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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
TWENTY-SEVENTH REGION

WAL-MART STORES, INC.

and	Cases	27-CA-18206-2
		27-CA-18206-3
		27-CA-18206-4

UNITED FOOD & COMMERCIAL  
WORKERS UNION, LOCAL No. 7,  
UNITED FOOD & COMMERCIAL  
WORKERS INTERNATIONAL UNION

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ORDER CONSOLIDATING CASES,  
CONSOLIDATED COMPLAINT AND NOTICE OF HEARING

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United Food & Commercial Workers Union, Local No. 7, United Food and Commercial Workers International Union herein called the Union, having charged in Cases 27-CA-18206-2, 27-CA-18206-3, and 27-CA-18206-4 that Wal-Mart Stores, Inc. herein called the Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Section 151, et seq., herein called the Act, and the General Counsel of the National Labor Relations Board, on behalf of the National Labor Relations Board, herein called the Board, by the undersigned, having

duly considered the matter and deeming it necessary to effectuate the purposes of the Act and to avoid unnecessary cost or delay, HEREBY ORDERS, pursuant to Section 102.33 of the Board's Rules and Regulations, Series 8 as amended, that these cases be, and hereby are, consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Order Consolidating Cases, Consolidated Complaint and Notice of Hearing and alleges as follows:

1.

(a) The charge in Case 27-CA-18206-2 was filed by the Union on September 23, 2002, and a copy thereof was served by post-paid regular mail on Respondent on the same day.

(b) The charge in Case 27-CA-18206-3 was filed by the Union on September 23, 2002, and a copy thereof was served by post-paid regular mail on Respondent on the same day.

(c) The charge in Case 27-CA-18206-4 was filed by the Union on September 23, 2002, and a copy thereof was served by post-paid regular mail on Respondent on the same day.

2.

(a) At all times material herein Respondent, a corporation with an office and place of business in Bentonville, Arkansas, has been engaged in the operation of retail stores selling general merchandise throughout the United States, including a store located at 7800 Smith Road, Denver, Colorado, herein called the Stapleton store.

(b) Respondent, in the course and conduct of its business operations annually purchases and receives at its Stapleton store, goods, materials, and services valued in excess of \$50,000 directly from points and places outside the State of Colorado.

(c) Respondent, annually, in the course and conduct of its business operations described in paragraph 2(a), derives gross revenues in excess of \$500,000.

(d) Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act

3.

The Union is now, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

4.

At all times material herein, the following-named persons have occupied the positions set forth opposite their respective names, and are now, and have been at all times material herein, 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 :

Ed Hohlt	Stapleton Store Manager
James Mohan	District Store Manager
David Raya	Assistant Stapleton Store Manager
Michael Honn	Grocery Assistant Manager
John Sjobakken	Department Manager
Chris Fewel	Assistant Department Manager
Craig Strain	Department Manager

Dave Pekar

Meat Department Supervisor

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Kathy \_\_\_\_\_ (last name currently unknown to the Regional Director but well known to Respondent)

Day Supervisor

Josh \_\_\_\_\_ (last name currently unknown to the Regional Director but well known to Respondent)

Supervisor

Gary \_\_\_\_\_ (last name currently unknown to the Regional Director but well known to Respondent)

Supervisor

5.

The following acts and conduct occurred at Respondent's Stapleton store through the supervisors named below on the following dates:

(a) On or about September 11, 2002, on two occasions, Respondent, acting through Ed Hohlt, created the impression among its employees that their activities on behalf of the Union were under surveillance by Respondent.

(b) On or about September 11, 2002, Respondent acting through Ed Hohlt, in a speech based on its "Talking Points", created the impression among its employees that their activities on behalf of the Union were under surveillance by Respondent.

(c) On or about September 11, 2002, Respondent, acting through Ed Hohlt and James Mohan, verbally harassed an employee because of the employee's support for the Union

(d) On or about September 11, 2002, Respondent, acting through Ed Hohlt, asked employees to engage in surveillance of their co-workers' union activities on behalf of the Respondent.

