 3, 2021 at or near the entrance to Mine No. 4.
- (d) April 13, 2021 at or near the entrance to Mine No. 4.
- (e) April 21, 2021 at or near the entrance to Mine No. 4.
- (f) May 4, 2021 at or near the entrance to Mine No. 4.
- (g) May 12, 2021 at or near the North Portal of Mine No. 7.
- (h) May 14, 2021 at or near the entrance to Charging Party's Central Mine Office location on Alabama Highway 216.
- (i) May 19, 2021 at or near the entrance to Charging Party's Central Mine Office location on Alabama Highway 216.
- (j) May 25, 2021 at or near the entrance to Mine No. 7.
- (k) June 4, 2021 at or near the North Portal of Mine No. 7.
- (l) June 7, 2021 at or near the North and East Portals of Mine No. 7.
- (m) June 15, 2021 at or near the North, East, and West Portals of Mine No. 7.
- (n) June 28, 2021 at or near the East Portal of Mine No. 7.
- (o) July 8, 2021 at or near the entrance to Mine No. 7.
- (p) July 16, 2021 at or near the North Portal of Mine No. 7.
- (q) July 29, 2021 at or near Charging Party's Zone 3 Facility in Jefferson County, Alabama.
- (r) July 30, 2021 at or near the North Portal of Mine No. 7.

(s) August 1, 2021 at or near the entrance to Charging Party's Central Mine Office location on Alabama Highway 216.

12.

On or about April 1, 2021, Respondents, by, in the presence of, in the knowledge of, and/or through following the example and/or pattern set by its agents, engaged in the following unlawful activity at or in the vicinity of Charging Party's facilities:

(a) Attacked and damaged buses transporting Charging Party's employees at or near the entrance to Mine No. 4.

(b) Attacked a vehicle driven by Charging Party foreman Zack Salyers at or near the entrance to Mine No. 4.

(c) Spit on Charging Party foreman Zack Salyers at or near the entrance to Mine No. 4.

13.

On or about the following dates, Respondents, by, in the presence of, in the knowledge of, and/or through following the example and/or pattern set by its agents, coerced and threatened Charging Party's security guards stationed at Charging Party's facilities through the use of racial epithets:

(a) April 2, 2021 at or near the entrance to Mine No. 4.

(b) April 3, 2021 at or near the entrance to Mine No. 4.

(c) April 5, 2021 at or near the entrance to Mine No. 4.

14.

On or about the following dates, Respondents, by, in the presence of, in the knowledge of, and/or through following the example and/or pattern set by its agents, engaged in the following

acts of threats, vandalism, and/or physical violence at or in the vicinity of Charging Party’s facilities:

Date	Action
(a) April 3, 2021	Physically assaulted Charging Party employee Aaron Beverly on Sealy Ann Mountain Road at or near the exit of Mine No. 7 East.
(b) April 3, 2021	Keyed the personal vehicles of Charging Party employees Gene Averette, Gilbert Sada, and William “Ricky” Rose at or near the entrance to Mine No. 4.
(c) April 3, 2021	Keyed the personal vehicle of Charging Party employee David Brassfield at or near the North Portal of Mine No. 7.
(d) May 12, 2021	Kicked and punched the personal vehicles of Charging Party supervisors Christopher Ashley and Weston Megs at or near the North Portal of Mine No. 7.
(e) May 13, 2021	Threatened Charging Party security guards using a baseball bat at or near the North Portal of Mine No. 7.
(f) June 7, 2021	Sprayed Charging Party employees Robert Sanders and Stanley Bibbs with mace, pepper spray, or a similar substance at or near the North Portal of Mine No. 7.
(g) June 7, 2021	Struck the vehicle of Charging Party employee Robert Sanders at or near the North Portal of Mine No. 7.
(h) June 15, 2021	Attacked and damaged several Charging Party employees’ vehicles as such employees attempted to cross picket lines at or near the North, East, and West Portals of Mine No. 7
(i) June 15, 2021	Struck and damaged the vehicle, attempted to enter the vehicle, and threw a brick or cinder block through the back window of Charging Party security guard Conrad Long along Alabama Junction Road near Respondent’s union hall in or near the town of Brookwood, Alabama.
(j) June 24, 2021	Used a slingshot to strike the personal vehicle of Respondent’s bus scheduling manager Rebecca Sellers while calling her a “cunt boss bitch” at or near Charging Party’s Training Center in or near the town of Brookwood, Alabama.
(k) July 8, 2021	Chased Charging Party employee Jonathan Phippen’s vehicle in their vehicles after Phippen passed the picket line near Charging Party’s facility on Hannah Creek Road in or near the town of Brookwood, Alabama, attacked Phippen’s vehicle, and smashed his vehicle’s windows with projectiles.

15.

On or about May 5, 2021, Respondents, by, in the presence of, in the knowledge of and/or through following the example and/or pattern set by its agents, engaged in the following acts at or in the vicinity of Charging Party’s facilities:

(a) Threw rocks at Charging Party security guards at or near Charging Party's Central Mine Office location on Alabama Highway 216.

(b) Used motor vehicles to chase a motor vehicle driven by Charging Party supervisor Greg Kennedy along the road from Charging Party's Central Shop location to Mine No. 7 West.

16.

By the conduct described above in paragraphs 11 through 15, Respondents have been restraining and coercing employees in the exercise of rights guaranteed in Section 7 of the Act, in violation of Section 8(b)(1)(A) of the Act.

17.

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

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraph 16, the General Counsel seeks an Order requiring (1) that Respondent United Mineworkers of America, International Union's President, Cecil Roberts, record a reading of the notice to employees to be posted on United Mineworkers of America, International Union's website and YouTube.com channel, where its notices are normally posted; (2) that Respondent United Mineworkers of America, Local 2245's President, Brian Kelly, at a mandatory meeting of Local 2245's members, in the presence of a Board agent, read the notice to employees to its members; (3) that Respondent United Mineworkers of America, Local 2368's President, Michael Jordan, at a mandatory meeting of Local 2368 members, in the presence of a Board agent, read the notice to employees to its members; (4) that Respondent United Mineworkers of America, Local 2397's President, Carl White, at a mandatory meeting of Local 2397 members, in the presence of a Board agent, read the notice to employees to its members; (5) that Respondent United Mineworkers of America, Local 2427's President, Curtis Tanner, at a mandatory meeting of Local 2427 members, in

the presence of a Board agent, read the notice to employees to its members; (6) that Respondents post the notice to employees at all locations where its picketers typically assemble; and (7) that Respondents mail the notice to employees to all bargaining unit employees employed by Charging Party between March 31, 2021, and the date of the final Board Order. The General Counsel also seeks all other relief found to be just and proper.

ANSWER REQUIREMENT

Respondents are 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 before August 31, 2021 or postmarked on or before August 30, 2021.** Respondents 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 **E-File 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.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on September 13, 2021, at 10:00 am central time, via Zoom videoconference, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondents and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. 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.



Dated: August 17, 2021

A handwritten signature in black ink, appearing to read "Scott C. Thompson".

SCOTT C. THOMPSON
ACTING REGIONAL DIRECTOR
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Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 10-CB-275094

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.

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Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court 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 ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are 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. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting 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 provided to the parties with the order transferring the matter to the Board.