

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 16**

**WAL-MART STORES, INC.**

**and**

**Case No. 16-CA-22160**

**UNITED FOOD AND COMMERCIAL  
WORKERS UNION, AFL-CIO**

**COMPLAINT AND NOTICE OF HEARING**

United Food and Commercial Workers Union, AFL-CIO, herein called the Union or Charging Party, has charged that Wal-Mart Stores, Inc., herein called 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. Based thereon, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and alleges as follows:

**1.**

The charge in this proceeding was filed by the Union on August 29, 2002, and a copy was served upon Respondent by facsimile and first class mail on about the same date.

**2.**

At all material times Respondent, a Delaware corporation with a store in Paris, Texas, has been engaged in the business of retail merchandising.

## 3.

During the preceding 12 months Respondent, in conducting its business operations described above in paragraph 2, purchased and received goods and materials valued in excess of \$50,000 directly from suppliers located outside the State of Texas and during the same period derived gross revenues in excess of \$500,000.

## 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 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:

Kim Edwards Hardin	Store Manager
Lisa Nichols	Co-Manager
Mike Hart	Co-Manager
Linda Nelson	Assistant Manager
Dan Sharp	Assistant Manager

## 7.

About June 27 and thereafter, Respondent, by Sharp, engaged in surveillance of employees activities.

**8.**

About July 24 and thereafter, Respondent, by Hart and Nichols, engaged in stricter enforcement of existing work rules by:

- (a) Telling employees they could not wear T-shirts with logos;
- (b) Telling employees they had to wear Wal-Mart hats, vests and name tags.
- (c) Changing the lunch and break periods of dock associates.

**9.**

About June, the exact date currently unknown by the General Counsel, Respondent, by Hardin, threatened employees with loss of benefits if the union came in.

**10.**

About June, the exact date currently unknown to the General Counsel Respondent, by Nelson, interrogated an employee about the union.

**11.**

About July 31, Respondent, by Hart, threatened employees with a loss of benefits.

**12.**

About late July or early August, Respondent, by Harvey, engaged in surveillance of employees' union activities.

**13.**

By the conduct described above in paragraphs 7, 8, 9, 10, 11 and 12, 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) and affecting commerce within the meaning of Section 2(6) and (7) of the Act.

**PLEASE TAKE NOTICE** that on April 3, 2003 (and consecutive days thereafter) at a location to be determined in Paris, Texas, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above complaint, at which time and place you will have the right to appear in person, or otherwise, and give testimony.

**YOU ARE HEREBY 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 Regional Director of Region 16, acting in this matter as an agent of the National Labor Relations Board, an original and four (4) copies of an answer to said complaint within 14 days from the service thereof, and that unless Respondent does so, all of the allegations in the 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.

**DATED** at Fort Worth, Texas, this 27<sup>th</sup> day of November, 2002.

/s/ Curtis A. Wells  
Curtis A. Wells,  
Regional Director  
National Labor Relations Board  
Region 16  
Room 8A24, Federal Office Bldg.  
819 Taylor Street  
Fort Worth, TX 76102

**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.

(OVER)

FORM NLRB-406B (1/92) Continued

Any party shall be entitled, on request made before the close of the hearing, to 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 Arlington, VA. (or, in cases under the San Francisco, California branch office, the Deputy Chief Administrative Law Judge; or in cases under the branch offices in 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, Deputy 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.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case No. 16-CA-22160

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.

**Served by certified mail:**

Wal-Mart Stores, Inc.  
Attn: Ms. Kim Edwards Harding,  
Store Manager  
3855 Lamar Avenue  
Paris, TX 75460  
(return receipt requested)  
Certified No 7000 0520 0023 4433 8403

UFCWIU, AFL-CIO  
1775 K Street N.W.  
Washington, DC 20006  
Certified No 7000 0520 0023 4433 8410

**Served by regular mail:**

Baker & McKenzie  
J. Richard Hammett, Esq.  
Chevron Tower  
1301 McKinney Street, Suite 3300  
Houston, Texas 77010-3019

Mr. Patrick Flynn, Attorney  
1330 Post Oak Blvd., Suite 2995  
Houston, TX 77056