(e) On or about September 11, 2002, Respondent acting through Ed Hohlt coerced an employee by requesting that she talk to fellow employees to tell them that a union was not necessary.

(f) On or about September 11, 2002 Respondent acting through Ed Hohlt interrogated an employee about a union meeting.

(g) On or about September 15, 2002, Respondent, through Dave Pekar, harassed an employee by closely following him as he was shopping on non-working time.

6.

(a) Beginning on or about September 11, 2002, Respondent changed the terms and conditions of its employees by:

(i) assigning extra supervisors to the night shift in order to monitor the union activities of its employees;

(ii) restricting employee movement between departments during working time.

(b) On or about September 11, 2002, Respondent, acting through Michael Honn and John Sjobakken, monitored an employee closely throughout his shift because the employee had been engaged in union activities.

(c) Respondent engaged in the conduct described above in paragraphs 6(a)-(b) because its employees joined and/or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities

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By the acts and conduct described above in paragraph 5, and by each of said acts, Respondent has interfered with, restrained and coerced, and is interfering with, restraining, and coercing, employees in the exercise of their rights guaranteed in

Section 7 of the Act, and Respondent thereby has been engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

8.

By the conduct described above in paragraph 6, Respondent has been discriminating in regard to the hire or tenure 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.

9.

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

PLEASE TAKE NOTICE that commencing at 1:00 p.m. on the 10<sup>th</sup> day of February, 2003, and on consecutive days thereafter, a hearing will be conducted in Room 700, 7<sup>th</sup> Floor North Tower, 600 Seventeenth Street, Denver, Colorado before a duly designated administrative law judge of the National Labor Relations Board on the allegations set forth in the above consolidated complaint, at which time and place you will have the right to appear in person, or otherwise, and give testimony.

You are further notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, Series 8, as amended, Respondent shall file with the undersigned, acting in this matter as an agent of the National Labor Relations Board, an original and four (4) copies of an answer to said Consolidated Complaint within fourteen (14) days from the service thereof, and that, unless Respondent does so, all of the allegations in the consolidated complaint shall be deemed to be admitted to be true and shall be so found by the Board. You are also notified that pursuant to said Rules and Regulations, Respondent shall serve a copy of its answer on each of the other parties.

Form NLRB-4668, Statement of Standard Procedures in Formal Hearings

Held Before the National Labor Relations Board in Unfair Labor Practice Cases is attached.

Dated at Denver, Colorado, this 27<sup>th</sup> day of November, 2002.

(SEAL)



B. Allan Benson  
Regional Director  
National Labor Relations Board  
Region 27  
700 North Tower, Dominion Plaza  
600 Seventeenth Street  
Denver, Colorado 80202  
(303) 844-3551

ATTACHMENTS

**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 Arlington, VA; 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.

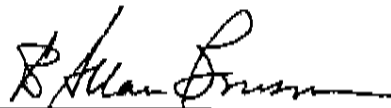
All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility 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.

**IMPORTANT NOTICE**

The date which has been set for hearing in this matter should be checked immediately. If there is proper cause for not proceeding with the hearing on that date, a motion to change the date of hearing should be made within ten (10) days from the service of the Complaint. Thereafter, it will be assumed that the scheduled hearing date has been agreed upon and that all parties will be prepared to proceed to the hearing on that date. Later motions to reschedule the hearing generally will not be granted in the absence of a proper showing of unanticipated and uncontrollable intervening circumstances.

All parties are encouraged to fully explore the possibilities of settlement. Early settlement agreements prior to extensive and costly trial preparation may result in substantial savings of time, money and personnel resources for all parties. The Board Agent assigned to this case will be happy to discuss settlement at any mutually convenient time.



B. Allan Benson  
Regional Director  
Region 27

~~FURTHER NOTICE REGARDING SETTLEMENT JUDGES~~

It is the policy of the Board and the office of the General Counsel to provide full opportunity to the parties to reach a mutually satisfactory resolution of issues as an alternative to litigation. Settlement of a meritorious case is the most effective means to improved relationships between the parties and to permit the Board to concentrate its decisional activities in other cases, thereby expediting all case action. (CHM 10124.1)

The attention of all parties is directed to Sec. 102.35 of the Board's Rules and Regulations regarding the assignment of settlement judges:

**Sec. 102.35**

(b) Upon the request of any party or the judge assigned to hear a case, or on his or her own motion, the chief administrative law judge in Washington, D.C., the deputy chief judge in San Francisco, the associate chief judge in Atlanta, or the associate chief judge in New York may assign a judge who shall be other than the trial judge to conduct settlement negotiations. In exercising his or her discretion, the chief, deputy chief, or associate chief judge making the assignment will consider, among other factors, whether there is reason to believe that resolution of the dispute is likely, the request for assignment of a settlement judge is made in good faith, and the assignment is otherwise feasible. Provided, however, that no such assignment shall be made absent the agreement of all parties to the use of this procedure.

1. The settlement judge shall convene and preside over conferences and settlement negotiations between the parties, assess the practicalities of a potential settlement, and report to the chief, deputy, or associate the status of settlement negotiations, recommending continuation or termination of the settlement negotiations. Where feasible settlement conferences shall be held in person.

2. The settlement judge may require that the attorney or other representative for each party be present at settlement conferences and that the parties or agents with full settlement authority also be present or available by telephone.

3. Participation of the settlement judge shall terminate upon the order of the chief, deputy, or associate issued after consultation with the settlement judge. The conduct of settlement negotiations shall not unduly delay the hearing.

4. All discussions between the parties and the settlement judge shall be confidential. The settlement judge shall not discuss any aspect of the case with the trial judge, and no evidence regarding statements, conduct, offers of settlement, and concessions of the parties made in proceedings before the settlement judge shall be admissible in any proceeding before the Board, except by stipulation of the parties. Documents disclosed in the settlement process may not be used in litigation unless voluntarily produced or obtained pursuant to subpoena.

5. No decision of a chief, deputy, or associate concerning the assignment of a settlement judge or the termination of a settlement judge's assignment shall be appealable to the Board.

6. Any settlement reached under the auspices of a settlement judge shall be subject to approval in accordance with the provisions of section 102.35 of the Board's Statements of Procedure.

FORM NLRB 877

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

**Wal-Mart**

and

**UFCW Local 7**

Cases **27-CA-18206-2**  
**27-CA-18206-3**  
**27-CA-18206-4**

DATE OF MAILING November 27, 2002

**AFFIDAVIT OF SERVICE OF ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT AND NOTICE OF HEARING WITH NLRB FORM 4668 ATTACHED**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above, I served the above-entitled document(s) by the method indicated upon the following persons, addressed to them at the following addresses:

Wal-Mart  
Mr. Ed Holt  
7800 E. Smith Road  
Denver, CO 80207  
CERTIFIED MAIL #70020460000281975955

Sherman & Howard, L.L.C.  
Mr. W. V. Bernie Siebert, Esq.  
633 Seventeenth Street, Suite 3000  
Denver, CO 80202  
REGULAR MAIL

UFCW, Local 7  
Mr. John P. Bowen  
General Counsel  
7760 West 38th Avenue, Suite 400  
Wheat Ridge, CO 80033  
REGULAR MAIL

UFCW, Region 6  
Mr. Kevin E. Williamson  
International Vice President  
Director, Northcentral  
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UFCW International Union  
Mr. Robert Funk  
General Counsel  
1775 K Street, N.W.  
Washington, DC 20006  
REGULAR MAIL

Division of Judges  
National Labor Relations Board  
901 Market, Suite 300  
San Francisco, CA 94103  
REGULAR MAIL

Subscribed to and sworn to before me this 27 day

Of November, 2002.

DESIGNATED AGENT

*George A. Hernandez*  
NATIONAL LABOR RELATIONS BOARD